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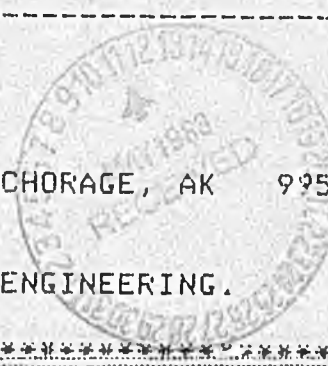
MSG 83-00016105 PRTY 1 05/09/83 17:33:52 ORIG: LA05 IN= 0010 OUT= 0174  
FROM: MARCIE, ANC INFO TO: POM, JUNEAU INFO  
TARGET: LJHL SUBJ: F O M



TO: ALL MEMBERS OF THE HOUSE OF REPRESENTATIVES  
FROM: CLAUDE LAWS, 941 WEST 77TH AVE., ANC 99502 H 544-5146 W 2775605  
RE: HB 211 (RE: CONTRACTS/ARCHITECTURAL ENGINEERING)  
I'D LIKE TO GIVE MY SUPPORT TO THIS BILL.

EOM  
5/9/83, JUNE, ANC LIO, MSG 16135

TO: ALL REPRESENTATIVES  
FROM: LEWIS E. DICKINSON, 4017 NORTH POINT DRIVE, ANCHORAGE, AK 99502  
H- 243-1079 W- 562-2000



I URGE YOU TO SUPPORT HB 211-CONTRACTS/ARCHITECTURAL ENGINEERING.

\*\*\*\*\*

MSG 83-00016129 PRY 1 05/09/83 18:51:54 ORIG: L001 IN= 0005 OUT= 0193  
FROM: ROBERTA/KODIAK TO: JUNEAU  
TARGET: LJHL SUBJ: PUBLIC OPINION MESSAGE

TO: ALL MEMBERS HOUSE OF REPRESENTATIVES  
ALL MEMBERS SENATE

FROM: JACK JOHNSTON  
P.O. BOX 1065, KODIAK, AK. 99615 486-3823

RE: HB 17 DRINKING BILL

I WOULD LIKE TO SEE THE DRINKING AGE RAISED TO THE AGE OF 21 YEARS OLD.  
I SUPPORT HB 17 AND URGE YOU TO DO THE SAME.



G 83-00016024 PRY 1 05/09/83 15:40:38 ORIG: LA02 IN= 0012 OUT= 013;  
DM: JUNE, ANC LIO TO: POM, JNU INFO  
RGET: LJHL SUBJ: P O M

9/83, JUNE, ANC LIO, MSG 16024

TO: ALL MEMBERS OF THE HOUSE OF REPRESENTATIVES

OR

FROM: KENNETH J. HUSEBY, P.E.  
7201 EAST 17TH AVENUE  
ANCHORAGE, AK 99504 H- 333-0920 W- 274-3660

URGE YOUR SUPPORT FOR HB 211, CONTRACTS/ARCHITECTURAL ENGINEERING BILL.  
FEEL THIS BILL IS IN THE BEST INTERESTS OF THE STATE AND THE TAX PAYING  
PUBLIC. THIS BILL WILL BE THE STATE EQUIVALENT OF THE BROOKS BILL FOR THE  
FEDERAL GOVERNMENT, WHICH HAS BEEN THE LAW FOR THE LAST SEVERAL YEARS.

S/ KENNETH J. HUSEBY, P.E.

\*\*\*\*\*

MSG 83-00016062 PRY 1 05/07/83 16:50:14 ORIG: LA02 IN= 0013 OUT= 0163  
FROM: JUNE, ANC LIO TO: POM, JNU INFO  
TARGET: LJHL SUBJ: P O M

49/83, JUNE, ANC LIO, MSG 16061

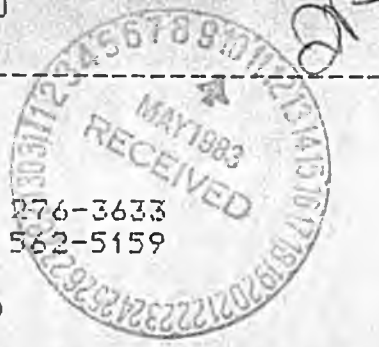
ALL REPRESENTATIVES

FROM: BILL HAMM, 3324 KNIK, ANCHORAGE, AK 99503  
H- 243-1004 W- 562-2000

PLEASE PASS HB 211 TO ESTABLISH THE PROPER PROCEDURE FOR SELECTION OF  
DESIGN PROFESSIONALS FOR PUBLIC PROJECTS. WE NEED THE MOST QUALIFIED  
AND EXPERIENCED INDIVIDUALS WHEN THE HEALTH AND SAFETY OF THE USING  
PUBLIC IS AT STAKE. HIGH QUALITY DESIGNS WILL BE THE MOST ECONOMICAL  
IN THE LONG RUN.

\*\*\*\*\*

SG 83-00016224 PRTY 1 05/10/83 10:46:32 ORIG: LA05 IN= 0001 OUT= 0039  
FROM: MARCIE, ANC INFO TO: FOM, JUNEAU INFO  
TARGET: LJHL SUBJ: P O M



TO: ALL MEMBERS OF THE HOUSE OF REPRESENTATIVES

FROM: DALE A. NELSON, 1012 WEST 53RD AVE, ANC W 276-3633  
MAIL: 430 WEST 7TH AVE., SUITE 210, ANC 99501 H 562-5159

RE: HB 211 (CONTRACTS/ARCH., ENG., LAND SURV. SERVICES)

YOUR SUPPORT IN THE PASSAGE OF HB 211 WOULD BE APPRECIATED. THE PASSAGE OF THIS BILL WILL ALLOW FOR THE SELECTION OF ARCHITECTURAL, ENGINEERING OF LAND SURVEYING FIRMS OR PERSONS BASED ON DEMONSTRATED COMPETENCE AND QUALIFICATIONS.

FOM

MSG 83-00014902 PRTY 4 03/11/83 17:06:59 ORIG: LA02 IN= 0008 OUT= 0105  
FROM: JEAN, ANCH LIO TO: POMS, JUNEAU INFO  
TARGET: LJHL SUBJ: POMS

-----  
3/11/83 JEAN, ANCH LIO, MSG 14902

TO: ALL MEMBERS OF THE HOUSE JUDICIARY COMMITTEE  
REPRESENTATIVES RUSSELL, LISKA, HAYES, BARNES, MALONE,  
CLOCKSIN, WENDTE

FROM: BILL HAMM  
3324 KNIK  
ANCHORAGE, AK 99503 (W) 562-2000 (H) 243-1004

I HAVE REVIEWED A COPY OF HB 211, WHICH YOUR COMMITTEE WILL  
CONSIDER SOON, AND AM CONVINCED IT IS IN THE BEST INTEREST OF THE  
PUBLIC TO ENACT THIS BILL INTO LAW AS SOON AS POSSIBLE.

XXXXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXXXX

\*\*\*\*\*  
FROM: VELI KALLIO

SRA 455-C

ANCHORAGE, AK 99507

(H) 345-6417 (W) 277-5605

I AM CALLING IN SUPPORT OF HB 214. I AM AGAINST BIDDING FOR THE PERFORMANCE OF PROFESSIONAL ENGINEERING SERVICES BECAUSE I FEEL VERY STRONGLY THAT IS THIS WILL RESULT IN THE DEVELOPMENT OF LESS DETAIL DURING THE DESIGN PHASE AND RESULT IN THE PLACEMENT OF CRITICAL ENGINEERING DECISIONS ON CONSTRUCTION FORCES.

\*\*\*\*\*

---

FROM: VELI KALLIO

SRA 455-C

ANCHORAGE, AK 99507

(H) 345-6417 (W) 277-5605

JK

I AM CALLING IN SUPPORT OF HB 214. I AM AGAINST BIDDING FOR THE PERFORMANCE OF PROFESSIONAL ENGINEERING SERVICES BECAUSE I FEEL VERY STRONGLY THAT IS THIS WILL RESULT IN THE DEVELOPMENT OF LESS DETAIL DURING THE DESIGN PHASE AND RESULT IN THE PLACEMENT OF CRITICAL ENGINEERING DECISIONS ON CONSTRUCTION FORCES.

\*\*\*\*\*

1. ... 1967 ...

... (10) ...

... EDWARDS, ... MALONE, ...

JR

... SERVICE ...

(M) 277-5445 (H) 263-8130

... GENERAL AND STATE EMPLOYEES ...

...

10-03-77 LEE AND LEO, 1977

JR

10-03-77 LEGISLATIVE COUNCIL, JOHNSON, KINGSTAD, EDWARDS,  
MORSE, WOODIE, ROSENBERG, RUSSELL, LING, WARE,  
WATERS AND CLOUTIER

10-03-77 LEO, 1977 PHIL, ANCHORAGE 48503  
10-03-77 LEO 10-03-77

MEMORANDUM FOR THE PARTY, URGE PASSAGE OF HB 211. STAFF  
MEMORANDUM FOR PREPARING DETAILED COPY OF BILL TO ALLOW  
FOR THE A.E. BILLING IS GREATER COST THAN POTENTIAL  
SAVINGS, ALSO CHECK BILL OF A.E. CHANGE ONLY. URGE IF  
NOT. RESIDENT SENSITIVITY (GOD). DON'T KNOW OF ANY FACT  
THAT WOULD AFFECT.

