

HB

156

CSHB 156 "An Act relating to legislative contracts."

Jan Bomhoff suggests the following amendment:

page 2, lines 10-11: after the word "required", delete the language through the words "prior work".

She believes the language is too loose. It would, therefore, read:

(1) there is a single source of the expertise or knowledge required; however, this exemption from a request for proposals applies only when a legislative committee by vote of the majority of the members of the committee has approved the exemption and a written justification signed by the person responsible for awarding the contract which details the reasons for the exemption is filed with the Legislative Affairs Agency as a public record. Any proposed contract to be awarded under this exemption must also be approved by the committee before it is valid; or

(Jan Bomhoff, Free Committee)

May 22, 1981

(d) Votes required to be conducted under (c) of this section may be conducted by teleconference. (§ 1 ch 170 SLA 1980)

Cross references. — For the 1980 special appropriation to the reserve for emergency operating expenses account, see Chapter 171, SLA 1980, in the Temporary and Special Acts binder.

Article 4. Uniform Purchasing.

Section

230. Competitive bids

Sec. 37.05.230. Competitive bids. In the manner provided in AS 37.05.010 — 37.05.330 and rules and regulations established under it

(1) a contract for construction and repairs, or a purchase of and contract for supplies, materials, equipment, and contractual services must be based on competitive bids; an award shall be made to the lowest responsible bidder after advertising for bids, except that (A) Repealed by § 2 ch 92 SLA 1967; (B) a bid shall be awarded to an Alaska bidder if his bid is not more than five per cent higher than the lowest nonresident bidder's; and (C) competitive bids need not be required (i) for contractual services where no competition exists; (ii) for sales involving fair trade items; (iii) when, in the judgment of the purchasing agent, food, clothing, or medical supplies, or materials for use in laboratory and experimental studies may be purchased otherwise to the best advantage of the state; (iv) where rates are fixed by law or ordinance; (v) for items traded in on like items; or (vi) for professional services;

(2) if the amount of the contractual services, purchase, or sale is estimated to exceed \$2,500 sealed bids shall be solicited, when practicable, by publication in a newspaper calculated to reach prospective bidders and by posting notices in public places within the area where the work is to be performed or material furnished and in addition the department may also designate a trade journal for publication; the department shall also solicit bids by sending notices by mail to all active prospective bidders known to it and all bids shall be sealed when received, and shall be opened in public at the hour stated in the notice; the department may negotiate directly if it finds that it is in the best interests of the state;

(3) a contractual service, purchase or sale where the known requirements are estimated to be less than \$2,500 may be made either upon competitive bids in accordance with (2) of this section or in the open market, in the discretion of the department; but, so far as practicable, shall be based on at least three competitive bids and recorded as provided in AS 37.05.240; small purchases of less than \$300 in the discretion of the department may be made on the open market, and may be by cash payment from petty cash accounts set aside for that purpose;

the department shall determine the amount of the petty cash accounts needed by each state agency, and inspect the petty cash accounts at least once each year to determine that the total plus amounts of receipts for unreplenished disbursements is equal to the fixed sum of cash set aside; shortages in petty cash accounts are a personal liability of the responsible head of the agency to whom the account is set aside; the department shall make all necessary rules and regulations governing use and replenishment of petty cash funds;

(4) the provisions of this section relative to competitive bids do not apply to contracts for the operation of transportation systems for students to and from the schools within the state, as are authorized under AS 14.09.010; and these contracts may be awarded by bid or negotiation and, at the discretion of the Board of Education, may be awarded for periods of three years or less;

(5) an "Alaska bidder," for the purpose of bid awards under (1) (B) of this section, is a person who

(A) holds a current Alaska business license,

(B) submits a bid for goods or services under the name as appearing on his current Alaska business license,

(C) has maintained a place of business within the state for a period of six months immediately preceding the date of his bid.

(6) the competitive bid requirements of this section do not apply to air taxi services used by state employees when no formal contract is executed; the department affected shall pay the air taxi operator the tariff rates as published by him with the Air Transportation Commission for the type of aircraft required; the tariffs need not be uniform throughout the state and may reflect the diverse conditions of various areas of the state; the air tax service used in each case shall be selected by the state employee who is to fly in the aircraft, or if more than one state employee is flying in the aircraft by the employee in charge; in all cases the air taxi operator shall have complied with AS 02.05.010 — 02.05.260 and other prequalifying regulations established by the department.

(7) the provisions of this section relative to an "Alaska bidder" do not apply to contracts estimated to exceed \$5,000, of either the Department of Transportation and Public Facilities, which are authorized under AS 35.15.010 — 35.15.120, or the Department of Highways, which are authorized under AS 19.10.010 — 19.10.280.

