

HB

392

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

House L 3 C

March 22, 1988

House C 3 RA

Feb. 8, 1988

Feb. 26, 1988

HOUSE COMMITTEE REPORT

(7)

Date referred: 2/29/88

FURTHER REFERRALS:

DATE: 3/22/88

The Labor & Commerce Committee has considered HB 392

"An Act relating to municipal procurement of architectural, engineering, and land surveying services."

RECOMMENDS:

- replace with C.S HB 392 (L+C) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published 2/29/88
- zero with analysis

SIGNING DO PASS:

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

SIGNING OTHER RECOMMENDATIONS:

[Signature] (no rec.)

[Signature] no rec

[Signature]

Chairman's signature

5-1669B
Bannister
1/27/88

Original sponsors: Ellis, Koponen
and Collins

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 392 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to municipal procurement of archi-
7 tectural, engineering, and land surveying services."

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

9 * Section 1. AS 29.10.200 is amended by adding a new paragraph to read:
10 (49) AS 29.71.040 (procurement requirement).

11 * Sec. 2. AS 29.71 is amended by adding a new section to read:

12 Sec. 29.71.040. PROCUREMENT REQUIREMENT. (a) A municipality
13 and its administrative units shall comply with AS 36.30.270 unless the
14 municipality specifically exempts itself or an administrative unit
15 from AS 36.30.270 by adopting an ordinance establishing a selection
16 process for the municipality or for the unit. In this section,

17 (1) "administrative unit" includes a department, institu-
18 tion, board, commission, division, authority, public corporation,
19 utility, or other administrative unit of a municipality;

20 (2) "selection process" means a selection process for the
21 procurement of architectural, engineering, and land surveying ser-
22 vices.

23 * (b) This section applies to home rule and general law municipal-
24 ities.

25
26
27 * These sections of the CS bring home rule
28 municipalities into compliance with the state
29 law also.

File Contents

HB 392 - Municipal Procurement of Certain Services

<u>No.</u>	<u>Description</u>
1.	Bill - HB 392
2.	Packet from Sponsor Explanation Statutes (including 36.30.270) AML Resolution
3.	Bill Review - HCRA Staff (Harrison)
4.	Public Law 92-582
5.	Alaska Municipal League - Position Paper
6.	DCRA - Position Paper
7.	DCRA - Zero Fiscal Note

WHILE IN SESSION
P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3704

REPRESENTATIVE JOHNNY ELLIS

M E M O R A N D U M

TO: The Honorable Dave Donley, Chair
House Labor and Commerce Committee

FROM: Rep. Ellis *JE*

RE: HB 392: "An Act relating to municipal procurement of
architectural, engineering, and land surveying
services."

DATE: March 2, 1988

I respectfully request that the Labor and Commerce Committee hold a hearing on CSHB 392.

Passage of this legislation will bring municipalities in compliance with AS 36.30.270, which was created by the Fourteenth Alaska Legislature. AS 36.30.270 requires the state to use a registered architect, engineer, or land surveyor when awarding contracts and outlines a procedure for professional contracts. A copy of AS 36.30.270 is attached, (Attachment A).

The procedure requires the state to negotiate a contract with the most qualified and suitable firm for a fair price with consideration given to the firm's proximity to the project, and employment practices with regard to minorities and women.

Under the proposed statute, (HB 392), a municipality may exempt itself, or part of itself, from the requirements of AS 36.30.270 by adopting an ordinance that establishes a selection process.

The Community and Regional Affairs Committee CS for HB 392 adds provisions to bring home rule municipalities in compliance with the same conditions by amending AS 29.10.200, (Attachment B).

Both state agencies and professional societies testified in favor of the legislation which passed into law in 1986.

Attachment C is Resolution 88-37 of the Alaska Municipal League adopted in November during the Municipal League convention.

If you require further information, please contact Deborah Bonito at X3704.

RESOLUTION OF THE ALASKA MUNICIPAL LEAGUE

RESOLUTION NO. 88-37

A RESOLUTION OF THE ALASKA MUNICIPAL LEAGUE SUPPORTING
SELECTION OF DESIGN PROFESSIONALS THROUGH
A QUALIFICATION-BASED PROCESS.

