

SB

380

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 3/26/04

FURTHER: Finance

Date of 5-Day Notice: 4/13/04
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 4/21/04

State Affairs Committee considered SENATE BILL NO. 380

SB 380 STATE LEASE AND CONTRACT EXTENSIONS

"An Act relating to the extension under the State Procurement Code of terms for leases for real estate and certain terms for certain state contracts for goods and services; and providing for an effective date."

and recommends:

- be replaced with _____ CS SB 380 (STA)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input type="checkbox"/>	Same Title
<input checked="" type="checkbox"/>	New Title
House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
<u>DOA</u>	<u>4/19/04</u>			<input checked="" type="checkbox"/>	<u>1</u>

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<u>John J. Caudrey</u>			<input checked="" type="checkbox"/>	
<u>Bob K. ...</u>			<input checked="" type="checkbox"/>	
CHAIR: <u>[Signature]</u>			<input checked="" type="checkbox"/>	

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 380
 () Publish Date: 3/25/2004

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title A bill relating to the State Procurement Code RDU Leases
lease and contract extensions... Component Leases
 Sponsor Rules
 Requester Governor Component No. 81

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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 EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Various in all state agencies						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would provide lease and contract extensions for real property up to a maximum extension of 10 years if a minimum cost saving of at least five percent below market rates on the rent due under the lease are achieved; or a contract for goods or services for up to a maximum extension of five years if a minimum cost savings of at least five percent may be achieved on the price established in the contract. While the bill allows for greater flexibility and greater potential savings, it is not possible to quantify them. No additional funds will be necessary as a result of this bill.

Prepared by: Vern Jones, Chief Procurement Officer Phone 465-5684
 Division General Services Date/Time 4/19/04 8:36 AM
 Approved by: Kevin Jardell, Deputy Commissioner Date 4/19/2004
 Agency Administration

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 20, 2004

SUBJECT: CSSB 380() relating to real estate lease extensions
(Work Order No. 23-GS2150\D)

TO: Senator Gary Stevens
Chair, Senate State Affairs Committee
Attn: Katrina

FROM:  Theresa L. Bannister
Legislative Counsel

This memo accompanies the committee substitute draft described above.

Coverage of Judicial Branch. Please be aware that the draft's coverage of the judicial branch may raise a separation of powers issue. Because the section applies notwithstanding the other provisions of the chapter, it may override a conflicting procurement procedure on the specific subject that the judicial branch has or decides to adopt under AS 36.30.030. In addition, the proposed sec. 36.30.083 establishes a reporting requirement for the judicial branch. These may not be large problems because the new extension language is permissive, not mandatory, and, with regard to the reporting requirement, because the legislature has oversight authority when it comes to state money matters. However, I wanted you to be aware of the issue.

If I may be of further assistance, please advise.

TLB:med
04-426.med

Enclosure

23-GS2150D
Bannister
4/20/04

CS FOR SENATE BILL NO. 380()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL
FOR AN ACT ENTITLED

1 **"An Act relating to time extensions under the State Procurement Code for real property**
2 **leases; and providing for an effective date."**

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

4 *** Section 1.** AS 36.30.083 is repealed and reenacted to read:

5 **Sec. 36.30.083. Lease extensions authorized.** (a) Notwithstanding any other
6 provision of this chapter, the department, the Board of Regents of the University of
7 Alaska, the legislative council, or the court system may extend a real property lease
8 that is entered into under this chapter for up to 10 years if a minimum cost savings of
9 at least 10 percent below the market rental value of the real property at the time of the
10 extension would be achieved on the rent due under the lease. The market rental value
11 must be established by a real estate broker's opinion of the rental value or by an
12 appraisal of the rental value.

13 (b) The department, the University of Alaska, the court system, and the
14 Legislative Affairs Agency shall submit individually an annual report to the

1 Legislative Budget and Audit Committee detailing the leases extended and the cost
2 savings achieved by that entity under (a) of this section. The reports are due
3 August 31 of each year.

4 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 **APPLICABILITY.** Notwithstanding the changes made by sec. 1 of this Act, the state
7 agencies affected by this Act may continue to act on or consider a provision of a solicitation,
8 notice of intent to award, or response to solicitation made before the effective date of sec. 1 of
9 this Act, to the extent that the provision is not inconsistent with a provision of sec. 1 of this
10 Act.

11 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

13 **FIRST LEASE EXTENSION REPORT.** Notwithstanding AS 36.30.083(b), as
14 repealed and reenacted by sec. 1 of this Act, the first lease extension report under
15 AS 36.30.083(b) is due August 31, 2005, and must cover fiscal year 2005.

16 * **Sec. 4.** This Act takes effect immediately under AS 01.10.070(c).

FRANK H. MURKOWSKI
GOVERNOR

GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

SB380

P.O. BOX 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

March 24, 2004

The Honorable Gene Therriault
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Therriault:

Under the authority of article III, section 18 of the Alaska Constitution, I am transmitting a bill relating to the extension of terms for leases and terms for contracts for goods and services under the State Procurement Code.

This bill would make several changes to the State Procurement Code. Section one of the bill would authorize the state to negotiate lease rate reductions on existing leases in exchange for certain term extensions when favorable lease rates are available. The current process only authorizes lease extensions if the property owner agrees to either (1) reduce the lease rate by ten percent and perform modifications to bring the property into Americans with Disabilities Act compliance, or (2) reduce the lease rate by 15 percent. The problem is, the current process does not take into account whether the current lease rate is already below market. Due to market conditions and current lease rates, this high discount is often not acceptable to property owners.

Many of our current lease rates are already below market and leave the lessor unwilling to meet the 10 or 15 percent reduction to extend the lease. In fact, only a small percentage of lease extensions have been negotiated under the existing provisions. The only option left for the state is to issue a new request for proposals. Often this results in additional moving costs and market rates, which can represent a substantial increase in costs to the state.

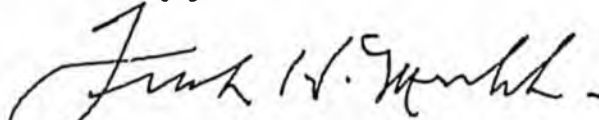
The method proposed in this bill would ensure that the state receives the best value for its leasing dollars. Lease extensions would only be authorized where the rates are a minimum of five percent below market. This would allow the state to maintain its presence in leases which are already well below market rates. Additional savings beyond the five percent would be negotiated depending on a number of factors such as location, current market value, existing vacancies, and market trends.

The Honorable Gene Therriault
March 24, 2004
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The bill also would authorize term extensions for up to five years for contracts for goods and services provided a minimum cost savings of at least five percent could be achieved on the price of the goods or services as set in the current contract. Under present law, at the end of the contract term, contracts for goods or services must be resolicited through a competitive process or a new contract awarded based upon alternative procurement methods regardless of price reductions that may be offered by the contractor if the contract were extended.

I urge your prompt and favorable action on this measure.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Frank H. Murkowski".

Frank H. Murkowski
Governor

Enclosure