

HB

257

SFIN

FILE

Note: The backup material for this bill is located in its Senate companion bill, SB 160.

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
MAY 7 2005
SENATE FINANCE
COMMITTEE

DATE: 5/4/05

FURTHER:

DATE TURNED
IN TO OFFICE: 7 May 2005

Finance Committee considered CS FOR HOUSE BILL NO. 257(JUD)

HB 257 STATE PROCUREMENT ELECTRONIC TOOLS

"An Act relating to and extending the pilot program for state procurement and electronic commerce tools; and providing for an effective date."

and recommends:

- be replaced with S CS CS HB 257 (FIN)
- adopt previous _____ CS CS forthcoming (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:
 Same Title
 New Title

SCS House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#
Admin	5/7/05	350.0			

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#
Cart	4/8/05			✓	#1
Statewide	4/8/05		*		#2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
			✓	
			✓	
			✓	
			✓	
COCHAIR:	✓			
COCHAIR:	✓			

FISCAL NOTE

REPORTED OUT

MAY 7 2005

SENATE FINANCE
COMMITTEE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 257(JUD)
(H) Publish Date: 4/25/05

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
Title State Procurement Electronic Tools BRU Alaska Court System
Component Trial Courts
Sponsor House Judiciary Committee
Requester _____ Component No. 768

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 00
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The court system does not anticipate any fiscal impact from the passage of HB 257.

Prepared by: Douglas Wooliver, Administrative Attorney Phone 463-4750
Division Alaska Court System Date/Time 4/8/05 7:41 AM
Approved by: Doug Wooliver for Stephanie Colo, Administrative Director Date 4/8/2005
Agency Alaska Court System

FISCAL NOTE

REPORTED OUT

MAY 7 2005

SENATE FINANCE
COMMITTEE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 257(JUD)
 (H) Publish Date: 4/25/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Statewide
 Title An Act relating to a procurement and electronic RDU Statewide
commerce tools program for state programs Component Statewide
 Sponsor House Judiciary Committee
 Requestor House Judiciary Committee Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

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

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

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	*	*	*	*	*	*

Estimate of any current year (FY2005) cost: _____
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will authorize the Department of Administration to contract with private sector firms to provide procurement services and electronic commerce tools. The bill would include additional procurement preferences and eliminate the sunset date and/or restrictions on the number of departments/ instrumentalities allowed within the program established under CH. 51, SLA 2003. The department has an existing contract for these services and tools. Only the Southeast Region of the Department of Transportation and Public Facilities is currently included under that contract. The contract may be amended to include additional state departments and instrumentalities.

The Department of Administration is not able to determine potential costs or savings that may result from this bill. The department continues to examine savings that may result from the existing procurement services and electronic commerce tools contract.

Prepared by: Vern Jones, Chief Procurement Officer
 Division: General Services
 Approved by: Mike Tibbles, Deputy Commissioner
 Agency: Administration

Phone: 465-5684
 Date/Time: 4/8/05 9:43 AM
 Date: 4/8/2005

FISCAL NOTE

REPORTED OUT
MAY 7 2005
SENATE FINANCE
COMMITTEE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SCS CS HB 257(FIN)
 () Public's Date: 5/7/2005

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title: State Procurement Electronic Tools RDU: _____
 Component: _____
 Sponsor: Senator Con Bunde Component No.: _____
 Requester: Senate Finance Committee

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual	100.0	100.0	100.0			
Supplies						
Equipment	250.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	350.0	100.0	100.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	350.0	100.0	100.0			
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	350.0	100.0	100.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Intent is to provide funds adequate for two agencies not included in the pilot procurement program to purchase e-Commerce software and a one year maintenance agreement that is substantially equivalent to the e-Commerce software used by the pilot procurement program in order to facilitate comparison of productivity and benefits delivery between state employees and private contractors.

Prepared by: Senator Con Bunde Phone 465-4843
 Division: Senate Labor and Commerce Committee Date/Time 5/7/05 6:40 PM
 Approved by: _____ Date 5/7/2005
 Agency: _____

SENATE FINANCE *financed*
COMMITTEE

Amendment Number: #1

Bill Number: HB 257

Sponsor: Dyson Date: 5/5/05

Logged In By: Mindy

24-LS0826V.1

Bannister

5/4/05

adopted

AMENDMENT

OFFERED IN THE SENATE
TO: CSHB 257(JUD)

BY SENATOR DYSON

1 Page 4, following line 20:

2 Insert a new subsection to read:

3 "(v) The contract authorized by (a) of this section must include terms that
4 protect the interests of the state if the contractor stops performing or fails to perform
5 the contractor's obligations under the contract. In order to allow the Department of
6 Administration and the departments and other instrumentalities of the state
7 participating in the pilot program authorized by (a) of this section to make the
8 transition back to having state instrumentalities handle the activities provided by the
9 contractor under the contract, these required terms must include provisions that

