

SB

285

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: March 4, 1998

FURTHER REFERRALS:

Date of Committee Action: 4/30/98

The FINANCE Committee considered:

SB 35

SENATE BILL NO. 285

STATE PROCUREMENT

“An Act relating to state procurement practices.”

recommends it be replaced with the following committee substitute HCS CS SB 285 (FIN) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) _____ fiscal note(s) _____

zero fiscal note(s) _____ zero fiscal note(s) DOTPF 2/26/98

DCED 2/26/98

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Gene Thernault</i> Thernault	x			
<i>Glen Mulder</i> MULDER				x
<i>Terry Martin</i> Martin	x			
<i>Vic Kohring</i> Kohring				x
<i>Carl J. Davies</i> J. Davies		x		
<i>Charles Moses</i> MOSES	x			
<i>Pat Kelly</i> Kelly	x			

CHAIR'S SIGNATURE *Gene Thernault*
Thernault

FISCAL NOTE

No. 1

Bill Version: SB285

BILL NO. (S) Publish Date: 2/26/98

STATE OF ALASKA
1998 LEGISLATIVE SESSION

Revision Date (Note if correction) _____ Dept. Affects: Commerce and Economic Development
 Title An Act relating to state procurement practices BRU AK Railroad Corporation
 Component AK Railroad Corporation
 Sponsor Senate Finance Committee
 Requestor Senate Finance Committee Component Serial No. (none)

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by Tom Lawson, Director
 Division Administrative Services
 Approved by Commissioner Deborah B. Sedwick
 Agency Commerce and Economic Development

Phone (907)465-2505
 Date 2/17/98
 Date 2/17/98

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FISCAL NOTE

No. 2
 Bill Version: SB28
 (S) Publish Date: 2/26/98

STATE OF ALASKA
 1998 LEGISLATIVE SESSION

BILL NO. _____

Revision Date _____	Dept. Affected <u>DOT&PF</u>	
Title <u>State Procurement</u>	BRU <u>Commissioners Office</u>	
Sponsor <u>Finance</u>	Component <u>Office of the Commissioner</u>	
Requester <u>Senate Finance</u>	Component Senal No. <u>530</u>	

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: 0.0

POSITIONS

Full-time	0	0	0	0	0	:
Part-time	0	0	0	0	0	:
Temporary	0	0	0	0	0	:

ANALYSIS: (Attach a separate page if necessary)

Prepared by	<u>Dennis Poshard, Legislative Liaison</u>	Phone <u>465-3900</u>
Division	<u>Office of the Commissioner</u>	Date <u>2/13/98</u>
Approved by	<u><i>Joseph E. Dubino</i></u> Commissioner	Date <u>2/13/98</u>
Agency	<u>Department of Transportation and Public Facilities</u>	

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0-LS1473K
Bannister
4/30/98

R/O NO OBJ
adopted as VUSUM 4/30/98

HOUSE CS FOR SENATE BILL NO. 285()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to state procurement practices."

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

3 * Section 1. AS 36.30.015(e) is amended to read:

4 (e) The board of directors of the Alaska Railroad Corporation and the board
5 of directors of the Alaska Aerospace Development Corporation shall adopt procedures
6 to govern the procurement of supplies, services, professional services, and construction.
7 The procedures must be substantially equivalent to the procedures prescribed in this
8 chapter and in regulations adopted under this chapter. Notwithstanding the other
9 provisions of this subsection, the Alaska Railroad Corporation and the Alaska
10 Aerospace Development Corporation shall comply with AS 36.30.170(b), and, when
11 the Department of Transportation and Public Facilities authorizes the Alaska
12 Railroad Corporation to perform construction work instead of the Department
13 of Transportation and Public Facilities, the Alaska Railroad Corporation shall use
14 competitive sealed bidding or competitive sealed proposals under AS 36.30.100 -
15 36.30.270 to procure the supplies, services, professional services, and construction

1 services necessary for the work and to ensure the state obtains the lowest cost for
2 the project, may submit a bid or proposal for the work.

3 * Sec. 2. AS 36.30.015 is amended by adding a new subsection to read:

4 (i) Notwithstanding (e) of this section and the authority to delegate under (a)
5 of this section, the Alaska Railroad Corporation, rather than the Department of
6 Transportation and Public Facilities, shall perform signalization work, may perform the
7 signalization work by itself or by using contractors, and, if it decides to use contractors
8 for the work, it shall obtain the contractors by using its procurement procedures
9 adopted under (e) of this section.

