

**S B**

**45**

JAN 18 1989

STATE OF ALASKA  
THE LEGISLATURE

POUCHY STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 18, 1989

SUBJECT: Sectional analysis of SB 45  
TO: Senator Drue Pearce  
FROM: Theresa Bannister <sup>26</sup>  
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1 makes legislative findings for the bill.

Section 2 prohibits, except as necessary to contact the persons on certain contractor lists, an agency from soliciting outside of the state for a contract unless the specified procurement officer determines in writing that the agency has solicited within the state and that one of three other conditions exists. States that the section doesn't apply to contracts for professional services to be performed outside the state that require knowledge of the customs, procedures, rules, or laws of the area. Defines "agency" to include the University of Alaska, the Alaska State Building Authority, and the Alaska Railroad Corporation.

Section 3 prohibits a state agency from soliciting outside the state for an individual to fill a position as a state employee unless the personnel officer makes a written determination that the agency has actively solicited in good faith in the state for a specified period and hasn't been able to find a qualified individual. Defines "personnel officer" to mean certain persons in the executive and legislative branches. Lifts the prohibition if certain conditions are met.

TB:kb  
wkk1/045

# CS incorporates these amendments

AMENDMENT TO MARCH 6, 1989 DRAFT CS SB 45 (L & C)

The proposed amendment would allow agencies to make a solicitation out-of-state for Competitive Sealed Proposals or Invitations to Bid after first conducting a solicitation in-state and not receiving responsive responsible offers. It does not require a written determination by the Chief Procurement Officer.

It requires a written determination from the Chief Procurement Officer or Commissioner of Transportation only if an out-of-state solicitation is in the public interest or is necessary to provide reasonable competition.

The amendment deletes the requirement for agencies to first solicit in-state prior to soliciting out-of-state for procurements authorized as sole source (AS 36.30.300), limited competition (AS 36.30.305), emergencies (AS 36.30.310), and small procurements (AS 36.30.320). Except for small procurements these procurements already require a written determination that the specific procurement method is the only one that will meet the State's needs.

This amendment deletes the need for redundant determinations. Sole source procurements already require a determination that there is no other source which can meet the State's needs. Limited competition procurements must have a determination that a situation exists that makes competitive sealed bidding or competitive sealed proposals impractical or contrary to the public interest. A written determination by the procurement officer or the Chief Procurement Officer is also required for an emergency procurement which identifies the basis of the emergency and selection of the contractor.

Revise beginning Page 1, line 23:

...the for a contract unless :

- (1) the chief procurement officer, or, for construction contracts or procurements for the state equipment fleet, the commissioner of transportation and public facilities determines in writing that [(1)] out-of-state solicitation is in the public interest or necessary to provide reasonable competition; or
- (2) the agency has solicited within the state and
  - (A) the agency has not received a responsive bid from a responsible bidder, if the

agency is procuring the contract under AS 36.30.100 - 36.30.190;

(B) the agency has not received a responsive proposal from a responsible offeror, if the state is procuring the contract under AS 36.30.200 - 36.30.270; or

[(C) A SOURCE FOR THE REQUIRED PROCUREMENT IS NOT AVAILABLE IN THE STATE, IF THE PROCUREMENT IS MADE UNDER AS 36.30.300, 36.30.305, 36.30.310, OR 36.30.320.]

Revise Page 2, following Line 18 add:

(4) meeting the provisions of AS 36.30.300 for a sole procurement;

(5) meeting the provisions of AS 36.30.305 for a limited competition procurement;

(6) meeting the provisions of AS 36.30.310 for an emergency procurement;

(7) meeting the provisions of AS 36.30.320 for a small procurement.

6-0234E✓  
Bannister  
3/6/89

Original sponsors: Pearce, Fischer,  
Rodey, et al.

BY THE LABOR AND  
COMMERCE COMMITTEE

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 45 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to out-of-state solicitation for  
7 state contracts and state employees."

