

Cook
Version 2

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 58 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to competitive bidding under the
7 Fiscal Procedures Act."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 37.05.230(2) is amended to read:

10 (2) if the amount of the contractual services, purchase, or
11 sale is estimated to exceed \$5,000 [\$2,500] sealed bids shall be so-
12 licited [, WHEN PRACTICABLE, BY PUBLICATION IN A NEWSPAPER CALCULATED TO
13 REACH PROSPECTIVE BIDDERS AND] by posting notices in public places
14 within the area where the work is to be performed or material fur-
15 nished, by publication, when practicable, in a newspaper: calculated to
16 reach prospective bidders, and [IN ADDITION] the department may pub-
17 lish notice in [ALSO DESIGNATE] a trade journal [FOR PUBLICATION]; the
18 department shall also solicit bids by sending notices by mail to all
19 active prospective bidders known to it and all bids shall be sealed when
20 received, and shall be opened in public at the hour stated in the notice;
21 the department may negotiate directly if it finds that it is in the best
22 interests of the state;

23 * Sec. 2. AS 37.05.230(3) is amended to read:

24 (3) a contractual service, purchase or sale where the known
25 requirements are estimated to be less than \$5,000 [\$2,500] may be made
26 either upon competitive bids in accordance with (2) of this section or
27 in the open market, in the discretion of the department; but, so far as
28 practicable, shall be based on at least three competitive bids and
29 recorded as provided in AS 37.05.240; small purchases of less than \$500

1 [\$300] in the discretion of the department may be made on the open
2 market, and may be by cash payment from petty cash accounts set aside
3 for that purpose; the department shall determine the amount of the petty
4 cash accounts needed by each state agency, and inspect the petty cash
5 accounts at least once each year to determine that the total plus amounts
6 of receipts for unreplenished disbursements is equal to the fixed sum of
7 cash set aside; shortages in petty cash accounts are a personal liability
8 of the responsible head of the agency to whom the account is set aside;
9 the department shall make all necessary rules and regulations governing
10 use and replenishment of petty cash funds;

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Changes to Legal Services

3-3-82

Cook

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

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Original sponsor: Rules/Governor

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THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHB 58 (FIN)
 Title Competitive bidding under fiscal procedures act.
 Requested by House Finance Committee Date 2/19/82

II. FISCAL DETAIL

Agency Affected all
 Program Category Affected all
 BRU, Program, Or Subprogram(s) Affected _____
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

| | FY 82 | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 |
|--------------------------|-------|-------|-------|-------|-------|-------|
| 100 PERSONAL SERVICES | | | | | | |
| 200 TRAVEL | | | | | | |
| 300 CONTRACTUAL | | | | | | |
| 400 COMMODITIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC. | | | | | | |
| TOTAL | -0- | -0- | -0- | -0- | -0- | -0- |

FUNDING (Thousands of Dollars)

| | | | | | | |
|------------------------|-----|-----|-----|-----|-----|-----|
| GENERAL FUND | -0- | -0- | -0- | -0- | -0- | -0- |
| FEDERAL FUNDS | -0- | -0- | -0- | -0- | -0- | -0- |
| OTHER (Specify Source) | -0- | -0- | -0- | -0- | -0- | -0- |
| | | | | | | |

POSITIONS

| | | | | | | |
|-----------|-----|-----|-----|-----|-----|-----|
| FULL TIME | -0- | -0- | -0- | -0- | -0- | -0- |
| PART TIME | -0- | -0- | -0- | -0- | -0- | -0- |
| TEMPORARY | -0- | -0- | -0- | -0- | -0- | -0- |

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

The House Finance Committee Substitute deletes the Alaskan manufacturer bid preference. Consequently no fiscal impact will result from the bill. See attached Department of Administration fiscal note dated January 6, 1981.