(8) the provisions of this section relative to competitive bids do not apply to the purchase of products or services manufactured or provided by a sheltered workshop. (§ 3 art IV ch 82 SLA 1955; am §§ 8 — 10, 23 ch 186 SLA 1957; am § 1 ch 77 SLA 1959; am § 1 ch 158 SLA 1962; am § 1 ch 82 SLA 1964; am §§ 1, 2 ch 92 SLA 1967; am § 1 ch 61 SLA 1970; am § 1 ch 92 SLA 1975; am §§ 1, 2 ch 194 SLA 1975)

May 22, 1981

Committee discussion of CSHB 156

Senator Parr: Mr. Chairmen, do you know why the ombudsman's office is exempted from this bill?

Patty Moriarity(Deputy Ombudsman): I believe Senator Parr just asked why the Ombudsman's office was exempted from this bill, that essentially provides procedures for legislative agencies when they're contracting. We are a legislative agency, but a concept of an Ombudsman requires a great degree of independence from the legislative as well as executive branch. That's the reason for the exemption, also the provisions for the approval of legislative contracts are outside of the scope of approval of the Ombudsman. Legislative Affairs contracts legislative finance for legislative audit, budget and audit committee. There isn't really any place for the Ombudsman to go for approval of our contracts, so the bill provides that we adopt regulations to establish procedures.

Senator Parr: I guess my question was if the Ombudsman is going to conduct a special investigation, we are going to hire somebody to do it. Whether you shouldn't also solicit the _____. I guess that's the question. Page 2, line 20 I wonder if that isn't the intent of that procedure.

Patty Moriarity: Page 2, line 20 does exempt us from requesting proposals.

Senator Parr: That's my question, why.

Patty Moriarity: There's two things to understand with regard to this section. When we need an investigator to do some kind of a special investigation, chances are there is going to be an employer, employee relationship between that person and the Ombudsman so we wouldn't hire them on a contract, we would hire them as a non-permanent project employee or an emergency employee. I can only think of one case in the last 6 years where we contracted for an investigator. That case the complaint concerned a state employee who was a friend of virtually everyone on staff and it was essential that we have someone else investigate the complaint, and in that case there was no employer, employee relationship. We went out to find a very impartial investigator who could be trusted to do that investigation.

Senator Parr: I presume that the bill is before us because of some complaints that have occurred. One legislator letting his contracts out with no competitive bidding and so forth, I guess with all due respect to Mr. Flavin and his successor, both of whom I have a great deal of respect for, I don't know that any Ombudsman is any more liable, trustworthy, can get by without scrutiny or procedures any better than any single legislator can. It's just that simple. If I, as the chairman of a committee in the Senate, wish to issue a contract, I have to go through and get competitive bids, it appears that the Ombudsman should have to get competitive bids too. It's that simple.

Patty Moriarity: Mr Chairman, I believe that only exempts requesting for proposals for investigators. It doesn't exempt any of our other contracts. It's just that there isn't any other place for us to get them approved. We can't go through the executive branch system and the council on budget and audit committee traditionally

Senator Parr: I didn't suggest about you getting them approved. I assume the Ombudsman will choose _____

Senator Ray: It's obvious. The Ombudsman is not a part of the legislature. This just deals with legislative contracts. I think we should strike all reference to the Ombudsman from any part of it. Although I do agree with you that we should put in some place that if the Ombudsman is going to do that, maybe we should amend the Ombudsman's act to provide them to do certain things.

Senator Rodey: There are a number of agencies, for example the Ombudsman's office, the Code Revision Commission, the Blue Ribbon Commission, agencies which are attached to the legislature financially but may have little practical connection with the legislature.

Senator Ray: The only practical relationship they have is through the appropriation process.

Senator Rodey: Are there any more questions on HB156, if not I would like to lay it on the table and take up HB89.



Alaska State Legislature

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House of Representatives

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

March 4, 1981 - Wednesday - 3:00

Reel #641-10: 0017-198

Agenda: Reform Bills:

HCR 3 (Amendment to Uniform Rules)
HB 153 (Leg. Comm. on Govt. Ethics)
HB 154 (Financial Disclosure)
HB 155 (Legislative Procedures)
HB 156 (Legislative Contracts)

Testifying: Rep. Jim Duncan, Speaker of the House
Rep. Terry Gardiner
Rep. Hugh Malone
Rep. Freeman
Rep. Miller
Frank Flavin, Ombudsman, State of Alaska
Paula Ziegler, State Board, League of Women Voters

The meeting was called to order by Chairma: Miller.

All members were present.

Chairman Miller reviewed the order of testimony from the witnesses.

Speaker Jim Duncan was called to give an overview of the entire legislative reform package. He presented a general support statement for legislative reform, saying that it is a good, responsible response to public legislative concerns and criticism.

HB 154

Rep. Gardiner was called to testify. He stated the reason for the bill as being that of proposing additions to existing rules.

HB 153

Rep. Russ Meekins was called to testify, saying this bill hoped to eliminate improper conduct. He urged the Committee to take a close look at an ethics commission, and presented a copy of amendments. Discussion followed.



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HB 156

Rep. Hugh Malone testified, saying the bill was designed to set out procedures for handling of contracts. ~~Discussion centered around the witness oath which had been tried that evening.~~

HCR 3

Rep. Freeman testified, saying he felt this resolution was the most important in the entire package.