10 * Sec. 3. AS 36.30.015(a), as amended by sec. 1 of this Act, and AS 36.30.015(i), enacted
11 by sec. 2 of this Act, only apply to a procurement that is begun on or after the effective date
12 of this Act.

4/29/98 PM

AMENDMENT I

OFFERED IN THE HOUSE
HCSSB285()
LS1473B

Delete Section 1 and replace with:

Section 1. 36.30.015(a) is amended to read:

The commissioner of transportation and public facilities may delegate to another agency the authority to contract for construction, **except that the Department of Transportation and Public Facilities may not authorize the Alaska Railroad Corporation to perform construction work instead of the Department of Transportation and Public Facilities unless the Alaska Railroad Corporation uses contractors to provide the supplies, services, professional services, and construction services necessary for the work and uses competitive sealed bidding or competitive sealed proposals under AS 36.30.100 – 36.30.270 to procure the contractors.** Before delegating authority to an agency under this subsection, the commissioner of transportation and public facilities shall make a written determination that the agency is capable of implementing the delegated authority. Notwithstanding delegation of authority under this subsection, contracts for construction are governed by this chapter and regulations adopted by the commissioner of administration under this chapter.

A M E N D M E N T

#2

OFFERED IN THE HOUSE

BY

DANIELS

TO: HCSSB 285 (B)

Following (e) insert new section to read:

“(f) Notwithstanding the provisions of (e) the Alaska Railroad Corporation is authorized to perform any work that it can accomplish at a lower cost than would be realized using an outside source.”

Page 2, delete lines 3 and 4:

Insert “This Act takes effect July 1, 1999.”

A M E N D M E N T

#3

OFFERED IN THE HOUSE

BY

DAVIES

TO: HCSSB 285 (B)

Following (e) insert new section to read:

“(f) Notwithstanding the provisions of (e) the Alaska Railroad Corporation is authorized to participate in the competitive bid process under AS 36.30.100 - 36.30.270 to ensure the state realizes the lowest project cost.”

Page 2, delete lines 3 and 4:

Insert “This Act takes effect July 1, 1999.”

A M E N D M E N T

#4

OFFERED IN THE HOUSE

BY

DAVIES

TO: HCSSB 285 (B)

Page 2, following "AS 36.30.100 - 36.30.270"

Insert "for track relocation or highway crossing civil construction projects
required by DOT"

Page 2, delete lines 3 and 4:

Insert "This Act takes effect July 1, 1999."

AMENDMENT

#5

OFFERED IN THE HOUSE

BY

DAVIES

TO: HCSSB 285 (B)

Page 2, delete lines 3 and 4:

Insert "This Act takes effect July 1, 1999."



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

SPONSOR STATEMENT

SB 285: Procurement Practices for the Alaska Railroad

When Alaska highway improvements are needed, a project is designed, a request for bids is advertised, and a construction contract is competitively awarded for the job by the Department of Transportation. When the highway that is being improved involves the Alaska Railroad, such as a highway railroad crossing or overpass, the work that involves railroad property is not included in the bid. When this situation occurs, the Department of Transportation negotiates a force account contract with the Alaska Railroad. This arrangement reduces the amount of work private industry has the opportunity to perform and removes DOT public fund expenditures from a competitive bid arrangement.

SB 285 will reintroduce competition for construction of DOT highway projects that involve the Alaska Railroad, resulting in a reduction of cost for the project. SB 285 will establish a fair and effective manner to award construction contracts for these projects by requiring the Alaska Railroad Corporation to utilize a competitive bidding process that is openly advertised when DOT asks the Corporation to manage the project.

Christopher Jim Birch, P.E.

10005 Main Tree Drive Anchorage, Alaska 99516-6730
907-348-3265 (home) 907-348-3265 (fax) cjbirch@alaska.net (email)

February 22, 1998

Senator Drue Pearce
Co-Chair Senate Finance Committee
State Capitol, Room 518
Juneau, AK 99801-1182
Attention: Ms. Kristy Tibbles

VIA FAX ONLY

FAX: 907-465-3872

Subject: SB 285 "An Act relating to state procurement practices."

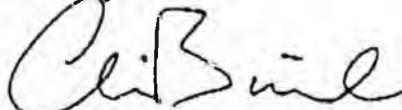
Dear Senator Pearce;

I understand a question has been raised regarding whether Chugach Electric Association (CEA) competitively bids Alaska Department of Transportation and Public Facilities (DOT&PF) reimbursement work on highway right-of-way or accomplishes this work on a force account basis.