IV. DATE 2/19/82

PREPARED BY Garrey Peska, Fiscal Analyst
 AGENCY Legislative Finance

Original: Legislative Finance
 cc: Budget and Management

PHONE 465-3795

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. HOUSE BILL NO. 58 (Page 1 of 2)
 Title An Act Relating to Competitive Bidding Under the Fiscal Procedures Act
 Requested by _____ Date _____

II. FISCAL DETAIL
 Agency Affected All
 Program Category Affected All
 BRU, Program, or Subprogram(s) Affected _____
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

| | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 | FY 86 |
|--------------------------|------------|----------------|----------------|----------------|----------------|----------------|
| 100 PERSONAL SERVICES | | | | | | |
| 200 TRAVEL | | | | | | |
| 300 CONTRACTUAL | | 1,500.0 | 1,800.0 | 2,160.0 | 2,592.0 | 3,110.4 |
| 400 COMMODITIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC. | | | | | | |
| TOTAL | -0- | 1,500.0 | 1,800.0 | 2,160.0 | 2,592.0 | 3,110.4 |

FUNDING (Thousands of Dollars)

| | | | | | | |
|-----------------------------|-----|---------|---------|---------|---------|---------|
| GENERAL FUND | -0- | 1,500.0 | 1,800.0 | 2,160.0 | 2,592.0 | 3,110.4 |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Fund Source) | | | | | | |
| | | | | | | |

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL TIME | | | | | | |
| PART TIME | | | | | | |
| TEMPORARY | | | | | | |

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

There will be minor cost increases for certain products (e.g. printing), however, for the most part these should be evenly disbursed among all state agencies.

The only significant cost increases may come in Petroleum related products. Presently there are two refineries operating within Alaska, these refineries would qualify for the 15% Manufacturing preference. The latest state contract awards indicate that out of \$10 million worth of purchases \$4 million is currently purchased from the two Alaskan refineries. Under the existing Alaskan Preference Statute (5% Alaskan Preference) all retail operations in addition to the two refineries qualify for the preference making it a moot point. Under the proposed statute only the two oil refineries would qualify for the preference giving them a 15% edge over the retail outlets. This could mean a cost increase

IV. DATE January 6, 1981 PREPARED BY Judy Crondahl *JC*
 AGENCY Administration *KA*
 PHONE 465-2277

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 Keith Specking

(2) HOUSE BILL NO. 58
(Page 2 of 2)

for petroleum products from \$600,000 (15% of \$4 million) to \$1.5 million (15% of \$10 million) based upon prior state purchases. The fact that there are two refineries would generally indicate the presence of competition; however, these two refineries have traditionally operated in different parts of the State.

Funds should be appropriated to the Division of Budget & Management for distribution.

To Drafting
2/19

Introduced: 2/4/81
Referred: State Affairs

Finance Committee

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 CS HOUSE BILL NO. 58 (FIN)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

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7 Fiscal Procedures Act."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 37.05.230(1) is amended to read:

10 (1) a contract for construction and repairs, or a purchase
11 of and contract for supplies, materials, equipment, and contractual
12 services must be based on competitive bids; an award shall be made to
13 the lowest responsible bidder after advertising for bids, except that
14 (A) Repealed by sec. 2, ch. 92, SLA 1967; (B) a bid shall be awarded
15 to (i) an Alaska bidder if his bid is not more than five percent high-
16 er than the lowest nonresident bidder's; or (ii) to an Alaska manufac-
17 turer if the bid is not more than 15 percent higher than the lowest
18 bid; and (C) competitive bids need not be required (i) for contractual
19 services where no competition exists; (ii) [FOR SALES INVOLVING FAIR
20 TRADE ITEMS; (iii)] when, in the judgment of the purchasing agent,
21 food, clothing, or medical supplies, or materials for use in laborato-
22 ry and experimental studies may be purchased otherwise to the best ad-
23 vantage of the state; (iii) [(iv)] where rates are fixed by law or or-
24 dinance; (iv) [(v)] for items traded in on like items; or (v) [(vi)]
25 for professional services;

26 * Sec. 1. AS 37.05.230(2) is amended to read:

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1 reach prospective bidders and by posting notices in public places with-
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25 agency to whom the account is set aside; the department shall make all
26 necessary rules and regulations governing use and replenishment of
27 petty cash funds;

28 * ~~Sec. 3. AS 37.05.230(5) is repealed and reenacted to read:~~

29 (5) in (1)(B) of this section,

Introduced: 2/4/81
Referred: State Affairs

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BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 58

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4 TWELFTH LEGISLATURE - FIRST SESSION

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25 agency to whom the account is set aside; the department shall make all
26 necessary rules and regulations governing use and replenishment of
27 petty cash funds;

28 * Sec. 4. AS 37.05.230(5) is repealed and reenacted to read:

29 (5) in (1)(B) of this section,

1 (A) "Alaska bidder" means a person, corporation or
2 partnership who:

3 (i) holds a valid Alaska business license;

4 (ii) submits a bid under the name which appears on
5 his Alaska business license; and

6 (iii) has maintained a place of business in the
7 state for six months immediately preceding the date of his
8 bid;

9 (B) "Alaska manufacturer" means a person, corporation
10 or partnership who:

11 (i) holds a valid Alaska business license;

12 (ii) submits a bid under the name which appears on
13 his Alaska business license; and

14 (iii) engages in a business activity in the state
15 by which he, through labor, art, or skill substantially
16 transforms raw or partially finished materials into the items
17 offered for purchase by the state; the commissioner of ad-
18 ministration may adopt regulations to implement this subpara-
19 graph;

20 * Sec. 5. AS 37.05.230(7) is amended to read:

21 (7) the provisions of (1)(B) of this section [RELATIVE TO
22 AN "ALASKA BIDDER"] do not apply to contracts for construction or re-
23 pair of transportation systems and corridors and public buildings and
24 facilities; [ESTIMATED TO EXCEED \$5,000, OF EITHER THE DEPARTMENT OF
25 TRANSPORTATION AND PUBLIC FACILITIES, WHICH ARE AUTHORIZED UNDER
26 AS 35.15, OR THE DEPARTMENT OF HIGHWAYS, WHICH ARE AUTHORIZED UNDER
27 AS 19.10.]

28 * Sec. 6. AS 37.05.230(8) is amended to read:

29 (8) the provisions of this section relative to competitive

1 bids do not apply to the purchase of products or services manufactured
2 or provided by a sheltered workshop operating in the state; and [.]

3 * Sec. 7. AS 37.05.230 is amended by adding a new paragraph to read:

4 (9) the provisions of (1)(B) of this section do not apply
5 to purchases and contracts which involve federal money received by the
6 state if the application of a bidding preference violates federal law
7 or federal program guidelines.

8 * Sec. 8. AS 37.05.240 is amended to read:

9 Sec. 37.05.240. AWARD OF CONTRACTS AND PURCHASES. A contract
10 or purchase made by or under the supervision of the department for
11 which competitive bids are required shall be awarded to the lowest re-
12 sponsible bidder. The department shall determine the responsibility of
13 the bidder based upon the bidder's (1) adherence to the bid specifica-
14 tions, (2) proposed terms of delivery, (3) compliance with state laws,
15 (4) performance record, and (5) compliance with conditions imposed in
16 the solicitation for bids. The purchasing agent may cancel the solici-
17 tation for bids before the award if it is in the state's best interest.
18 However, if the purchasing agent makes the contract or purchase after
19 the solicitation for bids is cancelled, the purchase or contract shall
20 be made in accordance with AS 37.05.230(2). [, TAKING INTO CONSIDERA-
21 TION CONFORMITY WITH THE SPECIFICATIONS, TERMS OF DELIVERY, AND OTHER
22 CONDITIONS IMPOSED IN THE CALL FOR BIDS. BIDS MAY BE REJECTED, AND A
23 BID SHALL BE REJECTED IF IT CONTAINS A MATERIAL ALTERATION OR ERASURE
24 WHICH IS NOT INITIALED BY THE SIGNER OF THE BID. THE DEPARTMENT MAY
25 REJECT THE BID OF A BIDDER WHO IS IN ARREARS ON TAXES DUE THE STATE OR
26 WHO FAILED TO PERFORM ON A PREVIOUS CONTRACT WITH THE STATE. WHERE
27 COMPETITIVE BIDS ARE REQUIRED AND WHERE ALL BIDS ARE REJECTED, NEW BIDS
28 SHALL BE CALLED FOR AS IN THE FIRST INSTANCE.] Before the awarding of
29 a contract for a building or the making of repairs upon a building, the