10-03-77 LEO 10-03-77

MSG 83-00000286 PRTY : 03/14/83 14:52:43 ORIG: LA03 IN= 0003 OUT= 0083  
FROM: JUNE, ANC LIO TO: POM, JNU INFO  
TARGET: LJHL SURJ: POM

-----  
3/14/83, JUNE, ANC LIO, MSG 286

TO: REPRESENTATIVES FURNACE, UEHLING, RINGSTAD, COWDERY, MALONE, WENDTE,  
KOPONEN, ~~BUSSELL~~, BARNES, AND CLOCKSIN

FROM: ART JACOBS  
706 SATURN CIRCLE  
ANCHORAGE, AK 99504 (H) 337-6843 (W) 274-3660

THE NATURE OF ENGINEERING AND ARCHITECTURAL DESIGN CONTRACTS, AS OPPOSED TO  
CONTRACTS FOR CONSTRUCTION, IS SUCH AS TO NECESSITATE NEGOTIATION RATHER  
THAN BIDDING. PASSAGE OF HB 211 IS DEFINITELY IN THE PUBLIC INTEREST. PRE-  
SENT PROCEDURES OF DOT/PF PARALLEL THE INTENT OF THIS BILL.

\*\*\*\*\*



MSG 03-00000824 PRTY 1 03/15/83 18:25:54 ORIG: LA02 IN: 0005 OUT: 0130  
FROM JUNE, ANC LIO TO POM, RHI INFO  
TARGET: LJHL SUBJ: POM

JR

03/15/83, JUNE, ANC LIO, MSG 824

TO REPRESENTATIVES FURNACE, MALONE, BUSSELL, AND HAYES

FROM NELS KGELSTAD, PE & LS  
2220 NORTH STAR #23  
ANCHORAGE, AK 99503 (H) 277-6810 (W) 277-5605

REGARDING HB 211, RELATING TO CONTRACTS FOR ARCHITECT ENGINEER AND LAND SURVEYING SERVICES, I BELIEVE THAT THE STATE OF ALASKA AND ALASKA PROFESSIONALS WILL BE BEST SERVED BY PASSAGE OF THIS LEGISLATION. PLEASE SUPPORT HB 211.

\*\*\*\*\*

REF 83-00000991 PRTY 1 03/16/93 12 17:35 ORIG 1.001 IN= 8000 OUT= 0046  
FROM SHERLEY AND CO TO BUREAU GENERAL INFO

3-15-93 SHERLEY AND CO, 291

JR

TO REPRESENTATIVES FURBERG AND BUSHELL  
FROM FRED BROWN, 5421 ARCTIC BLVD., ANCHORAGE 99502  
W 561-2120

AS A PROFESSIONAL ENGINEER AND THE ANCHORAGE OFFICE MANAGER  
FOR SHANNON & WILSON, INC., I STRONGLY URGE YOU TO SUPPORT  
HR 211. IT IS IN THE BEST INTEREST NOT TO HAVE A COMPETITIVE  
BID SITUATION WHEN A CONCEPT OR DESIGN IS NEEDED RATHER THAN  
A TANGIBLE PRODUCT.

\*\*\*\*\*

ISS 83-00001442 PRTY 4 03/17/83 15:13:19 ORIG LAG1 IN= 0013 OUT= 0007  
FROM: SHIRLEE AND LIO TO: FOMC JUNEAU INFO  
TARGET: LHL SUBJ: FOR

3/17/83, SHIRLEE AND LIO, 1442

JR

TO: REPRESENTATIVES RUSSELL, FURNACE AND PHILLIPS  
FROM: ART RONIMUS, 3041 SANCTUARY DRIVE, EAGLE RIVER 99577  
H 694-5157 W 277-5605

I SUPPORT HOUSE BILL NO. 211 KNOWN AS THE MINI-BROOKS BILL.  
I URGE YOU TO SUPPORT THIS LEGISLATION.

\*\*\*\*\*

CG 87-00001507 PRTY 1 03/17/83 17 06 46 ORIG. LA01 IN= 0015 OUT= 0106  
FROM JUNE, ANC LIO TO: POM, JRU INFO  
TARGET: LJHL SUBJ: POM

17/83, JUNE, ANC LIO, MSG 1507

JR

OF REPRESENTATIVES ~~RUSSELL~~ AND FURNACE

FROM: TED TRUEBLOOD  
1621 WINTERSET DRIVE  
ANCHORAGE, AK 99504 (H) 561-0274 (W) 265-2457

ON BEHALF OF THE 446 ANCHORAGE AREA CIVIL ENGINEERS, I URGE YOU TO SUPPORT  
THE ENACTMENT OF HB 211.

BY TED TRUEBLOOD  
PRESIDENT OF THE ANCHORAGE BRANCH  
AMERICAN SOCIETY OF CIVIL ENGINEERS

\*\*\*\*\*

4/26/83. SHIRLEE AND LIO, 12215

TO REPRESENTATIVES BUSSELL, LISKA, HAYES, BARNES, BALONE,  
WENDTE AND KOPONEN

JR

FROM: LEWIS DICKINSON, 4040 B STREET, ANCHORAGE 99503  
W 582-2000

I REQUEST THAT YOU SUPPORT HOUSE BILL 244. IT IS VERY IMPORTANT  
TO ESTABLISH A STRONG PROFESSIONAL APPROACH FOR NEGOTIATING  
ENGINEERING/ARCHITECTURAL CONTRACTS. PLEASE CALL IF THERE ARE  
ANY QUESTIONS.

/S/ LEWIS DICKINSON, CONSULTING ENGINEER

\*\*\*\*\*

4/26/83, SHIRLEE AND LTD 12346

TO: REPRESENTATIVES RUSSELL, LISKA, HAYES, BARNES,  
MALONE, CLOCHSIN, AND WENDTE

FROM: BRIAN MATHER, 2346 LOUSSAC DRIVE ANCHORAGE 99503  
H 248-1846 W 276-0521

I URGE YOUR SUPPORT OF HOUSE BILL 211.

BR



\*\*\*\*\*

4/27/83 JUDY ANC LIO, 12679

TO: REPRESENTATIVES BUSSELL, LISKA, MALONE, CLOCKSI, WENDTE

FROM: ROBERT L. ENGELBACH, T.E., 7813 ARLENE STREET, ANCHORAGE  
99502 W - 279-0543

DR

I SUPPORT HB 211 WITH AWARD OF STATE CONTRACTS TO PROFESSIONAL  
ENGINEERS, ARCHITECTS AND LAND SURVEYORS BASED ON COMPETENCE AND  
QUALIFICATION.

PLEASE SUPPORT THIS BILL. IT IS IN THE BEST INTERESTS OF THE STATE  
TO MAINTAIN DESIGN QUALITY.



MSG 83-00012725 PRTY 1 04/27/83 15:52:54 ORIG: LA02 IN= 0008 OUT= 0138  
FROM: JEAN, ANCH LIO TO: JUNEAU INFO, POMS  
TARGET: LJHL SUBJ: POMS

4/27/83 JEAN, ANCH LIO #12725

JR

TO: REPRESENTATIVE CHARLES BUSSELL  
FROM: JONATHAN KUMAN  
3301 DENALI STREET  
SUITE 200  
ANCHORAGE, AK 99503 (W) 276-4311

I AM IN FAVOR OF HB 211 BEING PASSED.

\*\*\*\*\*

*Primary Referral*

TO: REPRESENTATIVES BUSSELL AND HAYES

FROM: KATHRYN GILLESPIE, 3290 MONTCLAIRE COURT, ANCHORAGE, AK 99503  
(H) 276-5262 (W) 277-2641

I SUPPORT HB 211, AND URGE YOUR APPROVAL OF BILL AS REVISED BY THE HOUSE LABOR AND COMMERCE COMMITTEE.

/S/ KATE GILLESPIE  
ASSOCIATE MEMBER OF AMERICAN INSTITUTE OF ARCHITECT

\*\*\*\*\*



PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE

- Alaska Chapter -

11 March 1983

Dear Representative Charlie Bussell  
Pouch V  
Juneau, Alaska 99811

Dear Representative Charlie Bussell:

Our organization at its March 9 meeting voted to send you this letter requesting your support of HB No. 211. This bill provides for State agencies to award contracts for professional services on the basis of competence and qualifications rather than low bid. We feel that sufficient competition exists in Alaska due to the large number of qualified firms ready to do business that a low bid procedure will not increase competition.

Rather, we feel that bidding will drive all efforts to the lowest common denominator, which will result in the barest minimum contract documents being supplied to clients. This in turn will result in much larger costs 'downstream' when the construction contract is awarded and the Contractor must either bid high to cover himself for deficiencies in the contract documents, or apply for extras afterward to cover specified items just to finish the project.

Thus, more poorly engineered projects at higher total cost will result which are not in the best interest of the general public. We feel that the health, welfare and safety of the general public is best served by the passage of this bill and urge your support.

Sincerely,

Professional Engineers in Private Practice

A handwritten signature in cursive script, appearing to read "K. Huseby", written in dark ink over a light background.