10 (1) give the Department of Administration and the departments and
11 other instrumentalities of the state participating in the pilot program the right to use,
12 for a reasonable period of time after the contractor stops performing or fails to
13 perform the electronic commerce tools, including all software, used by the contractor
14 to perform the contract; the provision required by this paragraph must allow use by the
15 employees or contractors of the Department of Administration or the departments or
16 other instrumentalities of the state participating in the pilot program; and

17 (2) require the contractor to provide ^{reasonable} ~~whatever~~ assistance ~~the contractor~~
18 ~~is able to provide~~ to the Department of Administration and the departments and other
19 instrumentalities of the state participating in the pilot program in using the electronic
20 commerce tools referred to in (1) of this subsection and otherwise making the
21 transition "

SENATE FINANCE COMMITTEE
5/7/2005 COMMITTEE ACTION

Bill Number	HB 257		
Amendment	#1		
Motion	objpt		
<u>Motion by</u>	Dyson		
<u>Objection by</u>			
Removed			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Olson			
Senator Stedman			
Senator Bunde			
Senator Dyson			
Senator Hoffman			
Co-Chair Wilken			
Co-Chair Green			
<u>Tally</u>			
Yea			
Nay			
Absent			
MOTION	Amended & objpted		

SENATE CS FOR CS FOR HOUSE BILL NO. 257(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to and extending the pilot program for state procurement and
2 electronic commerce tools; and providing for an effective date."

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

4 * Section 1. The uncodified law of the State of Alaska enacted by sec. 2(a), ch. 51, SLA
5 2003, is amended to read:

6 (a) The Department of Administration may enter into a pilot program under
7 which the Department of Administration [DEPARTMENT] contracts with a person
8 from the private sector to provide for the delivery of procurement services and
9 electronic commerce tools. The contract shall be awarded in accordance with
10 competitive bidding procedures outlined in AS 36.30.

11 * Sec. 2. The uncodified law of the State of Alaska enacted by sec. 2(b), ch. 51, SLA 2003,
12 is repealed and reenacted to read:

13 (b) The pilot program [AUTHORIZED BY (a) OF THIS SECTION] may not
14 apply to more than two state departments and two other instrumentalities of the state

1 [AND MAY NOT EXCEED THREE YEARS IN LENGTH].

2 * Sec. 3. The uncodified law of the State of Alaska enacted by sec. 2(c), ch. 51, SLA 2003,
3 is amended to read:

4 (c) A procurement conducted by the person selected under (a) of this section is
5 not subject to AS 36.30 or to AS 36.15. However, [WHERE PRACTICABLE,] the
6 procurement is subject to (e) - (u) of this section [SHALL BE MADE IN
7 ACCORDANCE WITH PREFERENCES UNDER AS 36.15 AND AS 36.30.322 -
8 36.30.338].

9 * Sec. 4. The uncodified law of the State of Alaska enacted by sec. 2(d), ch. 51, SLA 2003,
10 is amended by adding new paragraphs to read:

11 (2) "agency" has the meaning given in AS 36.30.990;

12 (3) "agricultural products" has the meaning given in AS 36.15.050(g);

13 (4) "Alaska bidder" has the meaning given in AS 36.30.170(b);

14 (5) "Alaska product" has the meaning given in AS 36.30.338;

15 (6) "contract" has the meaning given in AS 36.30.990;

16 (7) "employment program" has the meaning given in AS 36.30.990;

17 (8) "person" has the meaning given in AS 36.30.990;

18 (9) "person with a disability" has the meaning given in AS 36.30.170;

19 (10) "pilot program" means the program authorized by (a) of this

20 section;

21 (11) "program contractor" means the contractor selected by the
22 department to manage the program;

23 (12) "qualifying entity" has the meaning given in AS 36.30.170(c);

24 (13) "recycled Alaska product" has the meaning given in
25 AS 36.30.338.

26 * Sec. 5. The uncodified law of the State of Alaska enacted by sec. 2, ch. 51, SLA 2003, is
27 amended by adding new subsections to read:

28 (e) A contract based on solicited bids shall be awarded to the lowest
29 responsive and responsible bidder after an Alaska bidder preference of five percent
30 has been applied for evaluation purposes.

31 (f) If a bidder qualifies as an Alaska bidder and is offering services through an

1 employment program, a 15 percent cost preference shall be applied during evaluation.

2 (g) If a bidder is an Alaska bidder and is a qualifying entity, a 10 percent cost
3 preference shall be applied during evaluation.

