

SRB

2600

SENATE COMMITTEE REPORT

FURTHER:

5/1/87

DATE TURNED INTO OFFICE \_\_\_\_\_

Mr. President:

FINANCE Committee considered SB 260

state procurement practices and procedures; efd.

and recommended:

replace with CS FOR \_\_\_\_\_ )  same title  
 or adopt \_\_\_\_\_ CS FOR \_\_\_\_\_ )  new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

letter of intent adopted \_\_\_\_\_

Committee  attached or  adopted fiscal note(s)

new  updated or  previous

zero  fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

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Chairman signature and recommendation

Committee Backup Attached

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MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

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Chairman signature and recommendation

Committee Backup Attached

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 4-28-87 5-DAY NOTICE  
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: FINANCE

\*\*FISCAL NOTE(S) ATTACHED            \*\*  
IN ACCORDANCE WITH AS 24.08.035  
(see below)

DATE TURNED INTO OFFICE 4/30/87

Mr. President:

LABOR & COMMERCE

Committee considered SB 260

state procurement practices and procedures; efd

and recommended:

replace with CS SB 260 (L+C)  same title  
 attached amendment(s) and  new title

majority  
do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

letter of intent adopted and attached

\*\* Committee  attached or  adopted fiscal note(s)  
 zero previous  fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Richard Lehtinen (DO PASS)  
Paul Slomp

John S. ...

Tom Kelly - Do Pass

Chairman signature and recommendation

Committee Backup Attached

Senate Labor & Commerce Committee Letter of Intent for SB 260

It is the intent of the Legislature that the designation of the time and place for opening of bids may be modified by addendum under AS 36.30.140(a).

Original sponsor: Rules/Governor

1 IN THE SENATE

BY THE LABOR AND  
COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 260 (L&C)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state procurement practices and  
7 procedures; and providing for an effective date."

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

9 \* Section 1. AS 36.30.005(a) is amended to read:

10 (a) Except as otherwise provided, all rights, powers, duties,  
11 and authority relating to the procurement of supplies, services, and  
12 professional services, and the control over supplies, services, and  
13 professional services vested in or exercised by an agency on Janu-  
14 ary 1, 1988 [JULY 1, 1987], are transferred to the commissioner of  
15 administration and to the chief procurement officer. Authority gran-  
16 ted under this subsection shall be exercised in accordance with this  
17 chapter.

18 \* Sec. 2. AS 36.30.005(b) is amended to read:

19 (b) Except as otherwise provided, all rights, powers, duties,  
20 and authority relating to the procurement of construction and procure-  
21 ments of equipment or services for the state equipment fleet and the  
22 control over construction of state facilities and the state equipment  
23 fleet vested in or exercised by an agency on January 1, 1988 [JULY 1,  
24 1987], are transferred to the commissioner of transportation and  
25 public facilities, subject to regulations adopted by the commissioner  
26 of administration. Notwithstanding AS 44.71.010, authority relating  
27 to disposals from the state equipment fleet is vested in the commis-  
28 sioner of transportation and public facilities, subject to regulations  
29 adopted by the commissioner of administration. Authority granted  
S

1 under this subsection shall be exercised in accordance with this  
2 chapter.

3 \* Sec. 3. AS 36.30.050(b) is amended to read:

4 (b) A person who desires to be on a list shall submit to the  
5 commissioner evidence of a valid Alaska business license. A [TOGETHER  
6 WITH A] biennial fee may be established by regulation in an amount  
7 reasonably calculated to pay the costs of administering this section.  
8 A construction contractor shall also submit a valid certificate of  
9 registration issued under AS 08.18. The commissioner, by regulation,  
10 may require submission of additional information.

11 \* Sec. 4. AS 36.30.115(a) is amended to read:

12 (a) Within 72 [24] hours after receiving notice of intent to  
13 award [OPENING OF BIDS], the [TWO] apparent low bidder [BIDDERS] shall  
14 submit a list of the subcontractors the bidder proposes [BIDDERS  
15 PROPOSE] to use in the performance of the contract. The list must  
16 [SHALL] include the name and location of the place of business for  
17 each subcontractor and evidence of the subcontractor's valid Alaska  
18 business license. A bidder for a construction contract shall also  
19 submit evidence of each subcontractor's registration under AS 08.18.

20 \* Sec. 5. AS 36.30.140(a) is amended to read:

21 (a) The procurement officer shall open bids [PUBLICLY IN THE  
22 PRESENCE OF ONE OR MORE WITNESSES] at the time and place designated in  
23 the invitation to bid. All bid openings are open to the public. The  
24 amount of each bid and other relevant information that is specified by  
25 regulation of the commissioner, together with the name of each bidder,  
26 shall be recorded.

27 \* Sec. 6. AS 36.30.170(b) is amended to read:

28 (b) The procurement officer shall award a contract based on  
29 solicited bids to the lowest responsive and responsible bidder after

1 an Alaska bidder preference of five percent and an Alaska products  
2 preference as described in AS 36.30.322 - 36.30.338 have been applied.  
3 [NOTWITHSTANDING AN ALASKA PRODUCT PREFERENCE UNDER AS 36.30.322 -  
4 36.30.338, THE PROCUREMENT OFFICER SHALL AWARD A CONTRACT BASED ON  
5 SOLICITED BIDS TO THE LOWEST RESPONSIBLE AND RESPONSIVE ALASKA BIDDER  
6 IF THE BID IS NOT MORE THAN FIVE PERCENT HIGHER THAN THE LOWEST NON-  
7 RESIDENT BIDDER'S.] In this subsection, "Alaska bidder" means a  
8 person who

9 (1) holds a current Alaska business license;

10 (2) submits a bid for goods, services, or construction  
11 under the name as appearing on the person's current Alaska business  
12 license;

13 (3) has maintained a place of business within the state  
14 staffed by the bidder or an employee of the bidder for a period of six  
15 months immediately preceding the date of the bid;

16 (4) is incorporated or qualified to do business under the  
17 laws of the state, is a sole proprietorship, and the proprietor is a  
18 resident of the state or is a partnership, and all partners are resi-  
19 dents of the state; and

20 (5) if a joint venture, is composed entirely of ventures  
21 that qualify under (1) - (4) of this subsection.

22 \* Sec. 7. AS 36.30.210(a) is amended to read:

23 (a) A request for competitive sealed proposals must contain the  
24 date, time and place for delivering proposals, a specific description  
25 of the supplies, construction, services, or professional services to  
26 be provided under the contract, and the terms under which the sup-  
27 plies, construction, services, or professional services are to be  
28 provided. The request shall require the offeror to submit evidence of  
29 the offeror's valid Alaska business license and, no later than 72

1 hours after receiving notice of intent to award [THE DATE BY WHICH  
2 PROPOSALS MUST BE RECEIVED], to list subcontractors the offeror pro-  
3 poses to use in the performance of the contract. The list shall  
4 include the name and location of the place of business for each sub-  
5 contractor and evidence of the subcontractor's valid Alaska business  
6 license. An offeror for a construction contract shall also submit  
7 evidence of the offeror's registration under AS 08.18 and evidence of  
8 registration for each listed subcontractor.