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

9 \* Section 1. LEGISLATIVE FINDINGS. The legislature finds that

10 (1) the state is experiencing economic difficulties and the rate  
11 of unemployment is very high;

12 (2) the state contains a pool of able-bodied and skilled workers  
13 and organizations from which the state could, in most instances, find the  
14 persons necessary to perform its contracts and fill its employment posi-  
15 tions;

16 (3) before advertising outside the state, the state should  
17 conduct a search in the state for persons and organizations to perform its  
18 contracts and to fill its positions.

19 \* Sec. 2. AS 36.30 is amended by adding a new section to read:

20 Sec. 36.30.875. OUT-OF-STATE SOLICITATION OF CONTRACTS. (a)

21 Except as necessary to contact the persons on the contractor lists  
22 established under AS 36.30.050, an agency may not solicit outside of  
23 the state for a contract unless the chief procurement officer, or, for  
24 construction contracts or procurements for the state equipment fleet,  
25 the commissioner of transportation and public facilities determines in  
26 writing that

27 *added* (1) out-of-state solicitation is in the public interest or  
28 necessary to provide reasonable competition; or

29 (2) the agency has solicited within the state and

1 (A) the agency has not received a responsive bid from  
2 a responsible bidder, if the agency is procuring the contract  
3 under AS 36.30.100 - 36.30.190;

4 (B) the agency has not received a responsive proposal  
5 from a responsible offeror, if the state is procuring the con-  
6 tract under AS 36.30.200 - 36.30.270; or

7 (C) a source for the required procurement is not  
8 available in the state, if the procurement is made under AS 36.-  
9 30.300, 36.30.305, 36.30.310, or 36.30.320.

10 (b) This section does not apply to a contract

11 (1) for professional services to be performed in an area  
12 outside of the state and requiring knowledge of the customs, proce-  
13 dures, rules, or laws of the area;

14 *added* (2) made by an agency employee for a travel or other ex-  
15 pense incidental to the trip while the employee is traveling outside  
16 of the state on state business; or

17 (3) for an agency office that is located outside of the  
18 state.

19 (c) In this section

20 (1) "agency" includes the University of Alaska, the Alaska  
21 State Building Authority, and the Alaska Railroad Corporation;

22 (2) "solicit" includes advertising, initiating contact with  
23 a person, and sending an invitation to bid or a request for proposals  
24 to a person who has not requested the invitation or request.

25 \* Sec. 3. AS 39.25 is amended by adding a new section to read:

26 Sec. 39.25.165. OUT-OF-STATE SOLICITATION OF EMPLOYEES. (a)  
27 Except as provided in (b) of this section, a state agency, including  
28 the division of personnel, may not solicit outside the state for an  
29 individual to fill a position as a state employee unless the personnel

1 officer determines in writing that the agency has actively solicited  
2 in good faith in the state during the entire three-month period that  
3 followed the date when the agency began soliciting for the position  
4 and has been unable to find an individual who is qualified for the  
5 position. In this subsection, "personnel officer" means the commis-  
6 sioner of administration for a state agency of the executive branch,  
7 the speaker of the house of representatives for the members, commit-  
8 tees, and leadership of the house of representatives, the president of  
9 the senate for the members, committees, and leadership of the senate,  
10 and the executive director of the Legislative Affairs Agency for the  
11 other entities of the legislative branch.

12 (b) The prohibition in (a) of this section does not apply if the  
13 state agency is

14 (1) in the executive branch and the governor makes a writ-  
15 ten finding that the state agency is not likely to be able to find an  
16 individual who is qualified for the position by soliciting in the  
17 state;

18 (2) in the legislative branch and the legislative budget  
19 and audit committee makes a written finding that the state agency is  
20 not likely to be able to find an individual who is qualified for the  
21 position by soliciting in the state.

22 (c) In this section

23 (1) "position" includes a position in the exempt or par-  
24 tially exempt service, except a position identified in AS 39.25.-  
25 110(1) - (2) and (5);

26 (2) "solicit" includes advertising, initiating contact with  
27 an individual, and sending a copy of an employment vacancy notice to  
28 an individual who has not requested the notice.