4 (h) If a bidder is an Alaska bidder and if 50 percent or more of the bidder's
5 employees at the time the bid is submitted are persons with disabilities, a 10 percent
6 cost preference shall be applied during evaluation. The contract must contain a
7 promise by the bidder that the percentage of the bidder's employees who are persons
8 with disabilities will remain at 50 percent or more during the contract term.

9 (i) Insurance-related contracts shall be awarded to the lowest responsive and
10 responsible bidder after an Alaska bidder preference of five percent has been applied
11 during evaluation. In this subsection, "Alaska bidder" means a person who is an
12 Alaska bidder and an Alaska domestic insurer.

13 (j) Alaska products shall be used whenever practicable. Recycled Alaska
14 products shall be used when they are of comparable quality, of equivalent price, and
15 appropriate for the intended use.

16 (k) If a bid indicates that the product being purchased will be a recycled
17 Alaska product, a cost preference of five percent shall be applied during evaluation.

18 (l) In a project financed by state money in which the use of timber, lumber,
19 and manufactured lumber products is required, only timber, lumber, and manufactured
20 lumber products originating in this state from local forests shall be used wherever
21 practicable.

22 (m) When agricultural products are purchased, a seven percent cost preference
23 shall be applied during evaluation to agricultural products harvested in the state.

24 (n) When fisheries products are purchased, a seven percent cost preference
25 shall be applied during evaluation to fisheries products harvested or processed within
26 the jurisdiction of the state.

27 (o) If a bid or offer designates the use of an Alaska product that is identified in
28 the contract specifications and designated as a Class I, Class II, or Class III state
29 product under AS 36.30.332, a cost preference equal to the percentage established for
30 the class under AS 36.30.332(c) shall be applied to the product during evaluation. The
31 program contractor shall use the Alaska product preference list, as described in

1 regulations of the department, as the basis for establishing the percentage of Alaska
2 product preference.

3 (p) If a contractor designates the use of an Alaska product in a bid or proposal
4 and fails to use the designated product for a reason within the contractor's control,
5 each payment under the contract shall be reduced according to the schedule in
6 AS 36.30.330(a).

7 (q) Except as provided under (r) of this section, all preferences are cumulative
8 and shall be applied in the order referenced under (e) - (r) of this section.

9 (r) A bidder may not receive a preference under this section under both (e) and
10 (f), (e) and (g) or (f) and (g) for the same contract.

11 (s) In order to qualify for a preference under (f), (g), or (h) of this section, a
12 bidder shall add value by actually performing, controlling, managing, and supervising
13 the services provided, or a bidder shall have sold supplies of the general nature
14 solicited to another agency, to another government, or to the general public.

15 (t) When awarding a contract under competitive sealed proposals, the program
16 contractor shall consider the preferences described in this section. Applicable
17 preferences shall be applied solely to the cost portion of the proposals during
18 evaluation.

19 (u) Informal procurements conducted by the program contractor are subject to
20 the preferences described in this section.

21 (v) The contract authorized by (a) of this section must include terms that
22 protect the interests of the state if the contractor stops performing or fails to perform
23 the contractor's obligations under the contract. In order to allow the Department of
24 Administration and the departments and other instrumentalities of the state
25 participating in the pilot program* to make the transition back to having state
26 instrumentalities handle the activities provided by the contractor under the contract,
27 these required terms must include provisions that

28 (1) give the Department of Administration and the departments and
29 other instrumentalities of the state participating in the pilot program the right to use,
30 for a reasonable period of time after the contractor stops performing or fails to
31 perform, the electronic commerce tools, including all software, used by the contractor

Amendment #1

* "authorized by (a) of this section" deleted. CS-P includes a definition of "pilot program". OK'd to Terry Banister

SCS CSIB 257(FIN)

✓

1 to perform the contract; the provision required by this paragraph must allow use by the
2 employees or contractors of the Department of Administration or the departments or
3 other instrumentalities of the state participating in the pilot program; and

4 (2) require the contractor to provide reasonable assistance to the Department
5 of Administration and the departments and other instrumentalities of the state
6 participating in the pilot program in using the electronic commerce tools referred to in
7 (1) of this subsection and otherwise making the transition.

8 * Sec. 6. Section 3, ch. 51, SLA 2003, is amended to read:

9 Sec. 3. Section 2 of this Act is repealed July 1, 2009 [2006].

10 * Sec. 7. The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 APPLICABILITY. Nothing in this Act affects the validity of actions taken by the
13 Department of Administration under ch. 51, SLA 2003, before the effective date of this Act.

14 * Sec. 8. This Act takes effect immediately under AS 01.10.070(c).