It has been my experience that Chugach Electric Association competitively bids work reimbursed by DOT&PF. A recent example would be the \$878,889 Bird Point to Girdwood transmission line relocation project that was awarded by the CEA board on February 4 to City Electric.

Full and open competitive bidding of Chugach construction work has been approved by our membership and strongly supported by our board. Enclosed are two Chugach Outlet articles addressing this subject (2/96 and 3/97) as well a Summer, 1996 article in The Alaska Contractor by Ray Kreig, past President, Chugach Electric Association Board of Directors relating to competition.

Sincerely,



Chris Birch, P.E.
Secretary *
Chugach Electric Association

Enclosures: Chugach Outlet and Alaska Contractor Articles (3 pages)

Copies to: Gene Bjornstad, General Manager, Chugach Electric Association
Pat Jasper, Board President, Chugach Electric Association

* Position for identification only. Not a formal action of the Chugach Board.



GHEMM COMPANY, INC., General Contractors

P. O. Box 70507 • Fairbanks, Alaska 99707 • (907) 452-5191 • Fax (907) 451-7797 • Contractor's License No. AA116

April 22, 1998

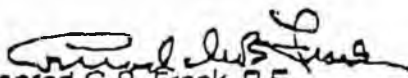
Dear Representative Gene Therriault,

I believe that Senate Bill 285 should be approved by the House Finance Committee and taken to a vote of the house.

In the one case where our company was given an opportunity to bid against the Alaska Railroad for construction of a bridge pier repair, our bid (we were told) was approximately 50% of that submitted by the ARRC. We completed the project on time and under budget to the complete satisfaction of the Usibelli Coal Mine and the ARRC who were sharing the cost. We are a union contractor and as Mr. Sheffield says about the ARRC Employees, ours are all Alaskans and very capable also. I believe this applies to most General Contractors in Alaska especially those affiliated with the Associated General Contractors of Alaska

Thank you,

GHEMM COMPANY, INC.


Conrad G.B. Frank, P.E.
Chairman

cc: Finance Committee
Health Education and Social Services Committee
Judiciary Committee

MR. JOHN ENG - CORNERSTONE

4-22-98

DEAR JOHN

THIS WAS FAXED AND E MAILED TO
REP. GENE THERRIAULT.

HOPE IT HELPS

REGARDS



Post-It® Fax Note	7671	Date	# of pages
To	JOHN ENG	From	CON FRANK
Co/Dept	CORNERSTONE	Co.	GHEMM C
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Fax #	451-7797	Fax #	451-7797

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FACSIMILE (907) 561-7899

April 22, 1998

The Honorable Mark Hanley
Co-chair House Finance Committee
Alaska State Legislature
State Capital
Room 519
Juneau, Alaska 99801

RE: Senate Bill 285
Procurement practices

Dear Mr. Hanley,

Senate Bill 285 is intended to reintroduce competition to the spending of tax funds on projects that involve the Alaska Department of Transportation (DOT) and railroad work. If you believe that competition will provide a cost effective manner to spend tax funds, you would probably favor the bill. If you believe that negotiated sole source arrangements are cost effective, then you will probably not be in favor of this bill. A letter from the Alaska Railroad Corporation (ARRC) dated March 9, 1998 indicates that utility companies are dealt with in a similar manner as the ARRC proposes. Mr. Chris Birch, a member of the Board of Directors of Chugach Electric Association, has written a letter of support for Senate Bill 285 and has indicated that utilities are presently encouraging competition in several aspects of their business. Negotiated sole source arrangements have increased, rather than decreased, the cost to Chugach Electric Association, while competition has reduced their costs.

We believe that the legislation will result in a reduction of cost of performing railroad construction work, on projects that are paid for with tax funds. This legislation does not affect any internal funds that are generated by the ARRC in the performance of their track maintenance or construction. The bill only addresses projects that are publicly funded with tax dollars.

Track signalization work can also be handled in an interface between the railroad and construction contractors. The U.S. Army contracted with a private contractor, The Railroad Company, for track inspection, track maintenance, signal inspection, and snow removal at Fort Wainwright, Alaska. The contract arrangement has worked well for the track owner (U.S. Army), the contractor, and the ARRC.