# MAKE IT ALASKAN, INC.

3202 Spenard Road, Suite 200  
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(907) 258-2878

FEB 19 1988

February 17, 1988

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Rep. Drue Pearce  
Post Office Box V  
Juneau, Alaska 99811

Dear Rep. Pearce:

Make It Alaskan, Inc., supports and encourages the passage into legislation of House Bill 450, an act relating to cut-of-state solicitation for state contracts and state employees.

Considering Alaska's current economic condition and the high rate of unemployment, it is now more important than ever to take positive steps to ensure that, whenever possible, Alaskans and Alaskan firms are given the maximum opportunity to participate in the economic recovery and development of the state. The vitality generated by employed and contributing citizens and businesses in the state of Alaska will provide an energy and source of pride in state and community that promises to surpass even the financial benefit.

House Bill 450 gives Alaskan residents and Alaskan businesses the advantage of being asked first. Make It Alaskan, Inc., firmly believes that the state SHOULD ask Alaskans first; now, in these difficult times, and always.

Please consider this a statement of support and we will help in any way possible to assure passage in the Legislature this year. Let me know what we can do.

Kindest personal regards,

P. David Choquette  
President  
Make It Alaskan, Inc.

PDC/tal

Letter of Support

**DEPARTMENT OF ADMINISTRATION  
POSITION PAPER**

DIVISION: General Services & Supply

BILL NUMBER: SB 45

BILL TITLE: "An Act relating to out-of-state solicitation for state contracts and state employees."

Normal solicitation for state contracts involves using the AS 36.30.050 contractor lists or advertising in newspapers of general circulation in Alaska. Agencies advertise outside or seek outside firms when sources are insufficient through the above methods.

In the first solicitation proposed in the bill, firms located out-of-state who are on the vendor lists or who read an Alaska newspaper or some how find out about an ITB or RFP could compete. We would be deprived of the opportunity of seeking competition from firms who might be best qualified to perform. In circumstances where we had no response to the first ITB or RFP we could then seek outside competition at the expense of the time involved in reissuing the procurement.

**IMPACTS**

This bill would permit out-of-state advertisement or solicitation for an Invitation to Bid out-of-state only after the Chief Procurement Officer makes a determination that the bid was solicited in the state and no responsive bids were received. This limitation on the power to contract seems to go counter to the purpose of the procurement code. The code establishes competitive bidding as the preferred procurement method. Competition has always been considered good for the state budget. The limitation of the area of solicitation may reduce the amount of competition for state contracts.

For competitive sealed proposals it generally takes an agency two to four months to conduct a formal RFP solicitation and evaluation, which involves a considerable expenditure of staff time and state resources. The doubling of effort in a second solicitation out-of-state will reduce staff productivity and increase delays in providing public service.

This bill would have a serious detrimental effect on the activities of the Department of Revenue relating to the investment of state funds and the collection of revenue owed to the state. The Treasury Division and the Permanent Fund Corporation expend significant amounts of money annually on professional services contracts relating to investment of state dollars. Because Alaska is a young and small state, the financial investment expertise to perform these functions

**APPROVED:**

Director: Robert J. Link

Signature: 

Date: 1/30/89

Commissioner: John M. Andrews

Signature: 

Date: 2/1/89

For further information call Dean Gottehrer at 465-2200

Admin Position Paper

is unavailable in-state. Similarly, the expertise to conduct research relating to valuation of oil, productivity of oil fields and other functions related to the departments mandate to collect oil and gas revenues is not available in Alaska. The Department of Revenue advises us that this bill would create a delay of approximately six months in issuing contracts. Along with counterproductive delays and increased costs to the state it would contribute to inefficiencies in management of our revenues at times we can afford it the least.

This bill also impacts sole source, limited competition, emergency, and small procurements with the same mandatory in-state solicitation requirements prior to soliciting out-of-state. For these four categories of procurements this bill would create delays, require numerous redundant determinations, and possibly prevent some required purchases.