9 \* Sec. 8. AS 36.30 is amended by adding a new section to read:

10       Sec. 36.30.305. LIMITED COMPETITION PROCUREMENTS. (a) A con-  
11 tract may be awarded for supplies, services, professional services, or  
12 construction without competitive sealed bidding or competitive sealed  
13 proposals, in accordance with regulations adopted by the commissioner  
14 of administration. A contract may be awarded under this section only  
15 when the commissioner of administration, or, for construction con-  
16 tracts or procurements for the state equipment fleet, the commissioner  
17 of transportation and public facilities, determines in writing that a  
18 situation exists that makes competitive sealed bidding or competitive  
19 sealed proposals impractical or contrary to the public interest.  
20 Procurements under this section shall be made with competition that is  
21 practicable under the circumstance. The authority to make a deter-  
22 mination required by this section may not be delegated.

23       (b) The using agency shall submit written evidence to support a  
24 determination under this section.

25       (c) Procurement requirements may not be artificially divided,  
26 fragmented, aggregated, or structured so as to constitute a purchase  
27 under this section or to circumvent the source selection procedures  
28 required by AS 36.30.100 - 36.30.270.

29       (d) Sole source procurements may not be made under this section.

1 (e) Architectural, engineering, and land survey contracts under  
2 AS 36.30.270 may not be made under this section.

3 \* Sec. 9. AS 36.30.320(e) is amended to read:

4 (e) The procurement officer shall give adequate public notice of  
5 intent to make a procurement under this section in accordance with  
6 regulations adopted by the commissioner. [NOTICES SHALL ALSO BE  
7 PROVIDED TO THOSE ALASKA BIDDERS DESIGNATED BY THE COMMISSIONER UNDER  
8 AS 36.30.050(d).]

9 \* Sec. 10. AS 36.30.322(a) is amended to read:

10 (a) Only timber, lumber, and manufactured lumber products orig-  
11 inating in this state from Alaska [LOCAL] forests may be procured by  
12 an agency or used in construction projects of an agency unless [THE  
13 COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT CERTIFIES THAT] the  
14 manufacturers and suppliers who have notified the commissioner of  
15 commerce and economic development of their willingness to manufacture  
16 or supply Alaska forest products

17 (1) have been given reasonable notice of the forest product  
18 needs of the procurement or project; and

19 (2) are unable to supply the products at a cost that is  
20 within seven percent of the price offered by a manufacturer or sup-  
21 plier of non-Alaska forest products.

22 \* Sec. 11. AS 36.30.322 is amended by adding a new subsection to read:

23 (c) During the period of performance of a state contract, the  
24 contractor shall maintain records showing efforts made in using Alaska  
25 forest products or evidence of Alaska forest products not being avail-  
26 able or reasonably competitive. The contractor shall provide the  
27 records to the procurement officer on a periodic basis, as required by  
28 regulations adopted by the commissioner of commerce and economic  
29 development.

1 \* Sec. 12. AS 36.30.332(b) is amended to read:

2 (b) Materials and supplies with value added in the state that  
3 are

4 (1) more than 25 percent and less than 50 percent produced  
5 or manufactured in the state are [OF THE MANUFACTURER'S QUOTED PRICE  
6 IS A] Class I products [PRODUCT];

7 (2) 50 percent or more and less than 75 percent produced or  
8 manufactured in the state are [OF THE MANUFACTURER'S QUOTED PRICE IS  
9 A] Class II products [PRODUCT]; and

10 (3) 75 percent or more produced or manufactured in the  
11 state are [OF A MANUFACTURER'S QUOTED PRICE IS A] Class III products  
12 [PRODUCT].

13 \* Sec. 13. AS 36.30.338(1) is amended to read:

14 (1) "Alaska product" means a product of which not less than  
15 25 percent of the value, as determined in accordance with regulations  
16 adopted under AS 36.30.332(a), has been added by manufacturing or  
17 production in the state [PRODUCED OR MANUFACTURED IN THE STATE IF THE  
18 VALUE ADDED IN THE STATE IS NOT LESS THAN 25 PERCENT OF THE QUOTED  
19 PRICE OF THE MANUFACTURER];

20 \* Sec. 14. AS 36.30.365 is amended to read:

21 Sec. 36.30.365. NOTICE OF INTENT TO AWARD A CONTRACT. At least  
22 10 days before the formal award of a contract that is not for con-  
23 struction, and at least five days before the award of a construction  
24 contract, under this chapter, except for a contract awarded under  
25 AS 36.30.300 - 36.30.320, the procurement officer shall provide to  
26 each bidder or offeror notice of intent to award a contract. The  
27 notice shall conform to regulations adopted by the commissioner.

28 \* Sec. 15. AS 36.30.540 is amended to read:

29 Sec. 36.30.540. REPORT TO LEGISLATURE. Beginning with

1 December 1, 1990 [1989], the commissioner shall biennially report to  
2 the legislature concerning procurements by agencies. The report must  
3 include

4 (1) the records maintained by the commissioner under AS  
5 36.30.510 and the records maintained under AS 36.30.520(a) for the  
6 previous two fiscal years;

7 (2) recommendations for changes in this chapter or other  
8 laws based on implementation of this chapter in the previous two  
9 fiscal years;

10 (3) a description of any matters that involved litigation  
11 concerning this chapter in the previous two fiscal years;

12 (4) a list of procurements made under this chapter from  
13 out-of-state sources during the previous two fiscal years together  
14 with the total number of procurement contracts entered into during  
15 that period with out-of-state contractors and the total value of these  
16 contracts; this paragraph does not apply to procurements made under AS  
17 36.30.320; and

18 (5) a list of procurements made under this chapter from  
19 state sources during the previous two fiscal years together with the  
20 total number of procurement contracts entered into during that period  
21 with state contractors and the total value of these contracts; this  
22 paragraph does not apply to procurements made under AS 36.30.320.

23 \* Sec. 16. AS 36.30.565 is amended to read:

24 Sec. 36.30.565. TIME FOR FILING A PROTEST. (a) A protest based  
25 upon alleged improprieties in an award of a contract or a proposed  
26 award of a contract must [A SOLICITATION INVOLVING COMPETITIVE SEALED  
27 BIDDING THAT ARE APPARENT BEFORE THE BID OPENING SHALL BE FILED BEFORE  
28 THE BID OPENING. A PROTEST BASED ON ALLEGED IMPROPRIETIES IN A SOLIC-  
29 ITATION INVOLVING COMPETITIVE SEALED PROPOSALS THAT ARE APPARENT

1 (1) BEFORE THE DUE DATE FOR RECEIPT OF INITIAL PROPOSALS  
2 SHALL BE FILED BEFORE THAT DUE DATE;

3 (2) AFTER THE DUE DATE FOR RECEIPT OF INITIAL PROPOSALS  
4 SHALL BE FILED BEFORE THE NEXT DUE DATE FOR RECEIPT OF ADJUSTED PRO-  
5 POSALS THAT OCCURS AFTER THE IMPROPRIETIES ARE APPARENT.

6 (b) IN SITUATIONS NOT COVERED UNDER (a) OF THIS SECTION, PRO-  
7 TESTS SHALL] be filed within 10 days after a notice of intent to award  
8 the contract is issued by the procurement officer.

9 (c) If the protester shows good cause, the procurement officer  
10 of the contracting agency may consider a filed protest that is not  
11 timely.