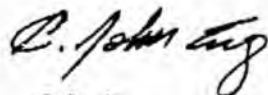
The DOT is working on the development of a project called Ocean Dock Crossing at the Port of Anchorage. The project would be available to bid in the last half of 1998, with work to be performed in 1999. I believe competitive bids will provide DOT with the lowest cost for the work that is being defined by bid documents. The cost proposed by the ARRC for this project, exceeds the available funds, and appears to exceed the normal cost of performing this type of work. This project is an opportunity to evaluate the effects of competition on rail work.

The March 9, 1998 letter from the ARRC argues for the position that there should be no competition for construction work that is publicly funded rail work. In the closing page of the letter, Mr. Sheffield proposes that ARRC should not be excluded from competing for work, if competition is forced upon the DOT by this legislation. It is a bit difficult to have things both ways.

I hope that you will pass the bill and allow the competitive bid process to work. It will provide a fair method of spending tax dollars without impacting the ability of the ARRC to perform maintenance and construction on its main line with funds that the ARRC generates from its profits. Since the ARRC has indicated in the March 9, 1998 letter that it does not make a profit of the type of work affected by Senate Bill 285, the profits of the ARRC will not be affected. The State of Alaska will be able to continue collecting corporate income tax on rail line construction work, since companies such as ours make a profit and pay corporate income taxes, while costing our customers less than the ARRC had been charging in the past.

I encourage you to pass this bill, and look forward to the saving that the State of Alaska can receive.

Sincerely,



C. John Eng

copy- file

RAILROAD COMPANY

P.O. Box 241525, Anchorage, AK 99524-1525
(907) 561-1996 FAX(907) 561-7645X 7899

March 16, 1998

House Finance Committee

RE: Procurement
Senate bill 285

Prior to October of 1996, the U. S. Army at Fort Wainwright conducted maintenance on railroad facilities on the fort on a force account basis with the Alaska Railroad Corporation. The arrangement resulted from negotiations between the U.S. Army and the Alaska Railroad Corporation. During the summer of 1996, the army advertised for bids for monthly inspection, maintenance, and snow removal for all rail lines that are owned by the federal government on Fort Wainwright. Bid documents for the work, advertised a contract that involved one (1) year of service, with options to extend the contract for several one (1) year extensions. The Railroad Company, a privately owned, Alaska construction company that specializes in the construction and maintenance of railroad appurtenances, was the successful bidder. A contract was awarded for a one year period. The U.S. Army has expressed satisfaction with performance, and demonstrated their satisfaction by exercising their first option and extended the contract for an additional year.

The U. S. Army has utilized both negotiated force account agreements and competitive bid agreements. The army expresses that they are satisfied with competitively bid agreements, and has made comments regarding intentions to continue bidding this work competitively. The army does not write letters of support for legislation, such as Senate Bill 285, but they will answer questions that you may have. The army contact is Barbara Shaw, and her telephone number at work is (907) 353-7852. Her supervisor, Carol Hodgeson, has indicated that she will respond to questions that you may have. (Telephone number for Carol Hodgeson is (907) 353-7411)

The Alaska Railroad Corporation has indicated that they do not make a profit on force account work. Our firm does make a profit on our competitively bid work. Profits are taxed and corporate taxes paid to the State of Alaska.

I believe that we have demonstrated the following:

- Railroad work can be performed by a privately owned company
- The State of Alaska benefits in the form of tax revenue on profits of a privately owned company.
- The cost of the work can be less if competitive contracting methods are used, as opposed to force account agreements. The U. S. Army is paying 25 to 35 percent less under a competitively bid agreement than they were under a previously utilized force account arrangement. Costs paid to

the Alaska Railroad Corporation during the last month of a force account arrangement at Fort Wainwright, were 26 % higher than those paid to The Railroad Company during its first month of similar services on a competitively bid contract.

I support Senate Bill 285, and encourage your involvement and desire to inject competitive bidding into a process that has resulted in public funds being spent on a "sole source" negotiated force account basis. This will allow competitive bids to be used as they are in other locations.

Please feel free to call me if you have questions.

Sincerely,



Jayson E. Mathiesen

copy- file


ASSOCIATED GENERAL CONTRACTORS of ALASKA

4041 B STREET • ANCHORAGE, ALASKA 99503
 P.O. BOX 240609 • ANCHORAGE, ALASKA 99524-0609
 TELEPHONE (907) 561-5354 • FAX (907) 562-6118

Theresa Shaul
 463-5128 ←

Kristy 465-3872 ←

23. April 1998

To
 House Finance Committee
 Alaska State Legislature
 Juneau, AK 99801

Fax 465-6813

Subject: CS Senate Bill 285, Procurement practices

Dear committee members:

AGC of Alaska supports CS SB 285.