Kenneth J. Huseby, P.E.  
Chairman, PEPP

KJH:lbh



CONSULTING ENGINEERS  
COUNCIL OF ALASKA



2550 Denali Street, 8th Floor  
Anchorage, Alaska 99503  
907/278-2551

JR

March 22, 1983

Mr. Walt Furnace, Chairman  
Labor and Commerce Committee  
House of Representatives  
Pouch V  
Juneau, AK 99811

Subject: House Bill 211

Dear Mr. Furnace:

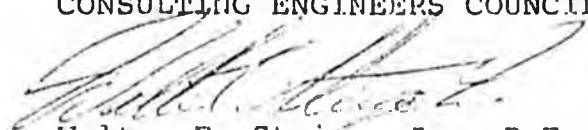
I want to thank you very much for the time that you spent with myself and Mitch Gravo last Thursday, March 17, working with House Bill 211. I believe that your interest and effort during the mark-up process will be helpful in the progress of the bill. After mark-up, the revised wording made the changed version a more palatable document than that which was originally proposed. However, the clarity of the bill's intent and the problems of some of the using agencies as imposed by the regulations built into the document, as we expressed to you, continue to make it awkward.

After more lengthy and rational study of the effect of the effort we put in on Thursday, I believe that some additional refinement, change in wording, and clarification, including the word flow in the bill, will be essential as it progresses through the legislative process with the ultimate objective to develop a final form that will be acceptable to the using agencies and the architects and engineers whose contracting-selection methods are directly affected by the bill.

Again, we appreciate very much your time and interest spent with us, and we look forward to the successful movement of the bill out of your committee.

Very truly yours,

CONSULTING ENGINEERS COUNCIL, ALASKA

  
Walter E. Steige, Jr., P.E.  
President

WFS/wlf



PRESIDENT  
VICE PRESIDENT  
SECRETARY  
TREASURER

W.E. Steige, CREWS, MACINNES & HOFFMAN  
C.W. Tryck, TRYCK, NYMAN & HAYES  
A.R. Jacobs, ANDERSEN-BJORNSTAD-KANE-JACOBS  
S.E. Clark, ARCTIC ENVIRONMENTAL ENGINEERS

# Committee on Judiciary

April 19, 1983

*Judiciary Referral*

Mr. Donald R. Dent  
2064 Delair Drive  
Anchorage, Alaska 99503

Dear Mr. Dent:

Pursuant to our conversation I have enclosed the minutes from the House Labor and Commerce Committee regarding House Bill 211 along with a copy of the bill.

Thank you.

Very truly yours,

*Charlie*

Representative Charlie Bussell  
Chairman, Committee on Judiciary

CB:lyn

enclosures



DONALD R. DENT PE/RLS

Professional Engineer  
Land Surveyor

Civil • Forensic

Committee on Judiciary

RE: HB 211 RE/CONTRACTS/ARCHITECTURAL ENGINEERING; ED

Charlie:

You requested a transcript of the hearings on HB 211 from the Labor and Commerce Committee. The first day of hearings is almost complete. They are requesting clarification on exactly what your request is for. Is it for all the hearings or are you interested in one particular issue? Do you want a package of all the paperwork submitted? Let me know.

Thanks,

*Gynda*

*YES  
- it's for the  
people who over  
flew Juneau that  
day -*



POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-4990

Alaska State Legislature  
HOUSE OF REPRESENTATIVES

REPRESENTATIVE  
CHARLIE BUSSELL  
CHAIRMAN

## Committee on Judiciary

May 7, 1983

Donald R. Dent, PE  
National Director  
2064 Belair Dr.  
Anchorage, Alaska 99503

Dear Don:

HB 211 under went a couple of minor changes to clean up 'typo's and zipped right through the the Judiciary Committee on the 27th of April. It is now in the Rules Committee and likely will come through the House this session.

Thanks for taking the time to become involved with the legislative process. If I can be of further help, please give me a call.

Best regards,

Representative Charlie Bussell  
Chairman, Committee on Judiciary

CB:cmz

MEMBERS:  
REP. JOHN LISKA, VICE CHAIRMAN; REP. RAMONA BARNES, EMERITUS;  
REP. JOE HAYES; REP. HUGH MALONE; REP. DON CLOCKSIN; REP. RON WENDTE

*The Alaska Society of  
Professional Engineers*



Address Reply To:

Donald R. Dent, PE  
National Director  
2064 Belair Dr.  
Anchorage, AK 99503

April 30, 1983

(907) 277-6855

Representative Charles Bussell  
Chairman, Committee on the Judiciary  
Alaska State House of Representatives  
Pouch V  
Juneau, AK 99811



Re: CS HB 211 (L&C)

Dear Charlie;

I must apologize for being remiss in acknowledging the hospitality you showed Vlad Paten and me on March 20th. It was appreciated.

I also want to thank you for the materials forwarded on the Labor and Commerce Committee hearings on HB 211, and the L&C Substitute. The info points out several areas in which there is a chance for misunderstanding by others who will be looking at the bill in committee and on the floor.

I do wish that I would have been able to attend the March 21st hearing when the question regarding the pending US DOJ suit was broached. With the research I've done and contacts with the NSPE Legal staff, it was evident that Mr. Barry was transmitting the information given him by the AG's office. That info is short on complete facts involved, with the latest case history omitted. It is understandable that the relation between the suit and HB 211 would come up. In my opinion, however, the DOJ suit is irrelevant to the purpose and importance of HB 211.

The form of CS HB 211 (L&C) forwarded to your committee is virtually the same as originally introduced, with the only change being made on page 1, line 12, by addition of "AS 36.98.010(3)". Without this change it would appear that the bill would have been a "catch 22" situation.

The only change I would suggest in the bill is on page 1, line 29, where it states, "(c) Subject to the criteria in (c) of this section..." I think that there was a typographical error and it should read, "(c) Subject to the criteria in (b) of this section..."

Do you anticipate committee hearings on CS HB 211 (L&C) this session, or before the next session? If so, I would appreciate advance notice in order to schedule an appearance and to notify others.

Sincerely,

Donald R. Dent, PE

A M E N D M E N T

OFFERED IN THE HOUSE:

By: Judiciary

To: CS HOUSE BILL No. 211 (I&C)

SENATE BILL No. \_\_\_\_\_

PAGE: 1

LINE: 29

Delete: the second (c).

Replace with (b)

A M E N D M E N T

OFFERED IN THE HOUSE:

By: Judiciary

To: CS HOUSE BILL No. 211 (I&C)

SENATE BILL No. \_\_\_\_\_

PAGE: 2

LINE: 22

Delete: AS 37.98.080

Replace with AS 37.05.230



## THE CITY AND BOROUGH OF JUNEAU

CAPITAL OF ALASKA

155 SOUTH SEWARD ST. JUNEAU, ALASKA 99801

April 27, 1983

House Judiciary Committee  
Pouch V  
Juneau, Alaska 99811

File: Legislature - 1983 - House Bill 211  
(Prohibition on Competitive Bidding  
for Engineering, Architectural and  
Surveying Services)

Ladies and Gentlemen:

Committee substitute for HB 211 (L & C) would prohibit municipalities from discussing with engineers, architects and surveyors the cost of their services prior to selection of the person or firm to do the work. In addition, it would require the municipality to select the person or firm "best qualified to perform the desired work" based on considerations of competence and qualifications.

If adopted, this Bill would have the effect of requiring municipalities (and the State of Alaska) to use the larger and more prestigious architectural and engineering consulting firms. These are the same firms which, because of their prestige are able to command a higher fee. When a municipality seeks the professional services of an engineer for a simple engineering job that can be done by anyone with a license, it will still be required to select the person or firm best qualified. This will only insure that our projects cost more as we will be hiring more expensive talent than is required to accomplish the job.

The idea that professionals, whether they be physicians, lawyers, or engineers, should not be permitted to compete with each other, particularly on price, has been thoroughly discredited in recent years. Even the United States Supreme Court in National Society of Professional Engineers v. U. S., 98 S.Ct. 1355 (1978) rejected out of hand the idea that this scheme was necessary to assure public safety or to avoid engineers submitting deceptively low bids. The municipality and the state are both charged with protecting the public health, safety and welfare. The legislature should permit municipalities to determine for themselves, in each case, how best to protect the public health, safety and welfare when it selects engineering and architectural professionals. Indeed, one should be very suspicious when the industry itself proposes that its contracting procedures be regulated for public safety, especially when the proposed regulation would have the effect of raising the price of those services and limiting the number of firms and persons that could provide those services to the state and municipalities. Not only is the Bill unjustified as a matter of public policy, it will probably create unnecessary work for attorneys. For lucrative

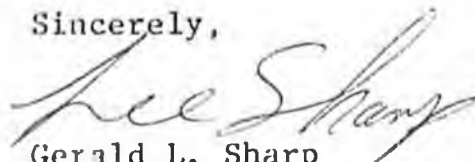
House Judiciary Comm ttee  
Re: HB 211  
April 27, 1983  
Page Two

contracts, there are likely to be challenges of determinations by the state and municipality as to which firm is the "best qualified." In addition, once the "best qualified" has been selected, there are likely to be challenges of what is a "fair and reasonable price" for the work. This will probably be rather difficult to prove because the municipality is not permitted to inquire what others would charge for the work in the process of selecting the firm or person. It appears that the municipality and the state will merely be at the mercy of the "best qualified" architectural and engineering firms in the state.

The spector of liability both for inadequate or unsafe design work hangs over every architect, engineer and surveyor when he provides professional services. This probably provides more incentive to do safe and adequate work than the amount of compensation being received or the method by which that compensation is determined. In addition, it would seem that if there isn't, there should be a canon of ethics for such professionals that requires them to produce designs which are safe and adequate. Also, it would seem that the licensing process (which is controlled by the profession) should be structured to insure that only those who are competent are licensed. Problems of adequate performance should be solved by the profession at the licensing level, not at the contracting level.