12 \* Sec. 17. AS 36.30.610 is amended by adding a new subsection to read:

13 (c) The commissioner of administration or the commissioner of  
14 transportation and public facilities, as appropriate, shall, within 15  
15 days after receipt of an appeal, notify the appellant of the accep-  
16 tance or rejection of the appeal and, if rejected, the reasons for the  
17 rejection.

18 \* Sec. 18. AS 36.30.850(a) is amended to read:

19 (a) This chapter applies only to contracts solicited or entered  
20 into after January 1, 1988 [JULY 1, 1987], unless the parties agree to  
21 its application to a contract solicited or entered into before that  
22 date.

23 \* Sec. 19. AS 36.30.900 is amended to read:

24 Sec. 36.30.900. PREFERENCE FOR ALASKA PRODUCTS. This chapter  
25 does not modify [, AMEND, OR ALTER] AS 36.15.010 and 36.15.020 regard-  
26 ing preference for Alaska forest products, [OR AS 36.20.010 REGARDING  
27 PREFERENCE TO PRODUCERS OR DEALERS IN ALASKA] except as provided in  
28 AS 36.30.170(b) and (c).

29 \* Sec. 20. AS 36.30.050(d), 36.30.362, 36.30.380, 36.30.540(4), and

1 36.30.540(5) are repealed.

2 \* Sec. 21. Section 65, ch. 106, SLA 1986 is amended to read:

3 Sec. 65. REPORT. By December 1, 1989 [1988], the commissioner  
4 of administration and the commissioner of transportation and public  
5 facilities shall report to the legislature concerning procurements by  
6 state agencies during fiscal year 1988 [1987]. The report must in-  
7 clude

8 (1) the records prepared under AS 36.30.510(4);

9 (2) recommendations for changes in AS 36.30 or other laws  
10 based on implementation of AS 36.30 in those 12 months; and

11 (3) a description of any matters that involved litigation  
12 concerning AS 36.30 during those 12 months.

13 \* Sec. 22. Section 66, ch. 106, SLA 1986 is amended to read:

14 Sec. 66. REGULATIONS DEADLINE. The regulations required under  
15 AS 36.30 as added by sec. 2 of this Act, shall be adopted by January  
16 1, 1988, [JULY 1, 1987] and shall be effective on that date. Regu-  
17 lations adopted under laws repealed in sec. 67 of this Act become  
18 ineffective January 1, 1988 [JULY 1, 1987].

19 \* Sec. 23. Section 69, ch. 106, SLA 1986 is amended to read:

20 Sec. 69. Except as provided in sec. 68, this Act takes effect  
21 January 1, 1988 [JULY 1, 1987].

22 \* Sec. 24. Sections 1, 2, 15, 18, and 21 - 23 of this Act take effect  
23 immediately under AS 01.10.070(c). Sections 3 - 14, 16, 17, 19, and 20 of  
24 this Act take effect January 1, 1988.  
25  
26  
27  
28  
29

Introduced: 4/16/87  
Referred: Labor and Commerce and Finance

w01467s

1 IN THE SENATE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 260

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state procurement practices and  
7 procedures; and providing for an effective date."

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

9 \* Section 1. AS 36.30.005(a) is amended to read:

10 (a) Except as otherwise provided, all rights, powers, duties,  
11 and authority relating to the procurement of supplies, services, and  
12 professional services, and the control over supplies, services, and  
13 professional services vested in or exercised by an agency on January  
14 1, 1988 [JULY 1, 1987], are transferred to the commissioner of admin-  
15 istration and to the chief procurement officer. Authority granted  
16 under this subsection shall be exercised in accordance with this  
17 chapter.

18 \* Sec. 2. AS 36.30.005(b) is amended to read:

19 (b) Except as otherwise provided, all rights, powers, duties,  
20 and authority relating to the procurement of construction and procure-  
21 ments of equipment or services for the state equipment fleet and the  
22 control over construction of state facilities and the state equipment  
23 fleet vested in or exercised by an agency on January 1, 1988 [JULY 1,  
24 1987], are transferred to the commissioner of transportation and  
25 public facilities, subject to regulations adopted by the commissioner  
26 of administration. Notwithstanding AS 44.71.010, authority relating  
27 to disposals from the state equipment fleet is vested in the commis-  
28 sioner of transportation and public facilities, subject to regulations  
29 adopted by the commissioner of administration. Authority granted  
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1 under this subsection shall be exercised in accordance with this  
2 chapter.

3 \* Sec. 3. AS 36.30.050(b) is amended to read:

4 (b) A person who desires to be on a list shall submit to the  
5 commissioner evidence of a valid Alaska business license. A [TOGETHER  
6 WITH A] biennial fee may be established by regulation in an amount  
7 reasonably calculated to pay the costs of administering this section.  
8 A construction contractor shall also submit a valid certificate of  
9 registration issued under AS 08.18. The commissioner, by regulation,  
10 may require submission of additional information.

11 \* Sec. 4. AS 36.30.115(a) is amended to read:

12 (a) Within 72 [24] hours after receiving notice of intent to  
13 award [OPENING OF BIDS], the [TWO] apparent low bidder [BIDDERS] shall  
14 submit a list of the subcontractors the bidder proposes [BIDDERS  
15 PROPOSE] to use in the performance of the contract. The list must  
16 [SHALL] include the name and location of the place of business for  
17 each subcontractor and evidence of the subcontractor's valid Alaska  
18 business license. A bidder for a construction contract shall also  
19 submit evidence of each subcontractor's registration under AS 08.18.

20 \* Sec. 5. AS 36.30.140(a) is amended to read:

21 (a) The procurement officer shall open bids [PUBLICLY IN THE  
22 PRESENCE OF ONE OR MORE WITNESSES] at the time and place designated in  
23 the invitation to bid. All bid openings are open to the public. The  
24 amount of each bid and other relevant information that is specified by  
25 regulation of the commissioner, together with the name of each bidder,  
26 shall be recorded.

27 \* Sec. 6. AS 36.30.170(b) is amended to read:

28 (b) The procurement officer shall award a contract based on  
29 solicited bids to the lowest responsive and responsible bidder after

1 an Alaska bidder preference of five percent and an Alaska products  
2 preference as described in AS 36.30.322 -- 36.30.388 have been ap-  
3 plied. [NOTWITHSTANDING AN ALASKA PRODUCT PREFERENCE UNDER AS 36.30.-  
4 322 -- 36.30.338, THE PROCUREMENT OFFICER SHALL AWARD A CONTRACT BASED  
5 ON SOLICITED BIDS TO THE LOWEST RESPONSIBLE AND RESPONSIVE ALASKA  
6 BIDDER IF THE BID IS NOT MORE THAN FIVE PERCENT HIGHER THAN THE LOWEST  
7 NONRESIDENT BIDDER'S.] In this subsection, "Alaska bidder" means a  
8 person who

9 (1) holds a current Alaska business license;

10 (2) submits a bid for goods, services, or construction  
11 under the name as appearing on the person's current Alaska business  
12 license;

13 (3) has maintained a place of business within the state  
14 staffed by the bidder or an employee of the bidder for a period of six  
15 months immediately preceding the date of the bid;

16 (4) is incorporated or qualified to do business under the  
17 laws of the state, is a sole proprietorship, and the proprietor is a  
18 resident of the state or is a partnership, and all partners are resi-  
19 dents of the state; and

20 (5) if a joint venture, is composed entirely of ventures  
21 that qualify under (1) - (4) of this subsection.