WHEREAS, this process attempts to assure that selection of design professionals based on qualifications (while providing for negotiation of fair and reasonable compensation) will obtain the best professional services for the most equitable fee, and

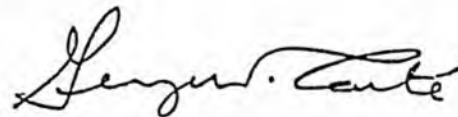
WHEREAS, the federal government implemented a procedure for selection of design professionals on the basis of qualifications, as set forth in Public Law 92-582, and

WHEREAS, the State of Alaska adopted a procedure for selection of design professionals based on qualifications, as set forth in A.S. ~~36-908.043~~;

36.30.270

NOW, THEREFORE, BE IT RESOLVED that the Alaska Municipal League supports the selection of design professionals through a qualification-based process as expressed in federal and state law and urges its members to support state legislation adopting this process for municipalities while at the same time providing for local option for those municipalities which choose to adopt their own ordinance addressing this selection process.

Adopted this 13th day of November 1987.



George W. Carte', President

ATTEST:


Scott A. Burgess, Executive Director

1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-4031

WHILE IN SESSION
P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3704

ALASKA STATE HOUSE

OFFICE OF MAJORITY WHIP



② HB 392

CO-CHAIR
HEALTH, EDUCATION & SOCIAL SERVICES

LABOR & COMMERCE
SUBCOMMITTEE ON FOREIGN TRADE

REPRESENTATIVE JOHNNY ELLIS

MEMORANDUM

TO: The Honorable Henry Springer, Chair
Community and Regional Affairs Committee

FROM: Rep. Ellis (JB)

RE: HB 392: "An Act relating to municipal procurement of architectural, engineering, and land surveying services."

DATE: January 27, 1988

I respectfully request that the Community and Regional Affairs Committee hold a hearing on CSHB 392.

Passage of this legislation will bring municipalities in compliance with AS 36.30.270, which was created by the Fourteenth Alaska Legislature. AS 36.30.270 requires the state to use a registered architect, engineer, or land surveyor when awarding contracts and outlines a procedure for professional contracts. A copy of AS 36.30.270 is attached, (Attachment A).

The procedure requires the state to negotiate a contract with the most qualified and suitable firm for a fair price with consideration given to the firm's proximity to the project, and employment practices with regard to minorities and women.

Under the proposed statute, (HB 392), a municipality may exempt itself, or part of itself, from the requirements of AS 36.30.270 by adopting an ordinance that establishes a selection process.

The CS for HB 392 adds provisions to bring home rule municipalities in compliance with the same conditions by amending AS 29.10.200, (Attachment B).

Both state agencies and professional societies testified in favor of the legislation which passed into law in 1986.

Attachment C is Resolution 88-37 of the Alaska Municipal League adopted in November during the Municipal League convention.

If you require further information, please contact Deborah Bonito at X3704.

①

③ HB 392

Bill Review

Bill No: HB 392

Title: "An Act relating to municipal procurement of architectural, engineering, and land surveying services."

Sponsor: Ellis, Koponen and Collins

Municipalities involved in procuring architectural, engineering and land surveying services are required to comply with AS 36.30.270, Architectural, engineering, and land surveying contracts. To be exempted the municipality must adopt an ordinance establishing a selection process for itself or its administrative unit.

Lines 15-17 define "administrative unit."

Lines 18-20 indicate "selection process."

Ideas for this may have come from PL 92-582 or from AS 36.98.043.

Attached herewith: PL 92-582
AS 36.30.270

MANAGEMENT AND DISPOSAL

40 USCS § 542

- (2) Long-range physical and fiscal plans for such action;
- (3) Programming of capital improvements and other major expenditures, based on a determination of relative urgency, together with definitive financing plans for such expenditures in the earlier years of the program;
- (4) Coordination of all related plans and activities of the State and local governments and agencies concerned; and
- (5) Preparation of regulatory and administrative measures in support of the foregoing.

(June 30, 1949, c. 288, Title VIII, § 806, as added Oct. 16, 1968, P. L. 90-577, Title V, § 501, 82 Stat. 1105.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

"This title", referred to in this section, is Title VIII of Act June 30, 1949, c. 288, as added by Act Oct. 16, 1968, P.L. 90-577, Title V, 82 Stat. 1104, which Title appears generally as 40 USCS §§ 531 et seq. For full classification of this Title, consult USCS Tables volumes.