This CS would address the principle of competitive bidding for capital works financed with public funds within the right-of-ways of the Alaska Railroad.

We have also reviewed the letter from the ARR Corporation dated 3/9/98. Our comments are as follows:

The ARR would not be treated any different than the majority of utility companies in the State. Most of them have realized substantial savings through competitive bidding processes. A letter from Chuglak Electric Co. to that effect was sent to the Legislature on this bill.

It is also not factual that the ARR alone is capable of doing some of the specified work. Given accurate specifications the construction industry is capable to perform any work, regardless how difficult and demanding it may be. This is proven daily on complex projects with the Federal- and State governments.

Since it only pertains to work funded by DOT/PF and is not work initially covered by ARR funds, their collective bargaining provisions do not apply. In short, this bill is in the spirit of the State procurement code and represents good public policy. We urge adoption and passage.

Sincerely,

Henry Springer
 Henry Springer, Exec. Director



SHELBY L. NUENKE-DAVISON
BRUCE E. DAVISON, P.E.
ERLING T. JOHANSEN
JOSEPH A. POLLOCK

MEMBER OF
ALASKA BAR AND
WASHINGTON STATE
BAR

² MEMBER OF
ALASKA BAR,
HAWAII BAR AND
WASHINGTON, D.C.
BAR

February 23, 1998

Ms. Drue Pearce, Senator
ALASKA STATE LEGISLATURE
Juneau, AK 99801

Attn: Kristy Tibbles

Dear Senator Pearce:

As your constituent, I support Senate Bill 285 which expands competitive bidding for state funded procurement. The passage of this bill would ensure that when the Alaska Railroad Corporation (ARRC) utilizes state funding for projects which are a part of state highway projects, ARRC will use competitive bidding procedures for procuring supplies or professional services for construction contracts. Open competition for state funds will result in lower costs and more efficient use of state money. I urge you to vote in favor of Senate Bill 285.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

DAVISON & DAVISON, INC.

Bruce F. Davison
Attorney At Law

BEIDjke.0092

SENT BY FACSIMILE - 907-465-3872



ASSOCIATED GENERAL CONTRACTORS of ALASKA

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P.O. BOX 240609 • ANCHORAGE, ALASKA 99524-0609
TELEPHONE (907) 561-5354 • FAX (907) 562-6118

19. Febr. 1998

To
Senate Finance Committee
Alaska Legislature
Juneau

Subject: SB 285 "An Act relating to state procurement practices"

AGC of Alaska, a 600+ member organization serving and representing the construction industry in Alaska supports SB 285.

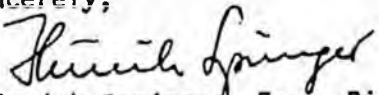
Unrestricted, open, competitive bidding is the only proven method to insure that the public receives the best deal for capital works. Market forces based on competition will reveal what the best deal is. The industry is capable to construct any desired project and has proven that even the most complex and difficult undertaking can be successfully handled. This includes any technically and operationally difficult challenges connected with highway and railroad construction.

The present arrangement between the Department of Transportation/PF and the Alaska Railroad (ARR) makes it easy for DOT/PF to administer such a project, however, it is not in the best public interest because the best deal cannot be determined without participation by the industry.

It is our opinion that "contracting/privatization" clauses in the ARR's collective bargaining agreement are no hinderance to this bill. They pertain only to the ARR's own work. Work funded and controlled by DOT/PF is not governed by these provisions. Even if they would the State law would supersede such agreements.

We recommend that this bill be approved and passed into law because it is in the public's best interest.

Sincerely,


Heinrich Springer, Exec. Director

ALASKA RAILROAD CORPORATION



Corporate Address: P.O. Box 107500, Anchorage, Alaska 99510
327 W. Ship Creek Avenue, Anchorage, Alaska 99501

Executive Office
(907) 265-2414
Fax (907) 265-2312

March 9, 1998

The Honorable Drue Pearce
Co-Chair Senate Finance Committee
Alaska State Legislature
State Capitol
Room 518
Juneau, Alaska 99801

RE: SB - 285, "An Act relating to state
procurement practices."