22 \* Sec. 7. AS 36.30.210(a) is amended to read:

23 (a) A request for competitive sealed proposals must contain the  
24 date, time and place for delivering proposals, a specific description  
25 of the supplies, construction, services, or professional services to  
26 be provided under the contract, and the terms under which the sup-  
27 plies, construction, services, or professional services are to be  
28 provided. The request shall require the offeror to submit evidence of  
29 the offeror's valid Alaska business license and, no later than 72

1 hours after receiving notice of intent to award [THE DATE BY WHICH  
2 PROPOSALS MUST BE RECEIVED], to list subcontractors the offeror pro-  
3 poses to use in the performance of the contract. The list shall  
4 include the name and location of the place of business for each sub-  
5 contractor and evidence of the subcontractor's valid Alaska business  
6 license. An offeror for a construction contract shall also submit  
7 evidence of the offeror's registration under AS 08.18 and evidence of  
8 registration for each listed subcontractor.

9 \* Sec. 8. AS 36.30 is amended by adding a new section to read:

10       Sec. 36.30.305. LIMITED COMPETITION PROCUREMENTS. (a) A con-  
11 tract may be awarded for supplies, services, professional services, or  
12 construction without competitive sealed bidding or competitive sealed  
13 proposals, in accordance with regulations adopted by the commissioner  
14 of administration. A contract may be awarded under this section only  
15 when the commissioner of administration, or, for construction con-  
16 tracts or procurements for the state equipment fleet, the commissioner  
17 of transportation and public facilities, determines in writing that a  
18 situation exists that makes competitive sealed bidding or competitive  
19 sealed proposals impractical or contrary to the public interest.  
20 Procurements under this section shall be made with competition that is  
21 practicable under the circumstance. The authority to make a deter-  
22 mination required by this section may not be delegated.

23       (b) The using agency shall submit written evidence to support a  
24 determination under this section.

25       (c) Procurement requirements may not be artificially divided,  
26 fragmented, aggregated, or structured so as to constitute a purchase  
27 under this section or to circumvent the source selection procedures  
28 required by AS 36.30.100 -- 36.30.270.

29       (d) Sole source procurements may not be made under this section.

1       Sec. 9. AS 36.30.329(e) is amended to read:

2           (e) The procurement officer shall give adequate public notice of  
3 intent to make a procurement under this section in accordance with  
4 regulations adopted by the commissioner. [NOTICES SHALL ALSO BE  
5 PROVIDED TO THOSE ALASKA BIDDERS DESIGNATED BY THE COMMISSIONER UNDER  
6 AS 36.30.050(d).]

7       \* Sec. 10. AS 36.30.322(a) is amended to read:

8           (a) Only timber, lumber, and manufactured lumber products orig-  
9 inating in this state from Alaska [LOCAL] forests may be procured by  
10 an agency or used in construction projects of an agency unless [THE  
11 COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT CERTIFIES THAT] the  
12 manufacturers and suppliers who have notified the commissioner of  
13 commerce and economic development of their willingness to manufacture  
14 or supply Alaska forest products

15           (1) have been given reasonable notice of the forest product  
16 needs of the procurement or project; and

17           (2) are unable to supply the products at a cost that is  
18 within seven percent of the price offered by a manufacturer or suppli-  
19 er of non-Alaska forest products.

20       \* Sec. 11. AS 36.30.322 is amended by adding a new subsection to read:

21           (c) During the period of performance of a state contract, the  
22 contractor shall maintain records showing efforts made in using Alaska  
23 forest products or evidence of Alaska forest products not being avail-  
24 able or reasonably competitive. The contractor shall provide the  
25 records to the procurement officer on a periodic basis, as required by  
26 regulations adopted by the commissioner of commerce and economic  
27 development.

28       \* Sec. 12. AS 36.30.332(b) is amended to read:

29           (b) Materials and supplies with value added in the state that

1 are

2 (1) more than 25 percent and less than 50 percent produced  
3 or manufactured in the state are [OF THE MANUFACTURER'S QUOTED PRICE  
4 IS A] Class I products [PRODUCT];

5 (2) 50 percent or more and less than 75 percent produced or  
6 manufactured in the state are [OF THE MANUFACTURER'S QUOTED PRICE IS  
7 A] Class II products [PRODUCT]; and

8 (3) 75 percent or more produced or manufactured in the  
9 state are [OF A MANUFACTURER'S QUOTED PRICE IS A] Class III products  
10 [PRODUCT].

11 \* Sec. 13. AS 36.30.338(1) is amended to read:

12 (1) "Alaska product" means a product of which not less than  
13 25 percent of the value, as determined in accordance with regulations  
14 adopted under AS 36.30.332(a), has been added by manufacturing or  
15 production in the state [PRODUCED OR MANUFACTURED IN THE STATE IF THE  
16 VALUE ADDED IN THE STATE IS NOT LESS THAN 25 PERCENT OF THE QUOTED  
17 PRICE OF THE MANUFACTURER];

18 \* Sec. 14. AS 36.30.365 is amended to read:

19 Sec. 36.30.365. NOTICE OF INTENT TO AWARD A CONTRACT. At least  
20 10 days before the formal award of a contract that is not for con-  
21 struction, and at least five days before the award of a construction  
22 contract, under this chapter, except for a contract awarded under  
23 AS 36.30.300 -- 36.30.320, the procurement officer shall provide to  
24 each bidder or offeror notice of intent to award a contract. The  
25 notice shall conform to regulations adopted by the commissioner.

26 \* Sec. 15. AS 36.30.540 is amended to read:

27 Sec. 36.30.540. REPORT TO LEGISLATURE. Beginning with December  
28 1, 1990 [1989], the commissioner shall biennially report to the legis-  
29 lature concerning procurements by agencies. The report must include

1 (1) the records maintained by the commissioner under  
2 AS 36.30.510 and the records maintained under AS 36.30.520(a) for the  
3 previous two fiscal years;

4 (2) recommendations for changes in this chapter or other  
5 laws based on implementation of this chapter in the previous two  
6 fiscal years;

7 (3) a description of any matters that involved litigation  
8 concerning this chapter in the previous two fiscal years;

9 (4) a list of procurements made under this chapter from  
10 out-of-state sources during the previous two fiscal years together  
11 with the total number of procurement contracts entered into during  
12 that period with out-of-state contractors and the total value of these  
13 contracts; this paragraph does not apply to procurements under AS 36.-  
14 30.320; and

15 (5) a list of procurements made under this chapter from  
16 state sources during the previous two fiscal years together with the  
17 total number of procurement contracts entered into during that period  
18 with state contractors and the total value of these contracts; this  
19 paragraph does not apply to procurements made under AS 36.30.320.