We urge you not to pass this Bill out of committee.

Sincerely,



Gerald L. Sharp  
City-Borough Attorney

GLS:jr

cc: Mayor and Assembly  
Manager

CONSULTING ENGINEERS  
COUNCIL OF ALASKA



3812 SPENARD ROAD  
ANCHORAGE, ALASKA 99503  
(907) 277-5605

April 26, 1983

Mr. Charlie Bussell, Chairman  
House Judiciary Committee  
House of Representatives  
State of Alaska  
Pouch "V"  
Juneau, AK 99811

Subject: House Bill 211

Dear Mr. Chairman:

You have before you House Bill 211 which has passed from Labor and Commerce Committee after considerable testimony and deliberation. The bill was altered measurably from its original version, and then realtered back to a form which is similar in nature to the original bill. The bill, as now represented, is acceptable to us with one recommended alteration. It is our suggestion that under Section 1., Paragraph C., Line 2 on Page 2, that the words "is not required" be deleted and the words "may be established" be added.

Twenty-one states have currently adopted laws calling for the selection of architect/engineers based on qualifications, and another twenty either prohibit or exempt architect/engineers from general bidding requirements.

We believe that architectural and engineering services should be obtained through a selection process that ascertains the qualifications and capabilities of interested A/E's to design public works projects. Fair and reasonable fees should be established by negotiation after selection and discussion of scope of work. It is not in the best interest of the public and, in some cases, public safety to obtain these services by price proposals or competitive bidding.

The procurement of professional services provided by members of the learned professions has traditionally been considered apart from technical and other tradespeople. The competitive bidding concept, which may work well for bidding work of the trades, cannot function properly for securing professional services. The concept does not provide appropriate consumer safeguards.

PRESIDENT  
VICE PRESIDENT  
SECRETARY  
TREASURER

W E Steig CREWS MACINNES & HOFFMAN/VITRO  
C W Tryck TRYCK NYMAN & GAYES  
A R Jacobs ANDERSEN-BJORNSTAD-KANE-JACOBS  
S E Clark ARCTIC ENVIRONMENTAL ENGINEERS

Mr. Charlie Bussell, Chairman

April 26, 1983

Page 2

Rather, it encourages poor use of public funds, since the importance of "value received" is subjugated to "money spent." The risk of making any selection on the basis of a lowest common denominator when the stakes are the highest, as they are here in Alaska, seems to us to be just converse to the results that must be achieved when considering in projects design in Alaska.

Many of the benefits of A/E services must be measured against final construction and operating costs of the facility or structure. Costs that are not clearly determined until after the A/E services have been completed. Injecting price in an initial selection may lower the A/E fee and time spent, but it will also most likely lower the quality of the final product, since price competition can inhibit the ability of the A/E to provide full cost saving services due to inadequate compensation for innovative and thorough work. It may even cause more talented A/E firms not to offer their services, thus lowering the overall quality of the services available to the agency. Thus, the public is not well served.

We believe the process of competitive selection for architect/engineer firms in the State of Alaska makes even more sense than the same considerations in any of the other 49 states. As you are all aware, our state has more unique and diverse needs than any of the other 49. Alaska has many varied climatological zones and sensitive environmental factors that must be considered during the design of any project. The environmental problems are significant enough and are further complicated by the committee hearings, committee review, agency reviews, maintenance considerations, operation costs, maintenance complexities, and in many of the bush areas, a lack of qualified maintenance personnel. In order for these problems to be met effectively, the only rational method from which to make a selection of an A/E firm is by addressing the qualifications of the responding firms and selecting the highest ranked firm on the basis of those qualifications. Only then, based on the quality and experience of the selected A/E firm, can the project design objective be effectively met and the public resources most effectively protected.

We believe that House Bill 211 provides for those measures and protection, insuring that the public need, through the use of competitive selection, will be most successfully met. I urge your positive consideration of House Bill 211.

Respectfully Submitted,

Walter E. Steige, P.E.  
CECA President

WES/wlf

HOUSE LABOR & COMMERCE  
STANDING COMMITTEE MEETING  
RE: HOUSE BILL NO. 211  
March 18, 1983

TAPE #38 (Side A)

Number 003 Chairman Furnace: Today is 3/18/83. The present time is 8:50. The House Labor and Commerce is now in session. The legislation for consideration this morning is House Bill 211 and that's related to contracts for architectural, engineering and land surveying services and providing for an effective date. Let the record show that those members present are: Representative Wendte, Koponen, Ringstad, Cowdery and Chairman Furnace. Is Representative Uehling out of town?

Number 015 The reply is that he's in Anchorage today.

Number 017 Chairman Furnace: The purpose of the meeting this morning is to hold the initial hearing on House Bill 211. I understand that there is a number of persons to be heard. And I'd like for at this time ... let's see the list ... Jeff?

Number 022 Jeff Barry: Yes, Sir?

Chairman Furnace: Do you have the list of persons to be heard?

Jeff Barry: I'm getting it.

Number 027 Chairman Furnace: Okay, now let's see now. Okay, why don't you given me the first couple of names. Representative Bussell did you want to address this issue?

Number 028 Representative Bussell: No. Thank you, Mr. Chairman, no I don't. I'm here as an observer only. Thank you.

Number 030 Chairman Furnace: Thank you. ... The first person to be heard this morning is Mr. Walter Steige.

Number 046 Walter Steige: Steige.

Chairman Furnace: You want to come before us then? State your last your last name and for the record would you represent.

Number 050 Walter Steige: My name is Walt Steige. The last name is spelled S T E I G E. I represent the Consulting Engineers Council of Alaska. We are the persons most notably responsible for bill being considered today and as it is our thrust that prompted its introduction. I have beside me, and you may or may not have, the general copies of the testimony I have prepared for today and those of you that do not have copies of this document, and I understand some of you may, I would like to see that you do have a copy.

- Number 064 There is discussion on the copies of Mr. Walter Steige's prepared testimony.
- Number 068 Walter Steige: It's not my intent to review word-for-word from this document perhaps but I do want to highlight some of the principal areas that I mentioned here. In representing Consulting Engineers Council of Alaska I should tell you that that group currently represents 32 engineering firms within the State of Alaska and within those 32 firms approximately 500 employees. The bill we are considering today as introduced, House Bill 211, is referred to by many as Mini-Brooks Bill and that support that we're asking, and we represent for this particular bill as introduced, does not only comes from ourselves but the Alaska Chapter of the American Institute of Architects and other selected professionals who you may have heard from by way of telegram, telephone calls, letters, and so on. The bill today has reference to architects, engineering and land surveying; you will notice that in the amended draft for Section 1 that you will have perhaps seen, or will see this morning, the provision for land surveying has been removed from the place of that revision so that it only speaks to architectural and engineering services. In the definition of architect, engineering and land service taken from the Federal Brooks Bill that that action is defined in the last page of this amended version. And it's our intention only that the surveying be considered as a part of the design services that an architect or engineer might otherwise provide. So it's not spoken to directly and it's only our desire that that incidental services cover those portions of land surveying that fall within the general design requirements of the professional when he is performing his work.
- Number 113 There is discussion on the amendment.
- Number 127 Walter Steige: In the general sense for your background at this time 21 states have adopted laws calling for the selection of architects/engineers based on qualifications, and another 20 either prohibit or exempt architects/engineers from general bidding requirements. The thrust of this particular act is to select engineering and architectural services from the basis of qualification and not dollars, and we'll discuss that a little bit further. The remaining states, with the exception of Maryland, leave the selection procedure up to methods developed by various agencies within the states and the predominance of which makes selection by qualifications. The one state, Maryland, which has adopted bidding which makes price a basis for selection in that state that procedure is not proving to be overwhelming satisfactory. Of course, the score is not totally in yet; it's only been in operation in Maryland for about 6 years now, 6 to 7 years, but in any event it is not proving to be from their perspective the best way to proceed. Architectural engineering services we believe should be obtained through a selection process that highlights qualifications and capabilities as the number one priority. I think many of you

are probably familiar with but I'll review that architects and engineers are professionals from what's termed 'the learned profession' and to practice in this State the individual must be licensed through written examination, reviewed by their peers, in other words the Board of Registration, they must have minimum background of experience in the direction of qualified practitioners. Consequently, the members of these professions exercise judgments and make decisions only after thorough assessment, analysis, calculation, research and investigation of the problems. One of the areas, and I should point out and maybe you've already noticed in this material I've handed you, I have some attachments to that which you might find interesting reading which gives some view what others have done and some perspective from other areas on this particular problem we're addressing today. I want to add that the contracting authority, purchasing agent, individual owner, cannot in our opinion, without prior discussions of intended scope of work with an experienced architect or engineer, establish in detail the efforts that the professional must expend to achieve the required results in a project. The competitive bidding for professional services does not provide consumers safe guards. We believe it encourages poor use of public funds since the importance of the value received is subjugated to monies spent. You will notice in this particular attachment I've included an article written by a gentlemen, Mr. Charles Avara, who represented Baltimore City in the Maryland Legislature, and you might find his comments rather interesting. One of the comments that he makes, which I would like to share with you, which he says and I'm going to quote this: is inheriting AE services and not generally for other types of services is the extent to which quality can effect the ultimate efficiency, effecting the economy of the facility or structure. Consider the cost of the design portion of the project compared to the overall project costs. The report by the U.S. General Accounting Office states that design costs represent a very small portion, probably less than 1% of the cost that will be incurred over the life of a building. And I think I'm going to add that that's very key to this issue today, when they say the 'life of a building', in Alaska that's means the loss that goes into operation and that you're all aware of operating our facilities because of the high cost in this State are very germane to the issue. He also notes that the decision made during the expenditure of this, less than 1% determines pretty nearly all costs that follow. And, of course, we believe that's very true, more so in Alaska probably than any of the other states. We believe that that, of course, that price is definitely a factor in the cost in the competitive negotiation process, and by the time the number one rank firm reaches the negotiation table, and that's the thrust of this bill that you're looking at today, that selection by the person, the firm, that you're considering his ability to perform his qualifications being the foremost major of his ability to perform. So that by the time that first rank firm reaches the negotiation table with the representative agency that firm, as