State offices located in foreign countries, other states, and our nation's capital would be required to solicit in Alaska and obtain a determination from the Chief Procurement Officer before any purchases could be made from an out-of-state source.

Out-of-state travel related purchases would be restricted. A traveling state official would be unable to make alternate travel arrangements with out-of-state carriers, obtain lodging, pay taxi fare, or purchase supplies or services needed for state business while traveling.

Sole source purchases from out-of-state vendors permitted under AS 36.30.300 would require not only a determination by the Chief Procurement Officer that only one source existed, but would require a redundant determination that no in-state sources existed after soliciting, or advertising in-state. If clear and convincing evidence supports a determination that only one source exists, the advertisement in-state causes unnecessary delay and serves no purpose.

Small procurements of pharmaceuticals and drug purchases made directly with manufacturing laboratories by the Department of Health and Social Services would be impacted. While some of these purchases may be made from the single in-state wholesaler, clinical and governmental price discounts often given by the laboratories would be unavailable.

If an emergency procurement under AS 36.30.310 was necessary from an out-of-state source, it could not be made until a solicitation in-state was conducted and a determination that the item or service was not available from a local source was completed. This delay and additional determination defeats

the flexibility which we believe the Procurement Code intended for emergency purchases under AS 36.30.310.

We have been advised by the Department of Law that this bill may improperly include two distinct subjects for legislation in violation art. II, sec. 13 of the Alaska Constitution. The bill concerns public contracts and public employment. The fact that each subject is being amended concerning in-state solicitation of goods and services may not save it from challenge. The Alaska Supreme Court has been very liberal in applying the single subject rule. It is possible that this bill would be found to minimally meet the standard of interrelationship.

#### POSITION

The Department of Administration in general is supportive of the apparent intent of the bill to encourage buying from Alaska vendors. We do not support the bill because it reduces competition when it is needed most. It would impose unacceptable delays and costs on all categories of state purchases. We do not believe it would benefit Alaska vendors. If the bill were to pass, amendments such as the following would be needed to minimize unacceptable impacts:

Page 1, Section 2, beginning at line 20 amend to read:

Sec. 36.30.875. OUT-OF-STATE SOLICITATION OF CONTRACTS.  
(a) Except as necessary to contact the persons on the contractor lists established under AS 36.30.350, an agency may not solicit outside of the state for a contract unless :(1) the chief procurement officer, or, for construction contracts or procurements for the state equipment fleet, the commissioner of transportation and public facilities determines in writing that to solicit out-of-state is in the public interest or necessary to provide reasonable competition; or (2) the agency has solicited within the state and that ...

Page 2, line 5, amend to read:

...if the procurement is made under AS [36.30.300], 36.30.305, [36.30.310], or 36.30.320.

Page 2, line 7, amend to read:

"(b) This section does not apply to :(1) contracts for

professional services to be performed in an area outside of the state and requiring knowledge of the customs, procedures, rules, or laws of the area[.]; (2) procurements made under AS 36.30.300, 36.30.310; (3) procurements by agency personnel not located in the state.

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Dept. of Administration  
Title: An Act relating to out-of-state BRU: General Services & Supply  
solicitation for state contracts & state employees  
Sponsor: Pearce Components: \_\_\_\_\_  
Requestor: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
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)

General Services and Supply assumes a modest impact for the division when issuing competitive sealed bids. Presently we either advertise all competitive sealed bid procurements in-state or solicit using the contractors lists established under AS 36.30.050. For competitive sealed bids we would not anticipate many second out-of-state solicitations to be necessary. cont.

Prepared by: Robert J. Link, Director Phone: 465-2250  
Division: General Services & Supply Date: 11/9/89

Approved by Commissioner: John M. Andrews Date: 7/1/89  
Agency: Department of Administration

Distribution (by preparer):

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

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 45

Agency purchases of small procurements, sole source procurements, competitive sealed proposals, limited competition procurements, and emergency procurements will require review and written determination by the Chief Procurement Officer. While there is some impact, we expect agencies would submit complete written determinations which would be reviewed and approved or disapproved by the Chief Procurement Officer.