20 \* Sec. 16. AS 36.30.565 is amended to read:

21 Sec. 36.30.565. TIME FOR FILING A PROTEST. (a) A protest based  
22 upon alleged improprieties in an award of a contract, or a proposed  
23 award of a contract must [A PROTEST BASED UPON ALLEGED IMPROPRIETIES  
24 IN A SOLICITATION INVOLVING COMPETITIVE SEALED BIDDING THAT ARE APPAR-  
25 ENT BEFORE THE BID OPENING SHALL BE FILED BEFORE THE BID OPENING. A  
26 PROTEST BASED ON ALLEGED IMPROPRIETIES IN A SOLICITATION INVOLVING  
27 COMPETITIVE SEALED PROPOSALS THAT ARE APPARENT

28 (1) BEFORE THE DUE DATE FOR RECEIPT OF INITIAL PROPOSALS  
29 SHALL BE FILED BEFORE THAT DUE DATE;

1 (2) AFTER THE DUE DATE FOR RECEIPT OF INITIAL PROPOSALS  
2 SHALL BE FILED BEFORE THE NEXT DUE DATE FOR RECEIPT OF ADJUSTED PRO-  
3 POSALS THAT OCCURS AFTER THE IMPROPRIETIES ARE APPARENT.

4 (b) IN SITUATIONS NOT COVERED UNDER (a) OF THIS SECTION, PRO-  
5 TESTS SHALL be filed within 10 days after a notice of intent to  
6 award the contract is issued by the procurement officer.

7 (b) [(c)] If the protester shows good cause, the procurement  
8 officer of the contracting agency may consider a filed protest that is  
9 not timely.

10 \* Sec. 17. AS 36.30.610 is amended by adding a new subsection to read:

11 (c) The commissioner of administration or the commissioner of  
12 transportation and public facilities, as appropriate, shall, within 15  
13 days after receipt of an appeal, notify the appellant of the accep-  
14 tance or rejection of the appeal and, if rejected, the reasons for the  
15 rejection.

16 \* Sec. 18. AS 36.30.850(a) is amended to read:

17 (a) This chapter applies only to contracts solicited or entered  
18 into after January 1, 1988 [JULY 1, 1987], unless the parties agree to  
19 its application to a contract solicited or entered into before that  
20 date.

21 \* Sec. 19. AS 36.30.900 is amended to read:

22 Sec. 36.30.900. PREFERENCE FOR ALASKA PRODUCTS. This chapter  
23 does not modify[, AMEND, OR ALTER] AS 36.15.010 and 36.15.020 regard-  
24 ing preference for Alaska forest products, [OR AS 36.20.010 REGARDING  
25 PREFERENCE TO PRODUCERS OR DEALERS IN ALASKA] except as provided in  
26 AS 36.30.170(b) and (c).

27 \* Sec. 20. AS 36.30.050(d), 36.30.362, 36.30.380, 36.30.540(4), and  
28 36.30.540(5) are repealed.

29 \* Sec. 21. Section 65, ch. 106, SLA 1986 is amended to read:

1           Sec. 65. REPORT. By December 1, 1989 [1988], the commissioner  
2 of administration and the commissioner of transportation and public  
3 facilities shall report to the legislature concerning procurements by  
4 state agencies during fiscal year 1988 [1987]. The report must in-  
5 clude

6                   (1) the records prepared under AS 36.30.510(4);

7                   (2) recommendations for changes in AS 36.30 or other laws  
8 based on implementation of AS 36.30 in those 12 months; and

9                   (3) a description of any matters that involved litigation  
10 concerning AS 36.30 during those 12 months.

11 \* Sec. 22. Section 66, ch. 106, SLA 1986 is amended to read:

12           Sec. 66. REGULATIONS DEADLINE. The regulations required under  
13 AS 36.30 as added by sec. 2 of this Act, shall be adopted by January  
14 1, 1988 [JULY 1, 1987] and shall be effective on that date. Regu-  
15 lations adopted under laws repealed in sec. 67 of this Act become  
16 ineffective January 1, 1988 [JULY 1, 1987].

17 \* Sec. 23. Section 69, ch. 106, SLA 1986 is amended to read:

18           Sec. 69. Except as provided in sec. 68, this Act takes effect  
19 January 1, 1988 [JULY 1, 1987].

20 \* Sec. 24. Sections 1, 2, 15, 18, and 21 -- 23 of this Act take effect  
21 immediately under AS 01.10.070(c). Sections 3 -- 14, 16, 17, 19, and 20  
22 of this Act take effect January 1, 1988.

12

**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

**REQUEST:** \_\_\_\_\_

Bill Version : 773-87-0146  
Publish Date : \_\_\_\_\_

Revision Date: \_\_\_\_\_

Agency Affected: Comm. & Econ. Dev.  
BRU: Advocates

Title : An Act relating to state  
procurement practices

Sponsor : Governor

Components : \_\_\_\_\_

Requestor : \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

<b>CAPITAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
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<b>REVENUE</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

**POSITIONS:**

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

**ANALYSIS :** (Attach a separate page if necessary)

Prepared by: Becky Bear, Information Officer Phone: 465-2504  
Division: Administrative Services Date: April 14, 1987

Approved by Commissioner: Anthony Smith, Commissioner Date: April 14, 1987  
Agency: Department of Commerce and Economic Development

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

0004k41487a

R

**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

**REQUEST:** 4/6/87

Bill Version : SB260  
Publish Date : \_\_\_\_\_

Revision Date: \_\_\_\_\_

Agency Affected: DOT&PF

Title: An Act Relating to State Procurement

BRU: Design & Construction

& Procedures: & Providing for an Effective Date

Engineering & Operations Standards

Sponsor: Governor

Components: \_\_\_\_\_

Requestor: \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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**FUNDING: (Thousands of Dollars)**

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

**POSITIONS:**

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

**ANALYSIS : (Attach a separate page if necessary)**

The fiscal impact of this bill is zero. Although the attached analysis shows a reduced expenditure of \$136,000, it does not represent a true reduction. The department had to absorb an estimated expenditure of \$200,000 when the original procurement legislation was passed last session with a zero fiscal note.

Prepared by: Loren Rasmussen *Loren Rasmussen, Director 4/9/87*  
Division: Engineering & Operations Standards

Phone: 465-2960  
Date: 4/8/87

Approved by Commissioner: *M. L. S. H.*  
Agency: Transportation & Public Facilities

Date: 4/9/87

**Distribution (by preparer):**

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

*Tracy*

ANALYSIS RE:

HB \_\_\_\_\_ An Act Relating to State Procurement Practices and Procedures; and Providing for an Effective Date

NOTE:

It must be noted that the original procurement bill was passed last year with a zero fiscal note when the estimated impact was \$200,000. Therefore the cost savings shown in this fiscal note are costs that are absorbed in DOT&PF operating and CIP budgets and no actual reduction would occur.

Section by Section review and analysis:

Given data (from DOT&PF records):

1. 200 construction contracts annually.
2. Estimate 300 contractors on bidders list.
3. Estimate 300 to 500 consultants on bidders list.
4. 175 consultant contracts annually.
5. 1700 quotes on small purchases annually.
6. \$35/hr cost of an Engineer.
7. \$20/hr cost of a clerk.

Section 1. Eliminates biennial fee for getting on the construction contractors bidder list.