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department shall see that the bids conform with plans and specifications approved by the Department of Transportation and Public Facilities. All bids with the names of the bidders and the amounts of the bids, together with all documents pertaining to the award of a contract, shall be made a part of a file or record and retained by the department for three years, unless reproduced by microfilming and these files or records are open to public inspection at all reasonable times. An aggrieved bidder may within five days after an award of contract appeal to the department for hearing, with notice to interested parties, for redetermination and final award in accordance with law.

71 28
January 12, 1981

Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to competitive bidding in the state procurement process. The bill contains eight sections which make three major changes: first, an Alaska manufacturer's bid preference of 15 percent is added; second, because of inflation, the threshold above which competitive bidding is required would be raised from \$2,500 to \$5,000; and third, the bill would make clear the authority of the state to limit the solicitation of bids or reject all bids, if that action would be in the state's best interest.

Sections 1 and 4 of the bill would amend AS 37.05.230(1) and (5) to create an Alaska manufacturer's preference of 15 percent. This preference would be available to a person who holds an Alaska business license, bids under the name on the license and produces the needed goods in Alaska from raw or partially finished materials. The division of general services and supply would, by regulation, distinguish between true manufacturing and packaging, displaying, or minor assembling.

Sections 2 and 3 of the bill amend AS 37.05.230(2) and (3) to raise the threshold above which competitive bidding is required. This is necessary because of inflation in recent years and because the cost of publicly soliciting bids is so high that it often exceeds any reasonably anticipated savings on small projects or purchases. Section 2 of the bill also codifies the power and practice of the state to limit solicitations of bids to Alaskan bidders if there are enough of those bidders to insure price competition.

Sections 5-7 of the bill would make clear existing provisions or enact into law policies already in force in the state procurement system. Section 5 restates the exemption of contracts for construction or repair of state roads, ferries, harbors, highways, airports, or buildings, because those contracts are administered under separate statutory authority by the Department of Transportation and Public Facilities. Section 6 of the bill would make clear the intent of the existing provision to protect Alaskan sheltered workshops. Section 7 of the bill would authorize the exemption of a contract from the bid preference provisions if the preference would jeopardize federal financing of the contract.

Section 8 of the bill would make three changes in AS 37.05.240. The "material alteration" language has been eliminated because of the injustice and waste of tax money which results when the bid documents of the apparent low bidder have a correction which was not initialed by the bidder; under the current law, the bid must be rejected even though there is no bad faith and no question as to what the bidder intended. The second change is the inclusion of express authority to cancel a bid solicitation before the award if, for example, all the bids are found to be too high, the project has, in the intervening period, been determined to be inadvisable, or the bidders do not submit bids which are responsive to the original solicitation. Finally, the requirement that a cancelled bid solicitation be re-solicited "as in the first instance" has been eliminated. The reason for the change is to allow the division the flexibility needed to provide the required goods or services by direct negotiation or another bid solicitation on different terms; it may be futile to simply re-issue the same solicitation.