HB 155

Chairman Miller spoke in favor of this bill, saying that it enforces uniformity of taking minutes and testimony. It reviews the guidelines for committees regarding tapes, logs, roll call, summary of testimony, and oath-taking.

HB 153

Frank Flavin, Ombudsman for the State of Alaska, reviewed a report done by his office on ethics commissions in other states-- specifically in Hawaii and Wisconsin. Of concern to him was the composition of the proposed commission, as well as its functions.

Paula Ziegler, representing the State Board of League of Women Voters, gave the background of the League's position on legislative reform. She said it is gratifying to see action taken by the legislators themselves, and reported the League's views on HCR 3, HB 155, and HB 156.

Chairman Miller adjourned the meeting at 9:30 p.m.



Alaska State Legislature

House of Representatives

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

March 7, 1981 - Saturday - 10:00

Reel #641-13: 0040-1468

Agenda: Reform Bills Markup

Testifying: Rich Lastowski, Chairman, APOC

The meeting was called to order by Chairman Miller.

Members present were Rep. Abood, and Rep. Brown. Absent were Rep. Cuddy, and Rep. Fuller.

Chairman Miller's recommendation was to move the bills out, and ask the Rules Committee to hold additional teleconference hearings, if necessary, for those wishing to testify.

HB 153

Rich Lastowski, Chairman of the APOC, commented that, administratively, it does not have a position on the bill. It does not matter where an ethics commission is placed; they are pleased that the Legislature is looking into this kind of legislation. Their primary concern is that a commission be given an adequate enough budget to do the job, and adequate staff.

HB 156

The bill was reviewed, and several amendments were suggested. Among the changes was one brought up by Frank Flavin--adding a section requiring the Ombudsman's Office to adopt contracting regulations consistent with HB 156. Chairman Miller suggested he work with Admin. Assistant Jeff Petrich on appropriate language, and supply an amendment for the Committee to review.

Rep. Brown moved that a conceptual amendment be put in regarding "responsible committee".

There were no objections, and the motion was approved.

Rep. Brown moved to draft a section regarding piggybacking of contracts that would violate HB 156. It was decided to present the problem to the drafters and let them come up with a language solution.

There were no objections to the motion.



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Jeff Petrich referred to the suggestion made by Rep. Gardiner at the Wednesday evening session, to broaden the term lobbyist to include staff, etc., or add contractual relationship.

Rep. Brown moved to add a new section (subsection 12) to cover this concern.

There were no objections, and the motion passed.

Rep. Brown moved to add to subsection A, or let the drafters decide whether to add a new subsection like A, with the language "in excess of \$100.00 from a partnership or candidate.

There were no objections, and the motion passed.

Rep. Brown moved to have subsection C or D amended to include new language--"in excess of \$100.00 from a corporation, over 50% of the stock of which is owned by the public official."

There were no objections, and the motion was approved.

Chairman Miller adjourned the meeting at 12:15.



Alaska State Legislature

House of Representatives

Committee on State Affairs

Official Business

Pouch V
State Capitol
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March 9, 1981 - Monday · 3:00

Reel #641-14: 0000-0078

Agenda: HB 156 (Legislative Contracts)
 HB 20 (Loans to Develop Electric Svc.)
 HB 21 (Rural Electrification Fund)
 HB 58 (Competitive Bidding)

Testifying: Jan Bomhoff
 Rep. Pappy Moss
 Pete Kelly, Admin. Assist., Rep. Moss

Chairman Miller called the meeting to order.

All members were present.

HB 156

Jan Bomhoff, representing the Anchorage Womens' Free Committee, wrapped up her testimony in support of the bill. She mentioned several weaknesses, and suggested amendments to offset them.

HB 20, 21

Rep. Pappy Moss, prime sponsor, testified. He stressed the urgent need for electrical service, but added that consumer groups are not able to amass funds necessary, or shoulder the payments. The purpose of the bill would be to do so--

Discussion centered around the 50 million dollar figure estimated to cover the project.

Chairman Miller recommended that the bill be passed on to Finance, as the Committee was conceptually in favor of it; however, he would attach a letter of intent to Chairman Cotten advising further study of the 50 million dollar figure, which was questionable.



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Chairman Miller also recommended that a subcommittee of State Affairs investigate the 50 million dollar figure more thoroughly.

Rep. Brown moved to pass the legislation out as a CS.

There were objections from Rep. Cuddy and Rep. Abood.

A vote was taken, and the motion was approved.

Do Pass: Miller, Fuller, Brown

Do not Pass: Cuddy, Abood

HB 58

Chairman Miller reviewed the status of the bill from its first hearing on February 20.

There was additional discussion.

Rep. Fuller moved to pass the bill out, and refer it to Finance.

Rep. Cuddy objected.

A vote was taken, and the bill was passed out of Committee.

Do Pass: Fuller

No Rec: Miller, Abood, Brown

Do Not Pass: Cuddy