well as the agency, can collectively define this scope of the project being requested. And, of course, at the end of that process then the selected firm has examined all the requirements that have, that he's been able to identify, and that then can provide a basis for which a fee can be determined, until that appropriate scope of work is accomplished with the agency and with the client there's no practical way that that price can really enter the picture until that process has been achieved with the client. The process in the bill says that whoever the agency is can if they're not successful in dealing with the first firm in terms of arriving at a fair and equitable cost, first ranked firm, then they can break off negotiations and go to the second firm, and then the third firm. And we believe that that in itself provides the sufficient competitive nature to see that fair and reasonable costs are achieved through this process. I would like to summarize, particularly at this point, that we believe the process of competitive selection for architect/engineer firms in the State of Alaska makes even more sense than the same considerations in any of the other 49 states. As you are aware, our State has more unique and diverse needs than any of the other 49. Alaska has many varied climatological zones, sensitive environmental factors, that must be considered during the design of any project. Environmental problems are further complicated by the problems of dealing with the many codes and regulations, we have budget constraints, and we have many, many, many hearings and processes which we use, we have to address life safety issues, multiple use, life cycle costs, alternate energy uses, operational costs, maintenance complexities. And, of course, maintenances, the maintenances, maintenance excuse me, and the ability to deal with those problems in many of the areas outside the main cities and metropolitan areas are a real concern to everyone in Alaska. And just that issue in itself as it is coupled with the operating costs is a major consideration why low dollar is the consideration for the selection of a firm just cannot work. In order then for these problems we believe to be met effectively, the only rational method from which to make the selection of a AE firm is by addressing the qualifications of the responding firms and selecting the highest rank firm on the basis of those qualifications. Only then, based on the quality and experience of the selected AE firm, can the project design objectively, effectively, meet and the public resources most effectively protected. We believe that House Bill 211, and as it's perhaps enhanced by the section marked 'a', would provide and insure that the public need is effectively meet through the competitive selection process utilizing the qualifications as a base, we believe that the State and the public can be satisfactorily protected. And I want to urge your positive consideration of House Bill 211. I want to add that it is our intent where the definition of state appears in this bill and that definition has been defined and it is defined the last page of the amended material called 'a', which it says in this section state includes political subdivisions of the state and agencies of the state and its

political subdivisions, to make sure that we all understand that statement is intended as far as we're concerned to mean municipalities, cities, boroughs, school districts, and REAAs, as well as appropriate state agencies. Thank you very much for your time.

Number 292 Chairman Furnace: Thank you, Mr. Steige. Let the record show that Representative Hugh Malone is present at this time. Two persons acknowledged to be, have some questions. Let me remind the committee, too, we'll have approximately 35 or 40 minutes, there are five persons to be heard this morning, we will want most of all to get those testimonies taken so ... Representative Cowdery and Ringstad.

Number 298 Representative Cowdery: Thank you, Mr. Chairman. Mr. Steige?

Number 299 Walter Steige: Steige. Yes?

Number 300 Representative Cowdery: In many cases in the recent past, I know being in the contracting business with their present help aid, economic climate that we've all been fortunate to experience has been many disputes between contractors and homeowners and architects and engineers. And I've been in this trade for over 30 years, and it seems to be just recently, or in the last 5 years, much more legal action has been required for settlement for disputes and interpretation of design or specifications. I know in one particular case, a school project, that the school project had something like a two million dollar legal case hanging over that project in addition to the original cost of the project. The question is do you think that the reason for maybe this, is it your belief the reason for this that the present system is not adequately designed to cover the administration and qualifications of the architects, engineers and people ... What do you think is the cause of this situation is?

Number 320 Walter Steige: I think principally the process, there's nothing wrong with the process and that the current process is pretty much follows the practices that we're advocating now. One of the problems, and that maybe highlighted by your example, is that we are seeing, at least the professional group is seeing, a greater than ever before thrust on accountability and I think, but within that accountability which has been somewhat brought back to us because of the lack of economic soundness in the South '48 and the competitive nature, but that's been imposed on the contractors in Alaska perhaps to be more sensitive to the problems that come up on any project. We're not, no one is perfect, and none of the projects that is ever bid or designed is without problems. But in trying to address this accountability we have found in the professional area that we are expected now to virtually do our work without error and there are those who are looking for every area to drive their wedge in and put responsibility on someone. We found ourselves as being refocused against the professional

community more than it has ever occurred before. But to address your question, I don't think the processes that we've been working under from before are wrong, I think there will always be bad experiences even with the best process. The processes that are traditional that this bill addresses however, have generally been followed throughout the country ever since the use of professional services have been used. And for the most part, by far the majority, they've been proven to be a very successful way to bring a project to final completion but that isn't to say that it works 100%.

Number 354 Chairman Furnace: Additional questions from Representative Cowdery? Representative Ringstad?

Representative Ringstad: I'll pass this time.

Chairman Furnace: Representative Koponen?

Number 355 Representative Koponen: Thank you. The alternative version which was handed in version 'a' excludes a registered land surveyor. I know that they have a method to arriving at a solution yet, but ...

Number 359 Walter Steige: It's my understanding that that there's been some problems with addressing the land surveying issue and in that draft it was purposely omitted so that there wouldn't be a controversy of professional nature of the survey work as it might be contrast with construction surveying which it falls out of the professional aspect which we are discussing today. The intent is that the surveying aspect, as they are required by the design process, and in fact that that could be construed to include all other services in the design process, perhaps even soil testing, that falls under the definition of incidental services that are necessary during the design process. And you will note that on the last page of that document is that definition which though not for architectural and engineering but it references incidental services. And we believe that it is satisfactory to work surveying, soil testing, perhaps other miscellaneous services, that are required within that incidental services definition without referencing that by name.

Number 377 Chairman Furnace: Representative Wendte?

Number 378 Representative Wendte: Should this legislation be adopted, and I am assume you are concerned for the members of your organization, how does the Alaska preference, is out the window then?

Number 381 Walter Steige: Well.

Number 382 Representative Wendte: I mean I hate to see this legislation used as bringing in a bunch of firms from outside.

Number 383 Walter Steige: Well, that particular issue in your 'a' version has been addressed. And if I can find the particular paragraph,

this version gives a basic outline of some evaluation procedures and limits to be used with the bill and on paragraph 'h', which is on Page 5, where it discusses how responses will be evaluated, one of those evaluation criteria states: points shall be awarded for being a qualified Alaskan firm. And that provides a vehicle to recognize Alaska preference in this draft.

Number 395 Representative Wendte: Okay, but the other existing situation that we're, or at least in the bid situation, refers specific with apparent legal with the same emphasis, or hopefully even greater emphasis, be placed by this? Or has this been research? Or did you prepare this? Or ...

Number 400 Chairman Furnace: Yes, we did. The recommendation did come from staff and as to working with Mr. Steige and other parties, we felt this was a better alternative to the original bill.

Number 403 Representative Wendte: Well, my concern is obviously is that we don't dilute the intent of that Alaska preference. It's, you know, very well established in the bidding process.

Number 406 Walter Steige: ... Our group has sometimes mixed emotions. If you were to take a vote from our group for whether or not that aspect is helpful or not necessarily to our needs in terms of looking at firms coming in from the South '48, which is a mad rush now in last couple of years because they see the golden apples on the trees up here and there's none down there and they've been trying to pluck some of our fruit so to speak. The emphasis on qualifications, in many cases from a professional's opinion, the qualifications exist here and those firms who don't deal with Alaskan conditions on a day-to-day basis just don't have the qualifications in a general sense as those who have been dealing with the problems day-in and day-out. So, I think in a practical nature we believe when you just look at qualifications, the firms here in Alaska are those which have and possess the greatest ability to solve the problems that we face up here, and the ones down south, outside as we use the term, may create more than they solve, but there are instances when specific technical expertise must come from outside, but 99% of it does remain in the State of Alaska.

Number 423 Representative Wendte: I assume it's that Alaska experience in this aspect of a project in creating estimates whether it's on the Tyee Projects or anywhere else, it's absolutely crucial in terms of planning for projects. That Alaskan experience is there ...