Sincerely,

S/JSH

Jay S. Hammond
Governor

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST HOUSE BILL NO. 58 (Page 1 of 2)
 Bill/Resolution No. _____
 Title An Act Relating to Competitive Bidding Under the Fiscal Procedures Act
 Requested by _____ Date _____

II. FISCAL DETAIL
 Agency Affected All
 Program Category Affected All
 BRU, Program, or Subprogram(s) Affected _____

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

| | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 | FY 86 |
|--------------------------|-------|---------|---------|---------|---------|---------|
| 100 PERSONAL SERVICES | | | | | | |
| 200 TRAVEL | | | | | | |
| 300 CONTRACTUAL | | 1,500.0 | 1,800.0 | 2,160.0 | 2,592.0 | 3,110.4 |
| 400 COMMODITIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC. | | | | | | |
| TOTAL | -0- | 1,500.0 | 1,800.0 | 2,160.0 | 2,592.0 | 3,110.4 |

FUNDING (Thousands of Dollars)

| | | | | | | |
|-----------------------------|-----|---------|---------|---------|---------|---------|
| GENERAL FUND | -0- | 1,500.0 | 1,800.0 | 2,160.0 | 2,592.0 | 3,110.4 |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Fund Source) | | | | | | |
| | | | | | | |
| | | | | | | |

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL TIME | | | | | | |
| PART TIME | | | | | | |
| TEMPORARY | | | | | | |

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

There will be minor cost increases for certain products (e.g. printing), however, for the most part these should be evenly disbursed among all state agencies.

The only significant cost increases may come in Petroleum related products. Presently there are two refineries operating within Alaska, these refineries would qualify for the 15% Manufacturing preference. The latest state contract awards indicate that out of \$10 million worth of purchases \$4 million is currently purchased from the two Alaskan refineries. Under the existing Alaskan Preference Statute (5% Alaskan Preference) all retail operations in addition to the two refineries qualify for the preference making it a moot point. Under the proposed statute only the two oil refineries would qualify for the preference giving them a 15% edge over the retail outlets. This could mean a cost increase

IV. DATE January 6, 1981 PREPARED BY Judy Crondahl
 AGENCY Administration
 PHONE 465-2277

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 Keith Specking

(2) HOUSE BILL NO. 58
(Page 2 of 2)

for petroleum products from \$600,000 (15% of \$4 million) to \$1.5 million (15% of \$10 million) based upon prior state purchases. The fact that there are two refineries would generally indicate the presence of competition; however, these two refineries have traditionally operated in different parts of the State.

Funds should be appropriated to the Division of Budget & Management for distribution.

COMMITTEE REPORT

HOUSE

FURTHER:

3/10/81

(11)

Date: _____

Mr. Speaker:

The Committee on FINANCE has had HB 58

"An Act relating to competitive bidding under the Fiscal Procedures Act."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
- and recommends _____ new title
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

COMMITTEE REPORT

HOUSE

FURTHER:

3/10
Finance

2/4/81

(5)

Date: 3-9-81

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 58

"An Act relating to competitive bidding under the Fiscal Procedures Act."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

[] do pass [] do not pass

[] do pass with attached amendments(s)

[X] replace with CS for HB 58 same title new title

and recommends ~~individual recommendations~~ recommends reports CS HB 58 be reported with

~~AND~~ attaches a "Letter of Intent" [] New Fiscal Note

[X] reports it back without recommendation

[X] referred to the Finance Committee

MEMBERS SIGNING
DO PASS

John Byrnes

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Mr. Miller - no rec
David Goddy - do not pass
Frank Boyl - No Rec
William Wood - to Rec

W. W. Wood

CHAIRMAN

Introduced: 2/4/81
Referred: State Affairs

*Letter
FM*

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 58

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to competitive bidding under the
7 Fiscal Procedures Act."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 37.05.230(1) is amended to read:

10 (1) a contract for construction and repairs, or a purchase
11 of and contract for supplies, materials, equipment, and contractual
12 services must be based on competitive bids; an award shall be made to
13 the lowest responsible bidder after advertising for bids, except that
14 (A) Repealed by sec. 2, ch. 92, SLA 1967; (B) a bid shall be awarded
15 to (i) an Alaska bidder if his bid is not more than five percent high-
16 er than the lowest nonresident bidder's; or (ii) to an Alaska manufac-
17 turer if the bid is not more than 15 percent higher than the lowest
18 bid; and (C) competitive bids need not be required (i) for contractual
19 services where no competition exists; (ii) [FOR SALES INVOLVING FAIR
20 TRADE ITEMS; (iii)] when, in the judgment of the purchasing agent,
21 food, clothing, or medical supplies, or materials for use in laborato-
22 ry and experimental studies may be purchased otherwise to the best ad-
23 vantage of the state; (iii) [(iv)] where rates are fixed by law or or-
24 dinance; (iv) [(v)] for items traded in on like items; or (v) [(vi)]
25 for professional services;

26 * Sec. 2. AS 37.05.230(2) is amended to read:

27 (2) if the amount of the contractual services, purchase, or
28 sale is estimated to exceed \$5,000 [\$2,500] sealed bids shall be so-
29 licited, when practicable, by publication in a newspaper calculated to

1 reach prospective bidders and by posting notices in public places with-
2 in the area where the work is to be performed or material furnished
3 and in addition the department may also designate a trade journal for
4 publication; the department shall also solicit bids by sending notices
5 by mail to all active prospective bidders known to it and all bids
6 shall be sealed when received, and shall be opened in public at the
7 hour stated in the notice; the department may limit the solicitation
8 of bids or negotiate directly if it finds that it is in the best in-
9 terests of the state;

10 * Sec. 3. AS 37.05.230(3) is amended to read:

11 (3) a contractual service, purchase or sale where the known
12 requirements are estimated to be less than \$5,000 [\$2,500] may be made
13 either upon competitive bids in accordance with (2) of this section or
14 in the open market, in the discretion of the department; but, so far
15 as practicable, shall be based on at least three competitive bids and
16 recorded as provided in AS 37.05.240; small purchases of less than
17 \$500 [\$300] in the discretion of the department may be made on the
18 open market, and may be by cash payment from petty cash accounts set
19 aside for that purpose; the department shall determine the amount of
20 the petty cash accounts needed by each state agency, and inspect the
21 petty cash accounts at least once each year to determine that the
22 total plus amounts of receipts for unreplenished disbursements is
23 equal to the fixed sum of cash set aside; shortages in petty cash
24 accounts are a personal liability of the responsible head of the
25 agency to whom the account is set aside; the department shall make all
26 necessary rules and regulations governing use and replenishment of
27 petty cash funds;

28 * Sec. 4. AS 37.05.230(5) is repealed and reenacted to read:

29 (5) in (1)(B) of this section,

1 (A) "Alaska bidder" means a person, corporation or
2 partnership who:

3 (i) holds a valid Alaska business license;

4 (ii) submits a bid under the name which appears on
5 his Alaska business license; and

6 (iii) has maintained a place of business in the
7 state for six months immediately preceding the date of his
8 bid;

9 (B) "Alaska manufacturer" means a person, corporation
10 or partnership who:

11 (i) holds a valid Alaska business license;

12 (ii) submits a bid under the name which appears on
13 his Alaska business license; and

14 (iii) engages in a business activity in the state
15 by which he, through labor, art, or skill substantially
16 transforms raw or partially finished materials into the items
17 offered for purchase by the state; the commissioner of ad-
18 ministration may adopt regulations to implement this subpara-
19 graph;

20 * Sec. 5. AS 37.05.230(7) is amended to read:

21 (7) the provisions of (1)(B) of this section [RELATIVE TO
22 AN "ALASKA BIDDER"] do not apply to contracts for construction or re-
23 pair of transportation systems and corridors and public buildings and
24 facilities; [ESTIMATED TO EXCEED \$5,000, OF EITHER THE DEPARTMENT OF
25 TRANSPORTATION AND PUBLIC FACILITIES, WHICH ARE AUTHORIZED UNDER
26 AS 35.15, OR THE DEPARTMENT OF HIGHWAYS, WHICH ARE AUTHORIZED UNDER
27 AS 19.10.]