Dear Senator Pearce:

It seems to me that after reviewing Senate Bill 285 several times that the bill does not accomplish what I think you may have intended it to do.

I suspect that your intention was to require the Department of Transportation (DOT) to go out for competitive bid to private construction companies to do Railroad crossing and relocation work. Normally DOT gives this work to the Railroad because the Railroad operates the right-of-way and already has their own qualified engineers and construction employees. DOT reimburses us for cost, and an overhead rate. DOT determines the overhead rate which does not include a profit. Utility companies like Chugach Electric Association, Municipal Light and Power, Golden Valley Electric Association, and ENSTAR are now handled the same as the Railroad

In its present form, your proposed bill requires the Railroad to go out to competitive bid for the DOT jobs it does not do itself. This would rarely occur, since we have qualified trained employees on our payroll, and their union agreement generally mandates that we have them perform this work.

We think you intend that the ARRC's rights as a DOT recognized utility be limited, such that all DOT projects be competitively bid, thus denying our employees the opportunity to do the work. We obviously disagree, for the following reasons:

Our track construction employees are all Alaskans, and they tend to come from

Senate Bill No. 285
March 9, 1998
Page 2

the smaller railbelt communities like Wasilla, Talkeetna, Moose Pass, Nenana, and Cantwell. We are a local employer that pays a fair wage provided through a collective bargain process.

We are specialists in railroad construction. We have the know how, equipment, and materials. Larger jobs will require a contractor and equipment from Outside. Smaller jobs might be done with less equipment, but not as efficiently or effectively. In short, it will cost more. Most DOT jobs are done from our standard plans, we generally don't charge DOT for engineering or site inspection, our qualified people are already on the job.

We work safely. Work on railroad tracks requires that trains pass safely through work zones. This can be done safely with a contractor, but only if a railroad inspector is present, and then not as efficiently or as expeditiously.

The above reasons are why the Alaska Railroad is such a successful, self-sustaining enterprise. All of our performance measures are improving, productivity, customer satisfaction, and our ability to be self-sustaining as measured by our financial performance.

We suspect that you will not agree that SB - 285 is a bad idea. With that in mind we would like to offer suggestions to make the bill practicable for DOT, the contractors, and the ARRC. First, we suggest the bill be limited to "track relocation or highway crossing civil construction required by DOT". This will remove crossing signal mechanisms and electronics, a highly specialized field, from the bill. We have the only people qualified for this work in Alaska. This limitation would also allow DOT to compensate the ARRC for railroad inspection costs, since we must be present to protect our trains, our passengers and our customers freight. On occasion the Alaska Railroad receives certain Federal funding for specific safety related projects that are passed through the State DOT. In many cases these specific safety related projects are often matched by ARRC generated funds and we would recommend that these projects not be included in the proposed legislative bill.

Second, we would suggest the bill become effective in 1999. The ARRC is currently involved with DOT in several safety related projects. These jobs have been planned and engineered and includes Ocean Dock Road crossing. If these projects were delayed it would have a serious impact of correcting a serious safety hazard, in addition to an unanticipated cost increase.

Third, we would like authority to bid for the work along with the contractors. We really

Senate Bill No. 285

March 9, 1998

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do believe we are the lowest cost of accomplishing the work. Let DOT bid the work and allow the ARRC access to "unrestricted, open, competitive bidding".

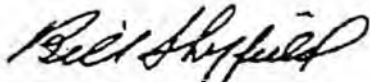
There are several other issues which need additional emphasis. Safety of course is the number one issue. Any construction company would have to conform to the Federal regulatory requirements for railroad train protection, engineering, and construction on the track and signal installation. For the safety of our trains, our trained inspectors would have to certify all work to determine that the construction met the Federal Railroad Standards.

However, I would have to emphasize that construction for this work by a private contractor would add, at a minimum, about 10% to the existing cost. In addition, there is the cost of materials. A private company would pay a premium for materials that we purchase in bulk quantities.

DOT sets the rate that we can charge them for performing this work. The ARRC is prohibited from adding a profit margin for this type of work. As a result, DOT audits the ARRC cost figures to ensure that all costs are reimbursed without any profit margin.

Your assistance in helping us bring this issue to a mutual resolution would certainly be appreciated. Please feel free to call upon me if you have additional questions or need other information.

Sincerely,



Governor Bill Sheffield
President and Chief Executive Officer

HOUSE CS FOR SENATE BILL NO. 285()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to state procurement practices."