This fiscal note analysis only applies to the Division of General Services and Supply and does not represent fiscal impacts to other divisions within the Department or other agencies.

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: An act relating to out-of-state solicitation for State contracts and \*\*  
Sponsor: Pearce, Fischer, Rodey  
Requestor: Pearce

Agency Affected: Department of Administration  
BRU: Division of Personnel

Components: Centralized Administrative Services

\*\*State employees.

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
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
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	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)

This bill would not have a fiscal impact on the Division of Personnel.

Prepared By: *Daniel K. Otto*  
Division: Division of Personnel

Phone: 465-4430  
Date: 1-20-89

Approved by Commissioner: *[Signature]*  
Agency: Department of Administration

Date: 2/1/89

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

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
 Title: "An Act relating to out-of-state Solicitation for state contracts..."  
 Sponsor: Sen. Pearse  
 Requestor: Governor's Office/OMB

Agency Affected: SB 45  
 BRU: Legal Services, Prosecution, Consumer Protection, Oil & Gas Spc. Projects  
 Components: All

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

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>						
<b>REVENUE</b>						

**FUNDING:** (Thousands of Dollars)

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

**POSITIONS:**

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

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

Please see the attached analysis.

*Richard I. Pegues*

Prepared by: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Date: January 19, 1989  
*Richard I. Pegues / For*  
 Approved by Commissioner: Grace Berg Schable, Attorney Gen. Date: January 19, 1989  
 Agency: Department of Law

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

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 45

This bill amends the State Procurement Code (AS 36.30) and the State Personnel Act (AS 39.25) in a manner that will substantially limit the ability of state agencies to solicit out-of-state for contracts or employees. Generally, this bill has addressed most of the concerns previously expressed by this department over similar legislation introduced in the House last year (HB 450); however, there are still some aspects of this bill that could cause significant problems in the operation of state government.

Section 2. of the bill excludes "...contracts for professional services to be performed in an area outside of the state and requiring knowledge of the customs, procedures, rules, or laws of the area." Although this exclusion addresses services to be performed outside of Alaska; it does not address the equally important issue of obtaining services that require specialized expertise or knowledge, but are to be performed, in whole or in part, within Alaska. Frequently, this department must employ legal counsel to advise the state in highly specialized areas of law (i.e. bond counsel, investment counsel, mineral/oil & gas law, patent & copyright law, admiralty law, etc.). Many times the necessary expertise is not available within the state and, given the relative small size of Alaska's legal community, it is usually known well in advance whether or not such expertise can be found within the Alaska Bar.

In those instances where formalized procurement methods might be used to solicit for such specialized legal services, the department would have to perform two solicitations in order to meet the requirements of this act. It generally takes about three months to conduct a formal RFP solicitation, which involves a considerable expenditure of staff and state resources. The doubling of the effort, as would be required by the bill, will greatly diminish already strained resources. Also, in those instances where there might be just one or possibly two individuals or firms within the state that have the requisite expertise, the act would effectively limit the range of expertise available to the state and remove any incentive on the part of the prospective contractor to provide such services on a competitive basis. Given the potential impact on the state's fiscal situation of many of the cases being handled by the department, the Attorney General must have the latitude to obtain the best qualified legal counsel the state can reasonably afford.

In addition, it is anticipated that many other service and commodity procurements would be affected by the amendment and could adversely impact the operation of state government. An example in this department would have been the procurement of the PALLAS software program. This mainframe program is the heart of the department's litigation support system, an essential tool in both our royalty oil and oil & gas production/income tax cases. At the time this procurement was made, there was only one in-state vendor that possessed a program that could be used for litigation support purposes. However, this was an early generation computer program that, because of its inefficiencies in managing a litigation support data base, made it the least suitable of

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 45

the six programs that were considered. Had this procurement been made under the requirements of this act, it is questionable whether or not the department could have even looked at any other systems. If enacted in its present form, it is quite likely that most future mainframe system applications would have to be purchased from just a few in-state vendors (that just happen to be some of the world's largest computer companies).