Number 428 Walter Steige: Well, the Alaskan experience comes into play in a lot of various estimates just as being one. Estimating is difficult at best and certainly understanding the conditions is one that estimating is necessary for those individuals in the estimating business. The problems which are more difficult to solve go far beyond estimating and that is solving the design

problems is caused by the environmental conditions that we must design under in Alaska. And the perspective of a firm in Washington or Oregon or even Northern Minnesota do not solve the problems that we have, it is really the different situation and those firms that don't deal with it day-in and day-out in many cases miss the subtle points that those working with those same problems day-to-day to here do not miss.

Number 440 Chairman Furnace: Additional questions Representative Wendte?

Representative Wendte: No, Mr. Chairman.

Number 441 Chairman Furnace: Thank you, Mr. Steige. We will go to the next person then. I would recommend to the committee at this time, let's just take the balance of the testimony, there are four other persons and I want to make sure we get those on the record ... We do have a floor session at 10:00 today. The next person is Wally DeBoff. Sir, again if you would state your name, spell the last name and who you represent for the record.

Number 446 Wally DeBoff: My name is Wallace DeBoff. My last name is spelled D E capital B O F F, and I will be very brief. I represent the Board of Engineers, Architects and Land Surveyors. And in my brief I will say that the Board of Engineers, Architects and Land Surveyors believe that the best process for obtaining any professional architect, engineer or land surveyor is through the process of selection and negotiation. And basically that's all I have, and most of things that Walt stated, you know mentioned, was something probably the Board is most agreeable to.

Number 454 Chairman Furnace: Thank you, Sir, for your testimony. The next person is Vernon Akin.

Vernon Akin: Akin. Right.

Number 456 Chairman Furnace: Again, Sir, if you will state your name.

Number 457 Vernon Akin: I'm Vernon Akin. The last name is spelled A K I N. I'm a mechanical engineer here in Juneau; been registered in the State for 28 years. I guess I'm also today going to represent the Alaska Society of Professional Engineers, being as the President did not get in from Anchorage. All right. I'm in favor of this bill; passage of the bill. The present system is selective; it's not the cons on this bill are saying well we want to bid it to make it competitive or we want to make it fair for everyone. It is fair for everyone as Mr. Steige said. The selection process, anyone can come in for selection, any firm that is qualified or wants to can come in for selection for a job. That is, we get down by the owner, or this case mostly state or municipal governments, it's we get down to where we get two or three primary people, the one that they feel is the most qualified. Then the owner goes to the

one that they think is the most qualified and tries to negotiate with him, fine if they find that they can come to an agreement on the scope of the work and what they want, and the last thing, of course, is price that they came to because you have to set the scope for the work first and what is required, what is desired in the building. If they can't do that they go to number two if they can't come to an agreement. So the owner has his selection of who he wants. All right. The bidding process, now, if you put it out for bids whoever gets the lowest bid on it is usually the one that has to do it because if you're a governmental agency if you don't pick the lowest bid you have to have a very good excuse as to why not you've picked. The, okay, the owner, the main reason or the main concern of the owner is to get what he wants at a reasonable price. Now, most of these jobs, most of the buildings, the owner doesn't know what he wants because he's not an expert in that field, he's not qualified. There have been clients that have come to an architect and said I want a building, I want it, I have so much money, I want it roughly so many square feet, but as for the layout of the building and what is in it and the quality or the type of mechanical system or the type of lights, he knows nothing about that that's why he comes to the expert for it, the owner or the architect on it or the design team. So, he doesn't know what he wants. So, if you put it out for bids there's no way you can pin down down to the last nut and bolt what quality you're going to get. You have to depend upon the judgment of the architect or the design team and his expertise as to what is best suited for this particular occasion. And so, if you put it out for bids, which is what this bill is trying to prohibit, you're going, the designer is if he doesn't get low, if he doesn't come in low, he's not going to get the job. So what the bidding process does is let's get the price way down as low as we can on here, in other words it might be an incompetent person or someone that doesn't know what he is doing but if he bids low on it or if he figures you're going to get a 'cheapy' job, he's going to get the bid and you're stuck with it; the owner's stuck with it. As Mr. Steige said, the cost of the design is, he said 1%, there have been other figures up to ranging 5 to 6% is what the cost of the design is; only cost. Now, you've all heard of life cycle cost in here a few years back, couple years back, there was a big push in the State on going to life cycle costing, which means how much is that building going to cost you over the total length of the building, and it's very minimal, the design portion is way down in the 1 to 5%. So, but yet all the push has been on these buildings to get the design costs down, yet well I beg your pardon, the design cost is probably 1%; the construction costs now, the cost of the construction of the building and life cycle costing runs I've heard about 7 to 8% that's the construction cost. So the actual cost of the building is a very small percentage of the total cost of that, the operating costs of that building for the life of it. So you're talking about a very minimum percentage of the total cost of what it's going to cost to the owner. Most people

don't realize what is involved in designing a building and as to the quality, the different things you can have in a building, different innovations. So, I would like to offer analogy of something that you can all relate to as a house. Let's say you as the owner are going to build a house. Now, at the present time you'd probably look around and find an architect that you liked to build that house; you would go to him and talk to him and tell him well I want this, I want that; you'd work together on the plans and try to get what you want in there in the certain price range, but there are a lot of things that you don't know you have to leave that to that architect as for the quality of the construction, the mechanical system, let's say the heating system, the plumbing system, the quality of fixtures, things like that, you have to rely on his judgment on that because you're not the expert on it. But anyway, you can pick the architect you want and you tell him what you want. Now, let's assume that you had to bid that, you were like a public entity and you had to bid that job, you could tell him all this but if then you, actually you'd have to have a program or in order to get what you actually want you'd have to write down every nut and bolt down there when you put it out to bids and say this is what I want in my house. Otherwise, if you didn't do that and low bidder comes in on it, let's say he is someone some contractor, I mean some architect, that you don't know anything about, you have no confidence in him maybe you've even had heard bad things about him, but nevertheless if you put it out for bid you're going to have to accept him and you're stuck with it whether you like him or not whether you want the product, the quality of product he turns out, you're stuck with it. You can't, an entity can't hardly backoff and take second low bid without as I said without a very good excuse. There's anything about it. Let's say that you get the low bidder on a job to design it. Now, naturally he is going to have to cut his costs to meet his bid; it's all based on dollar value. So, you have a very good chance of the drawings and the specifications that he turns out are going to be minimal. In other words, he can't spend, he can't give you pay an 'a' rated job for a class 'c' price on it in bidding anything. So, your drawings, your specifications, could be very vague and then if, as gentlemen sit over, you get into legal problems and you have change orders and by the time you end up you have paid more than you if you'd had gone to a person that you trusted, relied on, had a good reputation, had it designed for a certain agreed amount. So it can run into a lot of problems there; you can't pin down everything in a job. And the house now is more is very much more simple than a complicated building let's say a hospital, a school or something like that, there are innovations that you can design into that building that's going to cut down your life cycle cost in price on there; you could put in heat recovery systems if it's applicable; you can change your ventilation around, I'm talking mechanical now of course; you can change your ventilation around whether you use full outside air or mixed outside air. Now, it's cheaper probably to design a full outside air system,

very much simpler, but it's very expensive to operate. It costs the owner for now to 40 years down the line, it costs him a lot of money. So, it is just to us, to me, it doesn't make sense that you're bid anything. When the contractor bids a product or bids the specification he has it down in black and white supposedly; he has the plans well drawn out, detailed, he has the specifications are drawn out down to the general equipment, the actual installation you can't cover that, but you can cover what quality the materials you get in that job. There are clients, as I said in previous, they come they don't know what they want, they say build me a building, this much size, I have so much money to spend. So, there's no way you can pin down that design to the last nut and bolt. You can pin it down when the contractor on designed documents, when the contractor bids on it, so it's a different ball game altogether. Another typical example I might say is on this bidding, let's say you wanted a portrait done of yourself. Can you imagine trying to put that out for bid for someone to paint an oil painting of you? If you put out for bid, you know, if you're going to, you know you're going to get just what you pay for and maybe not that much. I think that's about all I have now.

Number 599 Chairman Furnace: Thank you sir, we appreciate your testimony this morning. The next person to be heard is Jon Scribner.

Number 604 Jon Scribner: Mr. Chairman, my name is Jon Scribner. I'm Acting Deputy Commissioner for the Southeast Region for the Department of Transportation and Public Facilities. I'm probably going to be the least popular guy here today. On this particular bill I haven't had a chance to review that draft that they have been circulating ... I have a copy of it, but I have not yet had an opportunity to do it ... From the testimony I can tell you that the Department that I represent shares very much the concerns about competitive bidding and about having people involved with the process that maybe aren't familiar with the way the consultants do their business. And from the testimony I was pleased. I think one good step has been taken to take out the land surveyors because that was one of our concerns, and so that seems to be a positive step toward resolving some of the concerns we have. I don't have some good answers at this point but I do have some concerns and I'll just share them with you briefly. I guess our primary concern is the fact that this bill it restricts the process entirely to just the qualifications and the capabilities of the firm. It doesn't allow any other possibilities to be used in the selection process. For example, if the scope is known and I would suggest that there are times when public agencies can have the capability to properly define the scope, there are times when that's not occurring but there are times when it does occur, and in those cases it would seem to us that there should be the flexibility to consider other factors in the selection process. We've heard about price as being as, it's kind of an either or situation, either you're competitive bidding, and I think we all disagree with that concept, or you're not competitive

bidding. And I guess what I would suggest in behalf of the Department is that there may be something in between or to balance off the quality of the job that you're dealing versus the cost or effort that goes into it. And this is a hard concept to sell but that's the way we feel. At this point the bill does not allow cost in any manner whatsoever to enter into it or even not just talking about cost, maybe cost is not something we need to consider maybe it's just the percent of effort that goes into various parts of the job. If we were able to have that I think it would make the bill more something that we could better live with.