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

3 * Section 1. AS 36.30.015(e) is amended to read:

4 (e) The board of directors of the Alaska Railroad Corporation and the board
5 of directors of the Alaska Aerospace Development Corporation shall adopt procedures
6 to govern the procurement of supplies, services, professional services, and construction.
7 The procedures must be substantially equivalent to the procedures prescribed in this
8 chapter and in regulations adopted under this chapter. Notwithstanding the other
9 provisions of this subsection, the Alaska Railroad Corporation and the Alaska
10 Aerospace Development Corporation shall comply with AS 36.30.170(b), and, when
11 the Department of Transportation and Public Facilities authorizes the Alaska
12 Railroad Corporation to perform construction work instead of the Department
13 of Transportation and Public Facilities, the Alaska Railroad Corporation shall use
14 contractors to provide the supplies, services, professional services, and
15 construction services necessary for the work and shall use competitive sealed

1 bidding or competitive sealed proposals under AS 36.30.100 - 36.30.270 to procure
2 the contractors.

3 * Sec. 2. The amendments to AS 36.30.015(e) made by sec. 1 of this Act only apply to
4 a procurement that is begun on or after the effective date of this Act.

HOUSE CS FOR SENATE BILL NO. 285(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to state procurement practices."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 *** Section 1.** AS 36.30.015 is amended by adding a new subsection to read:

4 (i) Notwithstanding the authority to delegate under (a) of this section, the
5 Department of Transportation and Public Facilities may not delegate civil construction
6 work related to the railroad facilities of the Alaska Railroad Corporation, but shall (1)
7 use contractors to provide the supplies, services, professional services, and construction
8 services necessary for the work, (2) use competitive sealed bidding or competitive
9 sealed proposals under AS 36.30.100 - 36.30.270 to obtain the contractors, and (3)
10 allow the Alaska Railroad Corporation to submit a bid or proposal for the work.
11 However, if the construction work is signalling or flagging work, or a signalling
12 project with roadwork that is incidental, when compared to the total cost of the
13 signalling project, to the signalling project, the Alaska Railroad Corporation shall
14 perform the work either itself or by using contractors, and, if the Alaska Railroad
15 Corporation uses contractors for the work, it shall obtain the contractors by using its

1 procurement procedures established under (e) of this section.

2 * **Sec. 2.** The amendments to AS 36.30.015(a) made by sec. 1 of this Act only apply to
3 a procurement that is begun on or after the effective date of this Act.

VEI Consultants

*Civil Engineering and Surveying Consultants
Serving All of Alaska*

1345 Rudakof Circle, Suite 201
Anchorage, Alaska 99508
FAX: (907) 338-5386
Phone: (907) 337-3330

April 22, 1998

Re: Senate Bill 285

Representative Gene Therriault,
State House
Juneau, Alaska

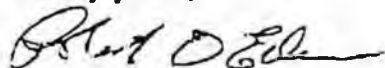
Dear Rep Therriault,

I am the design engineer on the Ocean Dock Road project that includes building 5000 feet of railroad spurs at the Port of Anchorage. I support SB 285 because I believe that there should be more competition when a project like this goes to bid.

We have received an estimate from the Alaska Railroad to construct these spurs and their estimate is approximately \$300 per foot for the 5000 feet of railroad spurs. The national average for constructing these spurs is about \$100 per foot. Higher than usual costs almost always occur whenever a contractor is given the sole right to bid on a project. This is the current case with the Alaska Railroad regarding constructing railroad spurs and mainline.

I would amend the bill slightly and allow the Alaska Railroad to competitively bid on railroad construction that is funded by the ADOT&PF. I firmly believe that more competition will result in a better product at a lower cost. As an example, look at how the phone service has improved with items like caller ID and the audio clarity of the fiber optic system after GCI began competing against ATU in Anchorage.

Sincerely yours,



Robert O Eder
President
VEI Consultants Inc.

**DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES**
OFFICE OF THE COMMISSIONER

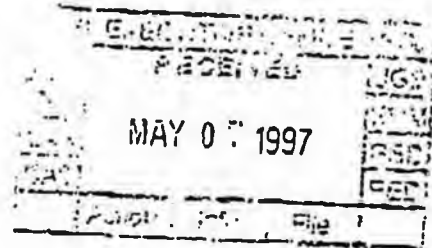
TONY KNOWLES, GOVERNOR

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JUNEAU, ALASKA 99801-7898

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PHONE: (907) 465-3900

April 22, 1997

The Honorable John J. Cowdery
Alaska State Legislature
State Capitol, Room 416
Juneau, Alaska 99801-1182



Dear Representative Cowdery:

Thank you for your inquiry regarding the contracting policies involving the Alaska Railroad Corporation ("ARRC") on certain Department of Transportation and Public Facilities ("DOT&PF") projects. We have read the letter from Cornerstone Construction on this subject and offer the following information in regard to their concerns:

First, Cornerstone appears to have a fundamental misunderstanding concerning the ownership of ARRC's right-of-way ("ROW") and the nature of the DOT&PF related work ARRC actually performs. As you are aware, the ROW for the Alaska Railroad is owned by ARRC, not DOT&PF. Accordingly, DOT&PF does not have the legal authority to issue any contracts for work on ARRC's ROW without first obtaining ARRC's consent for such work. ARRC routinely consents to DOT&PF projects that affect its ROW on the condition that DOT&PF meets all of its concerns related to public safety, liability, maintaining the integrity of ARRC's track structure and requirements to minimize the impact on ARRC's freight and passenger operations. For DOT&PF projects that involve changing or moving the track structure, ARRC usually requires that this work be done by its own employees. This is typically a small portion of a grade crossing project. The majority of the work e.g. constructing bridges, earthwork, etc. is competitively bid.

ARRC insists upon performing work that involves its track structure because it has experienced and well-trained employees who perform this unique type of work on a daily basis. Unlike most contractors, ARRC's crews are familiar with its track specifications and Federal Railroad Administration track requirements. ARRC's crews are experienced in working under "live track" conditions and they are familiar with ARRC's train operations. ARRC also has all of the specialized equipment necessary to perform such work and ARRC maintains inventories of the necessary rail, crossties, ballast and other supplies required to perform the work. In short, ARRC crews perform such work in a manner that is safer, faster, less disruptive, and more cost efficient than could be obtained from a contractor. More importantly, the work is performed in a manner that is completely satisfactory to ARRC, the owner of the track structure.

Representative Coffey

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April 22, 1997

Second, Alaska law specifically grants ARRC or any other utility owner the right to perform DOT&PF required relocation work with their own forces. (See 17 AAC 15.310-.461 and 17 AAC 15.471-.551). Additionally, the State Procurement Code specifically allows one government entity, such as DOT&PF, to contract with another such as ARRC on a sole source basis. (See AS 36.30.850(c); AS 36.30.710 and AS 36.30.730).

Third, we believe that contracting directly with the owner of a utility or railroad for relocation work is cost-effective. When ARRC or any other utility performs relocation work with their own forces, the work is paid by force account. That is a method of payment whereby the actual labor, materials and equipment costs required to perform the work are paid. No profit is allowed, but overhead is paid based on a rate determined by audit. With regard to railroad relocation work, ARRC is reimbursed for its costs in accordance with guidelines established by FHWA. ARRC is not paid any amount for profit. Prior to commencing a project, ARRC submits a detailed cost proposal to DOT&PF which is analyzed for reasonableness by DOT&PF engineers. Once a project is complete, DOT&PF routinely audits the payments made to ARRC to ensure that ARRC did not receive any payment for work that was not performed or costs that were not incurred.

Overall, it has been DOT&PF's experience that force account work offers advantages when the work is intermittent, favoring maintenance type crews versus production crews and when specialized knowledge of the facility is required, usually for safety or access. There is a savings on preliminary engineering costs since detailed construction plans, specifications and contract documents do not have to be produced. Force account work also eliminates a layer of inspection and project management by the agency not being required to administer a contractor.

In summary, DOT&PF actively encourages competitively bidding public projects. Cost effective construction allows us to build more for our limited funds. We recognize however, that in some circumstances, utilities such as ARRC have the right to control and perform the work on their own facilities which they must operate and maintain when the project is complete. In that instance, if the work is not contracted out, payment is by strict force account. The current statutes and policies of the State of Alaska recognize and allow this flexibility. ARRC has demonstrated that it has sufficient equipment and expertise to perform the railroad relocations as required and our experience has been that it has done so in a cost-effective manner.

If we can provide additional information or if you wish to discuss the issue further, please do not hesitate to contact me.

Sincerely,



Joseph L. Perkins, P.E.
Commissioner

Representative Co y

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April 22, 1997

cc: **Senator Drue Pearce**
Senator Sean Parnell
Bill Sheffield, Chairman, ARRC