In view of the examples cited above, it is important that adequate competition not be unduly limited. The following revised language is therefore suggested:

Sec. 36.30.875. OUT-OF-STATE SOLICITATION OF CONTRACTS. (a) Except as necessary to contact persons on the contractors lists established under AS 36.30.050, an agency may not solicit outside of the state for a contract unless: (1) the chief procurement officer, or, for construction contracts or procurements for the state equipment fleet, the commissioner of transportation and public facilities determines in writing that out-of-state solicitation is in the public interest or necessary in order to provide reasonable competition; or (2) the agency has solicited within the state and...

It should also be noted that the inclusion of the Code's small procurement provisions (AS 36.30.320) within this Act will cause many of the same problems previously related in our analysis of Senate Bill No. 99. These would include the difficulties faced by employees trying to purchase supplies, services, professional services, or construction while traveling outside the state on official business or while permanently assigned to out-of-state offices. In view of these and other problems that would occur, it is recommended that the reference to AS 36.30.320 be deleted.

With regard to section 3. of the bill, most of the department's previous concerns appear to have been addressed, assuming that the department may utilize out-of-state solicitation to meet its affirmative action objectives if a written finding is obtained under AS 39.25.165(b)(1).

The Department of Law cannot determine a fiscal impact at this time. To the extent that multiple solicitations may be required, already thin administrative resources will simply have to be stretched further, and needed procurements will be significantly delayed. To the extent that the state is prevented from procuring expertise that is adequate to its needs, and at a competitive price, the long-term cost to the state could be considerable.

STATE OF ALASKA  
1989 LEGISLATIVE SESSION

BILL VERSION: SB 45  
PUBLISH DATE: \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: 19-Jan-89 Agency Affected: Natural Resources  
 Title: An Act relating to out-of-state solicitation for state contracts and state employees. BRU: All  
 Sponsor: Pearce, Fischer and Rodey Components: \_\_\_\_\_  
 Requestor: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See Attached

Prepared by: Sharon Barton Phone: 465-2406  
 Division: Management Date: 19-Jan-89

Approved by Commissioner: Lennie Gorsuch Date: 19-Jan-89  
 Agency: Department of Natural Resources

Distribution (by preparer) :

- Legislative Finance
- Legislative Sponsor
- Requestor

##### Office of Management and Budget  
 Impacted Agency(ies)

DNR FN

**FISCAL NOTE**

**REQUEST:**

Revision Dates: \_\_\_\_\_  
Title: "An Act relating to out-of-state solicitation."  
Sponsor: Sen Pearce, Fischer & Rodey  
Requestor: \_\_\_\_\_

Agency Affected: Department of Corrections  
BRU: \_\_\_\_\_  
Components: \_\_\_\_\_

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

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
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
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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 legislation would not affect the Department.

*Susan E. Knighton*

Prepared by: Susan E. Knighton, Director  
Division: Administrative Services

Phone: 465-3376  
Date: 1-19-89

Approved by Commissioner: *Don H. Hensley - Barnett*  
Agency: Department of Corrections

Date: 1-19-89

**Distribution (by preparer):**

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

STATE OF ALASKA  
1989 LEGISLATIVE SESSION

BILL VERSION: SB 45  
PUBLISH DATE: 1/9/89

REQUEST: **FISCAL NOTE**

Revision Date:  
Title: An act relating to out-of-state solicitation for state contracts  
and state employees  
Sponsor: Pearce, Fischer and Rodey  
Requestor:

Agency Affected: DOT&PF  
BRU: Design & Construction  
Maintenance & Operations  
Administration  
Components:

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTURAL	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
REVENUE	0	0	0	0	0	0

FUNDING: (THOUSANDS OF DOLLARS)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	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)

For all contracts and proposals on State funded projects it has been and is the policy of this Department to advertise only within the State of Alaska.