Assume Bidders List is 300:

$$\frac{\$25 \times 300}{2} = \$3,750 \text{ savings to the contractors*}$$

Cost of maintaining the list:

$$(3/\text{hrs/wk}) (3 \text{ regions}) (52 \text{ wk}) (\$20/\text{hr}) = \$9,360$$

Say \$10,000 savings to DOT&PF

Section 2. Listing of subcontractors 72 hours after Letter of Intent to Award and only from apparent low bidder.

$$(200 \text{ projects annually}) (4 \text{ hrs to put list together}) (\$35) =$$
$$(200) (4) (\$35) = \$28,000 \text{ savings to the contractors*}$$

½ hour savings to check subs listing

$$(200) (.5) (\$35/\text{hr}) = \$3,500$$

Say \$4,000 savings to DOT&PF

Section 3. Eliminates witness at bid opening.

\* does not show on fiscal note

$(.5/\text{hr}) (3 \text{ regions}) (52/\text{wk}) (\$20/\text{hr}) = \$1,560$

Say \$2,000 savings to DOT&PF

Section 4. Amends the code so that the apparent low bidder can be announced quickly - large savings or benefit may be in preventing bidder errors.

Assume:

$\frac{1}{2}$ /hour savings at each bid opening

$(.5/\text{hr}) (3 \text{ regions}) (52/\text{wks}) (\$35/\text{hr}) = \$2,730$

Say \$3,000

Section 5. 72 hour requirement for listing subcontracts on proposal type contracts.

These contracts are negotiated type consultant contracts and the actual savings would be in time and administrative costs.

Section 6. A procedure for contracts between sole source and emergencies.

No savings to DOT&PF - present law provides a similar system for construction contracts.

Section 7. Small purchases on a rotating basis.

$(1700 \text{ "quotes"}) (.5/\text{hr "required"}) (\$20/\text{hr}) = \$17,000$

Section 8. Changes "local" to "Alaska" forest products and certification on a statewide basis instead of project by project basis.

$(200 \text{ projects annually}) (2/\text{hrs to put certification together}) (\$35/\text{hr}) = \$14,000 \text{ to DOT\&PF}$

(The same type of savings to the contractors\*)

Section 9. Added record section for keeping requirements for Alaska products.

No cost savings to DOT&PF

Added cost to contractors:  $(200) (2/\text{hrs}) (\text{annually}) (\$35) = \$14,000^*$

Section 10. Deleting reference to "manufacturer's quoted price"

No cost savings to DOT&PF.

Section 11. Same as Section 10.

Section 12. Provides for awarding a construction contract in 5 days.

There would be a savings to DOT&PF mainly in time - the amendment would save 5 days in awarding contracts - but not all contracts can or would be actually awarded in 5 days. It is not practical to put a cost for this section.

Section 13  
and 14.

Eliminates bid protests during the advertising time of a project (before bid openings).

Although there could be substantial savings to the DOT&PF for this section (by allowing a critical project to proceed to the bid opening stage) it is not practical to compute an actual savings.

Section 15. Cleans up language for Alaska products (forest products).

No fiscal impact on DOT&PF.

Section 16. Repeals several sections.

AS 36.30.050(d) - small procurement using a contractor list (see section 7)

AS 36.30.362 - eliminates the written statements explaining awards for out-of-state contractors.

(200 projects annually)(10% out-of-state contractors)(1/hr for letter) (\$35/hr) = \$700  
Say \$1,000

AS 36.30.380 - Eliminates approval of contractors accounting system.

(175 consultant contracts)(1.4 contracts/consultants) = 125  
(125)(2 days)(7.5 hr/day)(\$35/hr) = \$65,625  
Travel (10% of 125)(1 trip)(\$1,500/trip) = \$18,750  
\$84,375

Say \$85,000

AS 36.30.540(4) & (5) - Eliminates making a list of in-and-out-of-state contractors.

(3 days)(7.5/hr)(\$20/hr) = \$450

Section 17. Effective date of July 1, 1987 but note HB 192 proposes a delay.

Summary:

Section 1.	10,000	
Section 2.	4,000	
Section 3.	2,000	
Section 4.	3,000	
Section 5.	-	(Time only)
Section 6.	-	(DOA)
Section 7.	17,000	
Section 8.	14,000	
Section 9.	-	(DC&ED)
Section 10.	-	(DC&ED)
Section 11.	-	(DC&ED)
Section 12.	-	(Time only)
Section 13.	-	(Impractical to estimate)
Section 14.	-	(Impractical to estimate)
Section 15.	0	
Section 16		
AS 36.30.0(d)	-	(See section 7)
AS 36.30 362	1,000	
AS 36.30.380	85,000	
Section 17.	-	(Effective date
	<u>\$136,000**</u>	

\*\* \$85,000 would be assumed to be in the Capital Budget the remaining \$51,000 would be in the Operating Budget.

AB

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

LAW LOG #773-87-0146

Bill-Version: \_\_\_\_\_

Publish Date: \_\_\_\_\_

REQUEST \_\_\_\_\_

Revision Date: \_\_\_\_\_

Agency Affected: Administration

Title: An Act relating to State

BRU: General Services & Supply

Procurement Practices and Procedures  
and Providing Effective Date.

SPONSOR: Rules Committee by Request  
of the Governor

Components: Purchasing

Requestor: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
<b>OPERATING</b>						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>CAPITAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>REVENUE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

POSITIONS:

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

ANALYSIS:

N/A

Prepared By: Robert J. Link *Robert J. Link*  
Division: General Services & Supply

Phone: 465-2250  
Date: April 6, 1987

Approved by Commissioner: Garrey Peska *Garrey Peska*  
Agency: Department of Administration

Date: 4/9/87

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

STEVE COWPER  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

April 15, 1987

The Honorable Jan Faiks  
President of the Senate  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Dear Senator Faiks:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill making necessary amendments to the state procurement code that was enacted last year (ch. 106, SLA 1986) with a July 1, 1987 effective date. HB 192, the bill deferring the effective date of the procurement code, proposed a two-year deferment; the House State Affairs Committee, in CSHB 192(SA), recommended a one-year deferment. The attached bill combines various substantive amendments with only a six-month deferment.

The legislature's conference committee on the budget last year reduced the procurement code's fiscal note to zero. However, several of its provisions, such as those pertaining to handling sole-source procurements, the extended and revised protest period, the appeals requirements, and the small procurement requirement are very "work intensive." The problem is exacerbated by the state's current fiscal crisis. There simply is no way to implement the provisions of the code right now. This bill's six-month postponement will give the state a chance to begin to regain its fiscal footing before taking on the new procedures set out in the procurement code. In addition, the amendments in this bill help tailor the code to conditions in Alaska. This bill is not, however, a general clean-up of the code.

To aid in your analysis of this bill, here is a section-by-section commentary on it:

Sections 1, 2, 15, 18, and 21 -- 23:

These are the deferment sections. Section 23, amending sec. 69, ch. 106, SLA 1986, is the most significant in that it changes the overall effective date of the procurement code. The other sections in this group make corresponding amendments in other time-related provisions that were enacted in ch. 106, SLA 1986.

Section 3:

AS 36.30.050(b) is amended to delete the blanket requirement of a biennial fee for getting on a list of contractors. Charging contractors to be on a bidder's list is prohibited by federal regulations on federally assisted construction projects. Even though using a bidder's list is only an available option in advertising for construction projects, it is impractical to maintain separate lists or systems for state-funded versus federally assisted projects. This amendment's proposed discretionary language would allow construction bidders list fees to be optional or to be eliminated if that would be appropriate.