SELECTION OF ARCHITECTS AND ENGINEERS

§ 541. Definitions

As used in this title—

(1) The term "firm" means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the professions of architecture or engineering.

(2) The term "agency head" means the Secretary, Administrator, or head of a department, agency, or bureau of the Federal Government.

(3) The term "architectural and engineering services" includes those professional services of an architectural or engineering nature as well as incidental services that members of these professions and those in their employ may logically or justifiably perform.

(June 30, 1949, c. 288, Title IX, § 901, as added Oct. 27, 1972, P. L. 92-582, 86 Stat. 1278.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

"This Title", referred to in this section, is Title IX of Act June 30, 1949, c. 288, as added by Act Oct. 27, 1972, P.L. 92-582, 86 Stat. 1278, which Title appears generally as 40 USCS §§ 541 et seq. For full classification of this Title, consult USCS Tables volumes.

§ 542. Congressional declaration of policy

The Congress hereby declares it to be the policy of the Federal Government to publicly announce all requirements for architectural and engineer-

ing services, and to negotiate contracts for architectural and engineering services on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices.

(June 30, 1949, c. 288, Title IX, § 902, as added Oct. 27, 1972, P. L. 92-582, 86 Stat. 1279.)

§ 543. Requests for data on architectural and engineering services

In the procurement of architectural and engineering services, the agency head shall encourage firms engaged in the lawful practice of their profession to submit annually a statement of qualifications and performance data. The agency head, for each proposed project, shall evaluate current statements of qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with no less than three firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services and then shall select therefrom, in order of preference, based upon criteria established and published by him, no less than three of the firms deemed to be the most highly qualified to provide the services required.

(June 30, 1949, c. 288, Title IX, § 903, as added Oct. 27, 1972, P. L. 92-582, 86 Stat. 1279.)

§ 544. Negotiation of contracts for architectural and engineering services

(a) The agency head shall negotiate a contract with the highest qualified firm for architectural and engineering services at compensation which the agency head determines is fair and reasonable to the Government. In making such determination, the agency head shall take into account the estimated value of the services to be rendered, the scope, complexity, and professional nature thereof.

(b) Should the agency head be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price he determines to be fair and reasonable to the Government, negotiations with that firm should be formally terminated. The agency head should then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the agency head should terminate negotiations. The agency head should then undertake negotiations with the third most qualified firm.

(c) Should the agency head be unable to negotiate a satisfactory contract with any of the selected firms, he shall select additional firms in order of their competence and qualification and continue negotiations in accordance with this section until an agreement is reached.

(June 30, 1949, c. 288, Title IX, § 904, as added Oct. 27, 1972, P. L. 92-582, 86 Stat. 1279.)

CHAPTER 11. REAL PROPERTY TRANSACTIONS BY MILITARY DEPARTMENTS

Section
551-554. [Repealed]

§§ 551-554. [Repealed]

HISTORY; ANCILLARY LAWS AND DIRECTIVES

These sections 40 USCS §§ 551, 552, 553, and 554, (Act Sept. 28, 1951, c. 434, Title VI, §§ 601-604, 65 Stat. 365) were repealed by Act Aug. 10, 1956, c. 1041, § 53, 70A Stat. 682. These sections related to real property transactions by military departments, agreements between Secretaries of military departments or Federal Civil Defense Administration and Armed Services Committees of Congress on real estate transactions, quarterly reports to Armed Services Committees, recital of compliance in instrument of conveyance as conclusive, and similar provisions appear as 10 USCS § 2662 and 50 USCS Ap 2285.


Alaska
MUNICIPAL
League

⑤ HB 392

TELEPHONE
(907) 586-1325

105 MUNICIPAL WAY, SUITE 301
JUNEAU, ALASKA 99801

TO: Representative Henry Springer, Chair
Members of the House Community and Regional Affairs Committee

FROM: Scott A. Burgess, Executive Director 

DATE: February 8, 1988

SUBJECT: HB 392 - Municipal Procurement of Architectural, Engineering and Land Surveying Services

On behalf of its 135 municipal members, the Alaska Municipal League supports the selection of design professionals through a qualifications-based process, and, therefore, supports HB 392. I have attached a copy of AML Resolution No. 88-37* passed at the AML Annual Conference in November 1987.