Requests for solicitation outside the state to fill a position within state service are processed and approved through the Department of Administration

Prepared by: Loren Rasmussen  
Division: Engineering & Operations Standards

Phone: 465-2960  
Date: 02/21/89

Approved by Commissioner: Mark S. Hickey *MSH*  
Agency: Department of Transportation and Public Facilities

Date: 02/21/89

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



*Department of Transportation & Public Facilities*

# POSITION PAPER

**BILL NO:** SB 45

**APPROVED:**

A handwritten signature in black ink, appearing to read "M-k A. Hly".

**TITLE:** An Act relating to out-of-state solicitation  
for state contracts and state employees.

**DATE:** February 21, 1989

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The Department does not oppose nor support this bill.

Sec. 1 Legislative finding.

Sec. 2 Under this section of the bill the state may not solicit outside of the state for a contract, unless in writing, the commissioner determines that an agency has solicited within the state and has not received a responsive bidder.

This section of the bill will not have a large impact on the Department because it has been the Department's policy that all state funded construction projects will be advertised only within the State of Alaska.

It should be noted that on federally assisted projects by federal regulations 23 CFR § 635.107(e) the bidding procedures may not discriminate against qualified bidders regardless of state boundaries.

Sec. 3 Under this section of the bill an agency may not solicit outside the state for an individual to fill a position as a state employee unless the agency has actual solicits for an entire six-months within the state.

The six-month requirement of this section of the bill seems excessive to the Department. A critical position may remain unfilled for a long period of time.

For further information call Catherine A. McHugh at 465-3900

DOT-PF FN

STATE OF ALASKA  
1989 LEGISLATIVE SESSION

BILL VERSION : SB 45  
PUBLISH DATE : \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Labor  
 Title: "An Act relating to out-of-state solicitation for state contracts..." BRU: Administrative Services  
 Sponsor: Pearce, Fischer, & Rodey Components: Management Services  
 Requestor: Senate Labor & Commerce

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Frank Spargo Phone: 465-2720  
 Division: Administrative Services Date: 1/19/89  
 Approved by Commissioner: Jim Sampson Date: 1/19/89  
 Agency: Department of Labor

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

Labor FN

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_ Agency Affected: Commerce & Econ. Dev.  
 Title: An act relating to out-of-state BRU: \_\_\_\_\_  
solicitation for state contracts and state employees  
 Sponsor: Pearce, Fischer, Rodey Components: \_\_\_\_\_  
 Requestor: (S) Labor & Commerce

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

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
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: Kathy Marshall, Director Phone: 465-2505  
 Division: Administrative Services Date: 1/17/89  
 Approved by Commissioner: [Signature] Date: 1-18-1989  
 Agency: Commerce and Economic Development

Distribution (by preparer):

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

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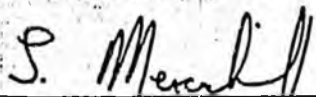
Commerce FN

Senate Bill 45: "An Act relating to out-of-state solicitation for state contractors and state employees."

This bill requires state agencies to solicit and exhaust in-state resources prior to soliciting out-of-state for state contracts and state employees.

The department does not have a position on this legislation. A negative impact of the bill would be to delay solicitation in those instances where it may be known, in advance, that the contractor or prospective state employee is available only from out of state. The department concurs, however, that this would be exceptional, and that most resources are available in-state.

Currently, the Division of Personnel conducts an intensive 30-day recruitment campaign before evaluating out-of-state recruitment. A six month in-state program is unfeasible, not cost effective, and could severely impact the agency experiencing the vacancy. Generally, the type of positions which are open to out-of-state recruitment are highly technical in nature. Out-of-state approval is requested only when Alaska cannot provide qualified in-state applicants.

  
\_\_\_\_\_  
Larry Mercurieff, Commissioner

1-18-1989  
\_\_\_\_\_  
Date