Section 4:

AS 36.30.115(a) is amended to change the 24-hour requirement to a 72-hour requirement for submitting a list of subcontractors and to change the triggering event from the opening of bids to the receipt of the notice of intent to award. These amendments are necessary to provide appropriate flexibility in the handling of bids and subcontractor lists, and are consistent with the amendment in sec. 7 of this bill. With these changes, it is also advisable to delete the requirement that the two lowest bidders submit the list of subcontractors, as sec. 4 does. These amendments will be more cost-effective for both the state and the contractors.

Section 5:

AS 36.30.140(a) is amended to delete the requirement of the presence of a witness during bid openings. Although bid openings are open to the public, many of them have no members of the public in attendance. When no member of the public attends, it is necessary to assign an employee to be a witness. The effectiveness of such a procedure is questionable, and the use of employee time for such a function is wasteful. With the current and impending cutbacks in staff, such a procedure would be especially troublesome. Therefore, this amendment is necessary.

Section 6:

AS 36.30.170(b) is amended so that the apparent low bidder at a bid opening can be quickly announced. The current statute can be awkward to put into practice.

Section 7:

AS 36.30.210(a) is amended to conform to the 72-hour amendment of AS 36.30.115(a) (in sec. 4 of this bill). The requirements for listing subcontractors should be consistent among the various methods of procurement.

Section 8:

A proposed new section, AS 36.30.305, establishes a procedure in between the "sole source" procurements of AS 36.30.-300 and the "emergency" procurements of AS 36.30.310. It is thus a "semi" or "modified" sole source procurement provision. This new statute will serve the state's need for a method to procure which is broader than sole-source procurement but does not require all of the details of a competitive sealed process. This language provides broader purchasing capability. Failure to add this section would mean that the Department of Administration would have to write significantly more bids with a reduced staff.

Section 9:

AS 36.30.320(e) is amended to delete the requirement of sending notices to Alaska bidders designated by the commissioner under AS 36.30.050(d). The latter statute, which is being repealed in sec. 20 of this bill, pertains to small procurements. For every small procurement an agency might wish to make, it would be required by the current provision to contact the Department of Administration which would provide from the computerized list of contractors three names on a rotating basis. The requesting agency would have to contact those three contractors for quotes. We estimate that there are more than 70,000 small procurements made each year. The repeal of AS 36.30.050(d) is discussed below in connection with sec. 20 of the bill.

Section 10:

AS 36.30.322(a) is amended in two respects. First, "Alaska" is substituted for "local" to make clear that the requirement for use of timber and lumber products originating in this state means originating in an Alaska forest, not necessarily a southeastern forest or a southcentral forest, etc. The current language could produce an undesirable regionalism within the state, and I do not believe that that is what was intended with the original enactment. Second, an unnecessary step, certification by the commissioner of commerce and economic development, is removed so that the Department

of Commerce and Economic Development does not have to check up on each contract to see that sufficient notice has been given and that Alaska manufacturers were in fact unable to provide the product within the seven percent margin. The requirements for reasonable notice, etc., are not being changed.

Section 11:

A new subsection is added to AS 36.30.322 to establish a record-keeping procedure that will serve in the case of a challenge to the bid practices. This will assure that proper records will exist to document the use of preferred products.

Section 12:

AS 36.30.332(b) is amended by deleting references to the "manufacturer's quoted price" to make the language consistent with subsec. (a) and to ensure that the certification process does not become excessively complex, burdensome, or time-consuming. As currently written, the references in subsec. (b) to "manufacturer's quoted price" could require a certified public accountant's audit and statement detailing incoming materials costs and providing a detailed cost analysis of the manufacturing process. The amendment would allow the broad categories and criteria established by regulations adopted under subsec. (a) to be the basis for the determination required by subsec. (b). It would thus make the whole certification process more efficient.

Technical, grammatical corrections are also being made in AS 36.30.332(b).

Section 13:

AS 36.30.338(1), the definition of "Alaska product," is amended to delete the reference to the "quoted price of the manufacturer," consistent with the changes made in sec. 12 of the bill. The re-wording of this definition also ties in the regulations that existing AS 36.30.332(a) requires, and thus makes the definition clearer.

Section 14:

AS 36.30.365 is amended so that construction contracts are not unduly delayed. For many years, the applicable statute allowed five rather than 10 days for construction contract award protests, and it is desirable to continue that fair

and efficient practice. This statute is also amended to make clear that contracts awarded under the sole-source statute (AS 36.30.300), the limited competition procurements statute (AS 36.30.305, proposed in sec. 8 of the bill), the emergency procurement statute (AS 36.30.310), or the small procurements statute (AS 36.30.320) are not covered by the 10-day or five-day requirement for providing to each bidder or offeror notice of intent to award a contract. The 10-day, and even the five-day, requirement could cause unnecessary delay in the award of contracts that should not be delayed.

Sections 16 and 17:

The amendment, in secs. 16 and 17, of AS 36.30.565 and AS 36.30.610, respectively, will make the appeal process more efficient by limiting appeals to those of the award or proposed award. Language relating to an appeal before a bid is opened is deleted. This will simplify the whole procedure while still assuring fair treatment of all parties.

Section 19:

AS 36.30.900 is amended in two ways. First, two redundant verbs are deleted, in order to simplify and streamline the language. Second, a reference to AS 36.20.010 is deleted because that statute was repealed by sec. 67, ch. 106, SLA 1986.

Section 20:

Several statutes are repealed, as follows:

AS 36.30.050(d), the requirement that lists of contractors be used in providing notice of intent to make a small procurement, is repealed because it would require the Department of Administration to revise its bid-list program to provide names on a rotating basis. The estimated cost of the computer software alone is \$20,000. Also, the current provision requires that all departments use the names provided, something that would be relatively simple if the purchaser were always in an office with access to a computer. However, numerous offices do not have that access. In addition, the requirement to contact vendors does not take into account the vendor's location or real interest in the specific procurement. For example, a Department of Fish and Game employee in Soldotna could be required to call the Anchorage office to get the names of three vendors who turn out to be located in Nome, Ketchikan,

and Haines. The purchaser would then have to make three long-distance calls to get quotations. Since the purchaser would be allowed to secure additional quotations, he or she could probably get a local quotation that turns out to be well below those obtained through this elaborate procedure. Thus, this statute is wasteful at a time when it is critical that the state government be more efficient.

AS 36.30.362, a provision requiring the state to provide a superfluous written statement (explaining the basis of an award to a person who does not reside or maintain a place of business in Alaska) is repealed. Bids are awarded to low responsive bidders even if they are located outside the state. A written statement explaining the award accomplishes nothing.

AS 36.30.380, which requires approval of proposed contractors' accounting systems, would be repealed. This section appears to require the state to approve all accounting systems for contracts awarded by the sealed proposal method. Some bidders will be major corporations, and it would be foolish to waste state staff time reviewing, analyzing, and approving their accounting systems. This would be very costly, and, if it is not done properly, could expose the state to claims or overcharges.