Number 641 Chairman Furnace: Would you expand upon that by what you mean by percent of effort.

Number 642 Jon Scribner: Okay, what I mean is in a particular, maybe it's a harbor project, and as part of that harbor project we have to go out and do some, we're going need large rocks to provide for the breakwater, for example. And so part of this scope of work would say that we have to analyze the soils to find proper rock. So there you're going to have to analyze soils and make some recommendations there, then you're going to have to design the breakwater. And so you're going to as the designer, you're going to have to say how much effort am I going to spend in determining where there's proper sized rock available. And so as you're reviewing the proposals that come in you may find that one consultant says well I'm going to go out there and just do one test hole that's what I have when you start negotiating with them you may only have one test hole, that's where his efforts going to be and the rest of the efforts going to be in the designing of the breakwater. Another consultant may come in and you find that he's going to put, he's going, really concerned about his legal liabilities and so he's going to be darn sure that he knows about that material out there where that rock is, and so he's going to go out and drill 200 holes and maybe that's a over, too much of a split, but to get the point across, 200 holes. So what we find is then all of our costs are going into to try to find the good rock source rather than the design of the facility ... (END OF TAPE)

TAPE#38 (Side B)

Number 000 Jon Scribner: So that's what I'm trying to ... We really don't think, we're not as concerned at all about this, interested in trying to create a competitive bidding atmosphere. We really think that there can and should be a better balance. We're concerned about if there is no price or no restrictions on the effort type of thing that we can and have often found ourselves in position of having I want to, probably not a very good term to use but a gold-plated design, where there was no, it was of high quality of the very best design that was provided, you know, so there was no question that that was the most qualified and capable person designing that facility, but we really don't have the funds to support that type of facility on capital expenditures. And so we're suggesting that, you know,

if we can include price or some other mechanism to get a balance to say yes that is the best but we don't have the funds to support that either through the capital expenditures or the life cycle cost of the facility. Some balancing mechanism to insert in there. And now, another point that the consultants bring up is that during negotiation is the time that we should get at our price. Say, you know, select them on quality and capabilities and then during the negotiation if you don't like the person's price go on to the next person. In practice from my experience with it in our Department I wonder an awful a lot of pressure to get these projects out quickly. We spend a awful lot of time negotiating with the selecting consultants. It takes us a minimum of two months for large consulting contracts to select those people. Two months is, can mean a whole season lost, and we have a tremendous amount of pressure from you all and the public to get these projects out on the street. So at two months time we've got our three consultants laid out and we start negotiating with that top consultant; what we're pretty certain we're going to with that consultant even if his price is not what we like. We really don't have the time to drop back down and start the ball going again with a new consultant, now that is often the case. Now sometimes, you know, it gets to the point where we do in fact go through that process. We simply can't live with the price or the way the negotiation is going and we do drop down to the next person but it causes further delays and those are the things that we have to wrestle with. And so that's one of the problems that we see with that and why we would again suggest that there be some kind of balancing mechanism. And unfortunately I can't suggest to you specifically what it is. I would hope that we could continue to meet with the consultants on this and try to arrive at some accommodations in it.

Number 068 Chairman Furnace: Thank you, Mr. Scribner. We have two other persons and time is running fast, so let's take those testimonies. Mr. Charlie Tryck.

Number 073 Charles Tryck: Mr. Chairman, my name is Charles Tryck, T R Y C K. I'm a backup for the Walt Steige and the Consulting Engineers Organization; also speaking on behalf of myself and our engineering firm which is in the business in Alaska for over 30 years. We have worked with all agencies of government, federal, local and state, so on, and all divisions I think of the federal government. This bill is patterned after the Mini-Brooks Bill under which the federal government procures its A and E services. They have some of the problems that Mr. Scribner has outlined which seem to exist very well within the frame work of their legislative authorization. One way they overcome the problem is recited, is their staff will prepare their own fair cost estimate for the project which delineates the scope of work which they expect to see done in various aspects of the project. Then when they select their most preferred consultant, you go in with your fair cost estimate of the work, they have their fair cost estimate of the work

itemized by man-hours and man-days depending on the size of the project, and you try to reach a meeting of the minds on what level of effort should go into what phases of the work. This seems to work out very well. If you have a wide divergents in opinion of what the work should consist of and you can't reach an accommodation on what should be done, you just thank each other and go your way and they go and talk to the next person. One other thing that I think that should be mentioned is that our engineering organizations had monitored A and E projects where price consideration is a factor in the bid process, and it is a bid process, and where the price consideration is submitted at the time the engineer's qualifications is submitted; it usually is the deciding factor of who gets the work which doesn't give you necessarily the people that you should have doing the project. I can go on and on on many things but I don't think that I can add much to what's been said. I think other than to say that we support the work, I mean support the project that it needs work. Thank you.

Number 128 Chairman Furnace: Thank you, Sir, for your testimony. The last person is Brian Emerich.

Brian Emerich: Emerich.

Chairman Furnace: Again, Sir, if you'd spell your last name and state who you represent.

Number 133 Brian Emerich: My name is Brian Emerich. E M E R I C H. I represent the American Institute of Architects, the Alaska Chapter. We support this effort in passing this bill. Some of the points that I would like to mention, I would like to address a couple that were brought up earlier as against this bill. It's the talk about the problem of directing a professional as to which way he should do his services, do tests holes over here or pour money into the design of the building, etc. One of the reasons and one of the intents of hiring a professional is to have his direction to tell you what you should, where you should go. If you know and you have a positive direction that you want them to take that can be included in the scope of services. And a professional can elect to either take that job or not take that job if he feels it's going to jeopardize the project. This is one of the aspects of a professional. Another part is the attitude of picking, afraid to pick a consultant or architect or a mechanical engineer because he's going to get gold-plated design and they can't afford to budget. One of the responsibilities and requirement of hiring a professional is there is a direction usually given to that person to keep the project within a specific budget. And that is one of the things that can happen and one of the qualifications that professional represents himself on, has projects that have come within budget, they've been within the scope of services, they've been delivered on time. The instance of part of the problem always seems to be around is the competitiveness to get the best price and that's

part of a serious problem that government agencies always face is to try to protect the public's interest so that they're not both getting 'ripped off'. Well, one of the things that's competitive here is you look at the price of a building like Vern Akin stated earlier, about the value of the building and the cost of the design stage is very minimal, the cost of the construction becomes more substantial, and the cost of operation becomes astronomical over a period of time, and Alaska is now facing that very serious problem with the cost of buildings or hiring a professional that understands that and knows that. The price difference you may pay for somebody is hard to determine one factor or another one. You can't always tell when you're hiring somebody whether you are going to get the longest range, best project over the life cycle. However, one of the things you are selecting a professional on is his past history and his past history reflects buildings that have been built and that are continually operating and the clients are happy with. The problem with competitive bidding and one of the things that the strongest competitive bid requirement, for instance in this State, is the construction bid, and by law they have to take the lowest bid unless there are some very, very strong reason why they can't take the lowest bid on a construction contract. Well, the purpose of that is obvious, but what happens is these professionals that you are hiring are designing those projects to get that lowest bid. And one of the problems the State has faced notoriously is if you have a bad project that goes out, you get a contractor that under bids it, and you have a series of change orders, a project can all of a sudden go from one million to two million dollars because the project wasn't properly designed. And what did you say, maybe 5,000, maybe 10,000, maybe even 100,000 dollars on the design fees? And you're giving a project that's not qualified and there is no real recourse for the State other than through the legal acts of putting that individual out of business, taking away his insurance to disqualify that bidder the next time he comes around to do a similar project just right down the street if he's licensed to do business in the State, and it's very difficult to take away a license from a professional like this. You're going to end up with the same, that same individual, and the same problems repeating itself. One of the statements was made earlier of in going after the lowest price and just accepting that as part of the criteria to hire a professional firm. It was stated earlier, and I want to repeat it, that when you put a price on any kind of a service within a state agency, a state government, you are just about bound and locked into that price. And even if they write-in the intent that the price is only to be a guideline, we feel that that guideline is going to be used as the number one choice to do the work. And we don't feel that's quite the way it should be. There was one last statement as to the, earlier, when you do bid, when you go to competitive or when you to ask for professional services, and you cannot negotiate a contract with the first profession you can go down the list until you get is the absolute lowest price of all the consultants, and one of the

things that you'll be faced with and you'll see it is that the amount of services that you require will continue to go down with the price of what you're getting. And I think that the quality of work in the profession and the end results will follow that same line, you will start losing the level. And I think that the intent of government here is on competitiveness or the spirit of a capitalistic society is to keep competitiveness alive. Maybe we should start and consider quality as a competitive aspect which it is and not just the price alone. Thank you.

Number 245 Chairman Furnace: Good. Thank you, Sir, for your testimony. Unfortunately because of the time we do have a floor session starting at 10:00. We'll have to conclude the meeting at this time.

Number 251 The meeting is adjourned at this time.