HB 392 requires municipalities to comply with the State's professional services procurement practices laid out in AS 36.30.270 while providing for local option for those municipalities which choose to adopt their own ordinance establishing a selection process. While the AML has resisted similar legislation mandating procurement practices on municipalities for professional services as well as other procurement practices such as competitive bidding as an unnecessary and unjustified restriction on local control, the AML does not oppose HB 392 for the following reasons:

- 1) the AML membership adopted Resolution No. 88-37 in November 1987 supporting selection of design professionals through a qualification-based process; and,
- 2) HB 392 provides municipalities the option of exempting themselves from the state standards by adopting their own ordinance establishing a selection process that better meets their individual needs, resources and situations.

The AML supports HB 392. Thank you.

* The reference to AS 36.908.043 is presumably a typo and a reference to AS 36.98 repealed by Chapter 106 SLA 1986, now AS 36.30.270.

Attachment

STATE OF ALASKA

⑥ HB 392
STEVE COWPER, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

MUNICIPAL & REGIONAL ASSISTANCE DIVISION

- | | | | |
|---|---|---|---|
| <input type="checkbox"/> 949 E. 36th AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508-4302
PHONE: (907) 561-8586 | <input type="checkbox"/> P.O. BOX 348
BETHEL, ALASKA 99559-0348
PHONE: (907) 543-3475 | <input type="checkbox"/> P.O. BOX 10041
DILLINGHAM, ALASKA 99576-1041
PHONE: (907) 842-5135 | <input type="checkbox"/> 1514 CUSHMAN STREET, ROOM 210
FAIRBANKS, ALASKA 99701-6286
PHONE: (907) 452-7126 |
| <input type="checkbox"/> P.O. BOX BH
JUNEAU, ALASKA 99811-2110
PHONE: (907) 465-4750 | <input type="checkbox"/> 710 MILL BAY RD.
KODIAK, ALASKA 99615-6340
PHONE: (907) 486-5736 | <input type="checkbox"/> P.O. BOX 350
KOTZEBUE, ALASKA 99752-0350
PHONE: (907) 442-3696 | <input type="checkbox"/> P.O. BOX 41
NOME, ALASKA 99762-0041
PHONE: (907) 443-5457 |

February 5, 1988

POSITION PAPER

RE: House Bill 392

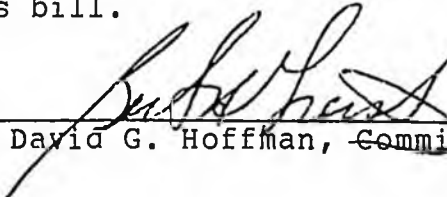
SPONSOR: Representatives Ellis, Koponen and Collins

Program Effects of Bill

This bill would make the provisions of AS 36.30.270, regarding the procurement of architectural, engineering and land surveying services applicable to municipalities and their administrative units, unless they choose to exempt themselves from coverage by ordinance.

Comments

Generally, the thrust of Title 29, as re:codified in 1985, was to increase local determination of standards and requirements of this nature and to reduce reliance upon state standards. However, this bill provides that municipalities may choose to exempt themselves from the coverage of AS 36.30.270 by passage of an ordinance establishing a selection process. The department does not oppose this bill.



David G. Hoffman, Commissioner

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HB 392
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An act..municipal procurement..
architectural..land surveying services."
Sponsor: Ellis, Koponen & Collins
Requestor: _____

Agency Affected: Community & Regional Affairs
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Jim Plasman, Deputy Director

Prepared by: _____ Phone: 465-4750
Division: Municipal & Regional Assistance Date: _____

Approved by Commissioner: _____ Date: _____
Agency: Community & Regional Affairs

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)

HOUSE COMMITTEE REPORT

Date referred: 1/25/88

FURTHER REFERRALS: Labor & Commerce

DATE: FEB 26 1988

The Community and Regional Affairs Committee has considered HB 392

"An Act relating to municipal procurement of architectural, engineering, and land surveying services."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

Bette Cato Cato
Uyana Collins Collins
Heinrich Springer Springer

SIGNING OTHER RECOMMENDATIONS:

Springer

Heinrich Springer
 Chairman's signature