28 * Sec. 6. AS 37.05.230(8) is amended to read:

29 (8) the provisions of this section relative to competitive

1 bids do not apply to the purchase of products or services manufactured
2 or provided by a sheltered workshop operating in the state; and [.]

3 * Sec. 7. AS 37.05.230 is amended by adding a new paragraph to read:

4 (9) the provisions of (1)(B) of this section do not apply
5 to purchases and contracts which involve federal money received by the
6 state if the application of a bidding preference violates federal law
7 or federal program guidelines.

8 * Sec. 8. AS 37.05.240 is amended to read:

9 Sec. 37.05.240. AWARD OF CONTRACTS AND PURCHASES. A contract
10 or purchase made by or under the supervision of the department for
11 which competitive bids are required shall be awarded to the lowest re-
12 sponsible bidder. The department shall determine the responsibility of
13 the bidder based upon the bidder's (1) adherence to the bid specifica-
14 tions, (2) proposed terms of delivery, (3) compliance with state laws,
15 (4) performance record, and (5) compliance with conditions imposed in
16 the solicitation for bids. The purchasing agent may cancel the solici-
17 tation for bids before the award if it is in the state's best interest.
18 However, if the purchasing agent makes the contract or purchase after
19 the solicitation for bids is cancelled, the purchase or contract shall
20 be made in accordance with AS 37.05.230(2). [, TAKING INTO CONSIDERA-
21 TION CONFORMITY WITH THE SPECIFICATIONS, TERMS OF DELIVERY, AND OTHER
22 CONDITIONS IMPOSED IN THE CALL FOR BIDS. BIDS MAY BE REJECTED, AND A
23 BID SHALL BE REJECTED IF IT CONTAINS A MATERIAL ALTERATION OR ERASURE
24 WHICH IS NOT INITIALED BY THE SIGNER OF THE BID. THE DEPARTMENT MAY
25 REJECT THE BID OF A BIDDER WHO IS IN ARREARS ON TAXES DUE THE STATE OR
26 WHO FAILED TO PERFORM ON A PREVIOUS CONTRACT WITH THE STATE. WHERE
27 COMPETITIVE BIDS ARE REQUIRED AND WHERE ALL BIDS ARE REJECTED, NEW BIDS
28 SHALL BE CALLED FOR AS IN THE FIRST INSTANCE.] Before the awarding of
29 a contract for a building or the making of repairs upon a building, the

1 department shall see that the bids conform with plans and specifications
2 approved by the Department of Transportation and Public Facilities.
3 All bids with the names of the bidders and the amounts of the bids,
4 together with all documents pertaining to the award of a contract,
5 shall be made a part of a file or record and retained by the department
6 for three years, unless reproduced by microfilming and these files or
7 records are open to public inspection at all reasonable times. An
8 aggrieved bidder may within five days after an award of contract appeal
9 to the department for hearing, with notice to interested parties, for
10 redetermination and final award in accordance with law.

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147-8
January 12, 1981

Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to competitive bidding in the state procurement process. The bill contains eight sections which make three major changes: first, an Alaska manufacturer's bid preference of 15 percent is added; second, because of inflation, the threshold above which competitive bidding is required would be raised from \$2,500 to \$5,000; and third, the bill would make clear the authority of the state to limit the solicitation of bids or reject all bids, if that action would be in the state's best interest.

Sections 1 and 4 of the bill would amend AS 37.05.230(1) and (5) to create an Alaska manufacturer's preference of 15 percent. This preference would be available to a person who holds an Alaska business license, bids under the name on the license and produces the needed goods in Alaska from raw or partially finished materials. The division of general services and supply would, by regulation, distinguish between true manufacturing and packaging, displaying, or minor assembling.

Sections 2 and 3 of the bill amend AS 37.05.230(2) and (3) to raise the threshold above which competitive bidding is required. This is necessary because of inflation in recent years and because the cost of publicly soliciting bids is so high that it often exceeds any reasonably anticipated savings on small projects or purchases. Section 2 of the bill also codifies the power and practice of the state to limit solicitations of bids to Alaskan bidders if there are enough of those bidders to insure price competition.