HOUSE LABOR & COMMERCE  
STANDING COMMITTEE MEETING  
RE: HOUSE BILL NO. 211  
March 21, 1983

TAPE #39 (Side A)

Recording  
Number 003

Chairman Furnace: The date is 3/21/83. The present time is 8:53, or somewhere in there. Those members present are: Representatives Koponen, Ringstad, Cowdery and Chairman Furnace. We do have quorum. We'll have some persons to be heard. Just stand at ease for a second. Let me get my file. The meeting this morning is to continue work on the bill. You may note that we have what I call exhibit a that I handed out the other day and it was recommended new language in lieu of the language in the original bill. We have a couple of persons to be heard. Mr. Akin, you spoke the other day, is this a continuation or is it a different?

Number 024      Vernon Akin: It's regarding the amendment 'a' which we did not have a chance to read.

Number 025      Chairman Furnace: I see. Okay.

Number 026      Vernon Akin: It was passed out during the meeting last time.

Number 027      Chairman Furnace: All right, Sir. If you'd like to address the committee at this time we'll take your testimony.

Vernon Akin: Thank you.

Number 029      Chairman Furnace: We'll take your testimony. For the record if you'd state ...

Number 030      Vernon Akin: Right. My name is Vernon Akin. The last name is spelled A K I N. I'm an engineer, have an engineering firm here. I'm also speaking in behalf of the Alaska Society of Professional Engineers; a group of about 305 engineers in the State of Alaska. At the last meeting we received this amendment 'a' which was passed out I believe after the when the meeting started we did not have a chance to look at it or study it. After having a chance to study it I would like to comment on it a little bit. The original bill was mainly, the original bill I submitted, House Bill 211, was to prohibit the bidding of fees, engineering fees. The amendment the way I get it read it essentially throws this out the window. If you want to look on Page, let's see what is it, 2, no Page 1, this section of the chapter applies to contracts for architects and engineering services provided the State unless the total amount of the contract does not exceed 25 thousand dollars. Now, what that says to me is that if you have a contract from under 25 thousand

dollars you can bid it and that is not the intent of the original bill. The bill was to prohibit all fees from being bid and that's the subject of which I spoke at the last meeting. If you're going to bid anything over 25 well let's face it most of the contracts, the small contracts, are under 25 thousand dollars fee so that would mean that there would be very few that would be prohibited from bidding. There was another item in here. This bill was rewritten it looks like strictly for DOTPF because it refers in here to the commissioner; it pins down that you advertise it so many days, you would do this, you were, if the commissioner says that you can do this fine then you can deviate from it. The original bill was for multi-agency, use for the use of the State, for the use of the borough, for the use of city. If you're going to write a bill which pins it down and talks about commissioner I think you're going to have trouble forcing onto a borough or a city. It should be, the bill should be written in a general nature to say you do this, you do that, as far as the advertising of a bill whether it's three times, five times; if it's a borough public works they should be able to set how many times they want or at least within limits, not pin it down to the exact amount or how they would like to conduct their interviews and things like that, whether it'd be three primaries by that I mean they reduce it down to three or whatever amount they want. So I think the bill should be written generally. If the DOTPF passes specifics they could put it in their policies, they could enter other details in their policies. The other part of it seems to be all right except that I think that you have lost the true sense of the original bill by some of these items that they've put in this amendment. I think that's all I have.

- Number 119      Chairman Furnace: Thank you, Sir. Representative Cowdery, then Representative Ringstad.
- Number 120      Representative Cowdery: Yes, thank you, Mr. Chairman. Just this point of information on normal contracts, like small contracts or large ones, there's normally a fee, a negotiated fee or determined by some way of means, of charges for the design work and architectural work, but many times there's some the architectural firm they administer the contract. Now that is a separate, that's not what we're talking about?
- Number 129      Vernon Akin: No.
- Representative Cowdery: The total fee? Is that ...
- Number 130      Vernon Akin: If they're going to administrate the contract, contract administration, that is it could be done as extra services in the contract or they could lump it together however the owner wants it.

- Number 135 Representative Cowdery: But this is not addressed this possibility. I mean getting back to your 25 thousand dollar fee ...
- Vernon Akin: Yes.
- Number 137 Representative Cowdery: Sometimes the administration of the contract can be a large ...
- Number 138 Vernon Akin: Oh, yes. Yes. You know, yes, that is very true ...
- Number 140 Representative Cowdery: ... percentage. So this is the point I was making. I don't know if this addressed in this bill of, you stated earlier you was against this not to exceed 25 thousand.
- Number 143 Vernon Akin: Correct.
- Representative Cowdery: And so ...
- Number 144 Vernon Akin: Because the only time or most the time on the bill, the contract administration in our particular phase of buildings, that usually only happens on the very large building but even at that contract administration again is, should not bid it should be negotiated on that. Now, we have a large, I have, I'm a member I mean a consultant on a large job here in Juneau, and it's contract administration; it's on a time and expense basis not to exceed, all the inspections and all the contract administration is the time and expense basis. So that's the way it is normally done. Contract administration on a job is a very, it's actually better if they can use it on a time and expense because a lot of times you're many trips involved or other expenses. So it can be done either way on jobs; either a lump sum or ...
- Number 169 Representative Cowdery: I was just wondering if this was addressed in this amendment or should it be?
- Number 171 Vernon Akin: Should it be as far as contract administration? I don't think it should be because the whole what we're trying to do is get a bid coming out, a job put out on a negotiated basis. Now, this particular job I was talking about, it was a negotiated basis for a lump sum but the contract administration was under the extra services part of the contract. So I think that it could be handled under, it could either be negotiated at the time at that time or it could be extra services.
- Number 185 Chairman Furnace: Representative Ringstad?
- Number 186 Representative Ringstad: Thank you, Mr. Chairman. I question here basically on the same point as the 25

thousand. The total amount of contract does not exceed 25 thousand. Are you saying that a lot of your contracts to, all your contracts are a total of 25 thousand dollars for the services or the fees you was talking about? Is the 25 thousand?

Number 194      Vernon Akin: 25 thousand the way I read it that's the amount of the contract to the AE, architect engineer.

Number 196      Representative Ringstad: So, basically let me run ...

Number 197      Vernon Akin: It says for architectural and engineering services.

Number 198      Representative Ringstad: So if I, so the State wants it to put up this building they'll come to you and offer you a contract of 12 thousand dollars to design this building. The contract even though the building, it's a million dollar building, the contract to you is 12 thousand.

Number 203      Vernon Akin: Right.

Representative Ringstad: That what you're saying ...

Vernon Akin: That's what I'm saying and that's would be what they're talking about here the 25 thousand.

Number 205      Chairman Furnace: Representative Uehling.

Number 206      Representative Uehling: Thank you, Mr. Chairman. Just to sort of follow up along those lines. So your main objection would be the 25 thousand dollar restriction put in there then from what you're telling ...

Number 208      Vernon Akin: My main objection is that as I've pointed out Friday, there should be no bidding of architectural and engineering services. Architectural and engineering services are and aren't the same as an artist. There are no two engineers or architects that will accomplish the purpose the same way. It's their, you're buying their services, their expertise to do that work and there will be no two the same; so it's not like a contractor where everything is tied down and you build it this way, that way, that way and the plan is ... It's an art; it's an awful lot like an artist painting a picture, no two do it the same. And so this is what I am saying.

Number 220      Chairman Furnace: ... Additional questions from the committee? I have a couple of questions to Mr. Akin.

Vernon Akin: Yes.

Chairman Furnace: You mention the work of the, speaking of the commissioner, you may recall under the original bill that it's stated here that notwithstanding the provision of

39.36.98.040, the State shall select person or firm for the performance of architectural, engineering and land surveying services, so you're speaking of the State in the amendment, we're still speaking of the State and the commissioner. And I'd ask you is the person of the State that you'd normally be dealing with, so I think the commissioner is probably proper. On Page 4 there are two mentionings of the commissioner and it does not apply, let's see the contract agency demonstrates that there is a single source of expertise or knowledge required of that one person, firm clearly performs, and that it indicates here that the commissioner has the responsibility to make that determination which appears to be proper at that stage there ... Under 2, the commissioner may make a written determination that the public necessity will not permit delays incident to the proceeding of the work required by this chapter and it appears that the mentioning of commissioner does not hinder what you're proposing to do. It's supportive language as opposed to not supportive. Do you read it that way?

- Number 248      Vernon Akin: The apprehension I have is the fact that that the borough is, boroughs and cities are going to say that this is not does not apply to them and because it's specifically written for the State agency. And if we could reword it some way so we could, in better language. We do not have commissioner in the definitions in the back.
- Number 256      Chairman Furnace: I know. I know, I just noticed that. There's a definition of commissioner.
- Number 258      There is discussion regarding the definition.
- Number 262      Chairman Furnace: I believe commissioner is probably already defined in the statute. Commissioner means the commissioner of administration except that contracts entered into by commissioner of transportation and public facilities. It seems to me that the commissioner of transportation and public facilities, I don't understand it ...
- Number 266      Vernon Akin: That, I don't think that applies then.
- Number 267      Chairman Furnace: Okay, point's well taken. As we walk through this, we'll look, address that.
- Number 268      Vernon Akin: I realize that down the line there will be a lot of changes, but we would wish that you'd keep this in mind as going back to the original concept of no bidding on anything as far as our services, architectural and engineering services.
- Number 272      Chairman Furnace: Mr. Akin, while you're with us, I propose a couple of things today with the committee, is to walk through the original bill and then look at the draft substitute language. But there's other questions I think we may