AS 36.30.540(4) and (5), requiring the state to make listings of all procurements made within the state and outside the state, are being repealed. These lists are never consulted and provide no usable information.

#### Section 24:

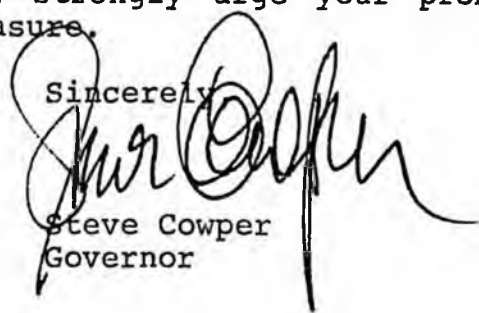
The deferment sections of this bill have been given an immediate effective date so that everyone involved in dealing with the procurement code, both the public and the administrators, will be able to make appropriate plans. The other sections of this bill have been given a January 1, 1988 effective date to coincide with the proposed deferred effective date of all but one section of ch. 106, SLA 1986. (Section 66 of last year's Act was given an immediate effective date at that time to enable the regulations-adoption project to get started.)

Hon. Jan Faiks

Page 7

Enactment of this bill will streamline procurement activities of the state and will result in an enormous cost-savings at this critical time. It is necessary to enact this bill this session. I strongly urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", written over the typed name.

Steve Cowper  
Governor

ALASKA STATE LEGISLATURE

.. 15th Legislature .. 1st Session

SENATE... BILL..... NO. 260..

By .. THE RULES COMMITTEE BY....  
REQUEST OF THE GOVERNOR

"An Act relating to state procurement practices and procedures; and providing for an effective date."

Introduced in the Senate ..... 4/16 ..... 19 87 .....

HISTORY IN THE SENATE

1987		Read first time and referred to Committee on
4	16	LABOR & COMMERCE, FINANCE
5	1	Reported back with <i>L &amp; C</i> recommendation that <i>replace w/cs, 3 do pass, 1 no res, State of Intent, to Finance.</i> <i>Finance.</i>
		Read second time and
		Read third time and
		PASSED Effective Date Yeas Yeas Nays Nays Excused Excused Absent Absent
		Reconsideration Reconsideration not taken up
		PASSED Effective Date Yeas Yeas Nays Nays Excused Excused Absent Absent
		Reported correctly engrossed Signed by President Sent to House
SECRETARY OF THE SENATE		

HISTORY IN THE HOUSE

19		Read first time and referred to Committee on
		Reported back with recommendation that
		Read second time and
		Read third time and
		PASSED Effective Date Yeas Yeas Nays Nays Excused Excused Absent Absent
		Reconsideration Reconsideration not taken up
		PASSED Effective Date Yeas Yeas Nays Nays Excused Excused Absent Absent
		Reported correctly engrossed Signed by Speaker Returned to Senate
CHIEF CLERK OF THE HOUSE		

HISTORY IN THE SENATE

19		Received from House
		To enrolling
		Reported correctly enrolled
		Sent to Governor
		..... by Governor
		Chapter No. ....
		Filed with Lt. Governor

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

REQUEST: \_\_\_\_\_  
 Revision Date: \_\_\_\_\_  
 Title: An Act relating to state procure-  
ment practices & procedures; efd  
 Sponsor: Labor & Commerce Committee  
 Requestor: \_\_\_\_\_

Bill Version: CSSB 260 (L & C)  
 Publish Date: \_\_\_\_\_

Agency Affected: Health & Social Services  
 BRU: various  
 Components: various

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
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)

This bill would have no measurable fiscal impact.

Prepared by: Joanne Clark *JCC*  
 Division: Mental Health & Develop. Svs.

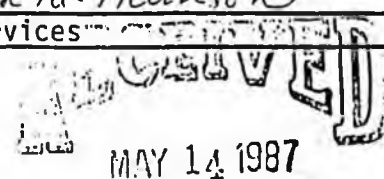
Phone: 465-3370  
 Date: May 4, 1987

Approved by Commissioner: *Maria M. Munson*  
 Agency: Health & Social Services

Date: 5/13/87

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary



LEGISLATIVE FINANCE

**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

REQUEST: \_\_\_\_\_

Bill Version: CSSB 260 (L & C)

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Agency Affected: Health & Social Services  
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CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
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)

This bill would have no measurable fiscal impact.

Prepared by: Joanne Clark  
 Division: Mental Health & Develop. Dis.

Phone: 465-3370  
 Date: May 4, 1987

Approved by Commissioner: Melan M. Munson  
 Agency: Health & Social Services

Date: 5/13/87

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

**RECEIVED**  
 MAY 14 1987

**LEGISLATIVE FINANCE**

POSITION PAPER

CS for SENATE BILL NO. 260 (L & C)

"An act relating to state procurement practices and procedures; and providing for an effective date."

EFFECT OF BILL

Section 8 of this bill would add a new category of procurement called limited competition procurement. This category is broader than sole source procurement and encourages competition that is practical under the circumstances but does not require the full fledged competitive sealed process. The Department of Administration (or, for construction, DOT) would retain the authority to determine when a limited competition process is appropriate. Section 23 defers implementation of the new state procurement code (AS 36.30) until January 1, 1988. This position paper addresses only the above two sections of the bill.

DISCUSSION

The Department of Health and Social Services often needs to procure professional services of a very specialized nature. These services generally involve protecting or restoring the health or welfare of individuals or groups of citizens. Such needs cannot always be scheduled to allow for a full competitive process. In addition, the potential field of qualified providers in a given area is usually limited, and the necessary qualifications often involve licensing by the state.

Although in many of these cases an emergency procurement might be sought, it is in the state's best interest to severely limit the use of emergency procurements. Establishing a "middle" category of limited competition procurement allows for flexibility where necessary while maintaining the goal of competition.


The Alaska Youth Initiative is a pertinent example of a program needing the greater flexibility of limited competition procurement. The Alaska Youth Initiative was established to provide residential, treatment, and/or educational services to the small number of Alaskan youth who are so severely emotionally disturbed that standardized programs do not exist for them within the state. Thus, the key to serving these children is the individualized nature of the programs designed for them. Because established programs do not exist, the standard competitive procurement process is nonresponsive to the needs of the program in terms of time, administrative burden, and the acceptability of the placement. A full competitive process takes months to accomplish, but these children need immediate help. To go through a competitive process for each individual child would

involve a severe administrative burden that is infeasible, particularly when state resources are being reduced. Finally, individuals and agencies potentially capable of serving these children typically have to be located, encouraged, and trained, and the service plans themselves have to remain extremely flexible to accommodate failures and redirections with these difficult youth. A limited competition procurement option will allow the Alaska Youth Initiative program to remain viable.

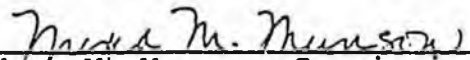
Deferral of the implementation of the procurement code will allow the Administration time to make a smooth transition to the new requirements. This is particularly important when budget cuts are reducing available resources. Haphazard implementation of the new code will benefit no one.

RECOMMENDATION

The Department of Health and Social Services supports passage of this bill.

Recommended by:   
Mel Henry, Director

Date: 5/5/87

Approved by:   
Myra M. Munson, Commissioner

Date: 5/13/87