Sections 5-7 of the bill would make clear existing provisions or enact into law policies already in force in the state procurement system. Section 5 restates the exemption of contracts for construction or repair of state roads, ferries, harbors, highways, airports, or buildings, because those contracts are administered under separate statutory authority by the Department of Transportation and Public Facilities. Section 6 of the bill would make clear the intent of the existing provision to protect Alaskan sheltered workshops. Section 7 of the bill would authorize the exemption of a contract from the bid preference provisions if the preference would jeopardize federal financing of the contract.

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Sincerely,

S/JS//

Jay S. Hammond
Governor

(2) HOUSE BILL NO. 58
(Page 2 of 2)

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Funds should be appropriated to the Division of Budget & Management for distribution.

ALASKA STATE LEGISLATURE

TWELFTH Legislature FIRST Session

HOUSE BILL NO. 58

By THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

"An Act relating to competitive bidding under the Fiscal Procedures Act."

Competitive bidding

Introduced in the House .. 2/4 .., 19 81

HISTORY IN THE HOUSE

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|------------------------------|---|------|----------------|------|------|------|------|--------|--------|---------|---------|-----------------|--|------|----------------|------|------|------|------|--------|--------|---------|---------|------------------------------|--|-------------------|--|----------------|--|
| 19 81 | Read first time and referred to Committee on State Affairs | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Feb. 4 | Reported back with recommendation that | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Read second time and | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Read third time and | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | <table border="0"> <tr> <td>PASS</td> <td>Effective Date</td> </tr> <tr> <td>Yeas</td> <td>Yeas</td> </tr> <tr> <td>Nays</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> <tr> <td colspan="2">Reconsideration</td> </tr> <tr> <td>PASS</td> <td>Effective Date</td> </tr> <tr> <td>Yeas</td> <td>Yeas</td> </tr> <tr> <td>Nays</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> <tr> <td colspan="2">Reported correctly engrossed</td> </tr> <tr> <td colspan="2">Signed by Speaker</td> </tr> <tr> <td colspan="2">Sent to Senate</td> </tr> </table> | PASS | Effective Date | Yeas | Yeas | Nays | Nays | Absent | Absent | Excused | Excused | Reconsideration | | PASS | Effective Date | Yeas | Yeas | Nays | Nays | Absent | Absent | Excused | Excused | Reported correctly engrossed | | Signed by Speaker | | Sent to Senate | |
| PASS | Effective Date | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yeas | Yeas | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Nays | Nays | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Absent | Absent | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| Reconsideration | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| Reported correctly engrossed | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Signed by Speaker | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sent to Senate | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| CHIEF CLERK OF THE HOUSE | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

HISTORY IN THE SENATE

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|------------------------------|--|------|----------------|------|------|------|------|--------|--------|---------|---------|-----------------|--|------|----------------|------|------|------|------|--------|--------|---------|---------|------------------------------|--|---------------------|--|-------------------|--|
| 19 | Read first time and referred to Committee on | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Reported back with recommendation that | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Read second time and | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Read third time and | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| Yeas | Yeas | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| Reconsideration | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| Signed by President | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Returned to House | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| SECRETARY OF THE SENATE | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

HISTORY IN THE HOUSE

| | |
|----|---|
| 19 | Received from Senate |
| | Concurred in Senate amendment thus adopting: VOTE |
| | Failed to concur in Senate amendment; asked Senate to recede VOTE |
| | Senate receded from amendment VOTE |
| | Senate failed to recede from amendment VOTE |
| | CC appointed by House |
| | CC appointed by Senate |
| | CC adopted by House VOTE |
| | CC adopted by Senate VOTE |
| | To enrolling |
| | Reported correctly enrolled |
| | Sent to Governor |
| | by Governor |
| | Filed with Lt. Governor |
| | Chapter No. |