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

FAX COVER SHEET

DATE: 7 May 2005 TIME: 7:10pm

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 2

FROM: MINDY ROWLAND
SENATE FINANCE COMMITTEE SECRETARY
PHONE: 465-4935
FAX: 465-2187

NOTES: Final Please
~~2005~~ SCS CS HB 257 (FIN) 24-LS0826 \ P
Banister 5/7/05

Plus 1 amendment attached
24-LS0826 \ I. 1 - Amended

Thanks
Mindy

SENATE FINANCE
COMMITTEE

Amendment Number: # 1

Bill Number: HB 257

Sponsor: Dyson Date: 5/5/05

Logged In By: Mirndy

24-LS0826V.1

Bannister

5/4/05

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR DYSON

TO: CSHB 257(JUD)

1 Page 4, following line 20:

2 Insert a new subsection to read:

3 "(v) The contract authorized by (a) of this section must include terms that
4 protect the interests of the state if the contractor stops performing or fails to perform
5 the contractor's obligations under the contract. In order to allow the Department of
6 Administration and the departments and other instrumentalities of the state
7 participating in the pilot program authorized by (a) of this section to make the
8 transition back to having state instrumentalities handle the activities provided by the
9 contractor under the contract, these required terms must include provisions that

10 (1) give the Department of Administration and the departments and
11 other instrumentalities of the state participating in the pilot program the right to use,
12 for a reasonable period of time after the contractor stops performing or fails to
13 perform, the electronic commerce tools, including all software, used by the contractor
14 to perform the contract; the provision required by this paragraph must allow use by the
15 employees or contractors of the Department of Administration or the departments or
16 other instrumentalities of the state participating in the pilot program; and

17 (2) require the contractor to provide whatever assistance the contractor
18 is able to provide to the Department of Administration and the departments and other
19 instrumentalities of the state participating in the pilot program in using the electronic
20 commerce tools referred to in (1) of this subsection and otherwise making the
21 transition."

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

May 4, 2005

SUBJECT: CSHB 257(JUD) amendment relating to a pilot program for state procurement and electronic commerce tools (Work Order No. 24-LS0826A.1)

TO: Senator Fred Dyson
Attn: Lucky

FROM:  Theresa Bannister
Legislative Counsel

This memo accompanies a draft of the amendment described above.

Impairment of contracts issue. If the proposed amendment requires the parties to modify an existing contract with the pilot program contractor, this requirement may raise an issue under the constitutional prohibitions against the impairment of contracts.¹ The initial question appears to be whether or not the change in state law operates as a substantial impairment of the parties' contractual relationship.² Because this amendment is limited to the remedies under the contract and not the performance obligations of the contract, it may be considered not to be a substantial impairment of the contract.¹ So it may not be a problem, but I wanted you to be aware of the issue.

If I may be of further assistance, please advise.

TLB:jad
05-251.jad

Enclosure

¹ U.S. Const. art. I, sec. 10; Alaska Const. art. I, sec. 15.

² 2 Rotunda and Nowak, Treatise on Constitutional Law 15.8, p. 654 (3rd ed. 1999).

³ 2 Rotunda and Nowak, Treatise on Constitutional Law 15.8, p. 654 - 655 (3rd ed. 1999); and see Hagberg v. Alaska National Bank, 585 P.2d 559, 561 - 562 (Alaska 1978).

Adopted 0/7/05

WORK DRAFT

WORK DRAFT

WORK DRAFT

24-LS0826P
Bannister
5/7/05

SENATE CS FOR CS FOR HOUSE BILL NO. 257()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to and extending the pilot program for state procurement and
2 electronic commerce tools; and providing for an effective date."

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

4 * Section 1. The uncodified law of the State of Alaska enacted by sec. 2(a), ch. 51, SLA
5 2003, is amended to read:

6 (a) The Department of Administration may enter into a pilot program under
7 which the Department of Administration [DEPARTMENT] contracts with a person
8 from the private sector to provide for the delivery of procurement services and
9 electronic commerce tools. The contract shall be awarded in accordance with
10 competitive bidding procedures outlined in AS 36.30.

11 * Sec. 2. The uncodified law of the State of Alaska enacted by sec. 2(b), ch. 51, SLA 2003,
12 is repealed and reenacted to read:

13 (b) The pilot program [AUTHORIZED BY (a) OF THIS SECTION] may not
14 apply to more than two state departments and two other instrumentalities of the state

1 [AND MAY NOT EXCEED THREE YEARS IN LENGTH].

2 * Sec. 3. The uncodified law of the State of Alaska enacted by sec. 2(c), ch. 51, SLA 2003.
3 is amended to read:

4 (c) A procurement conducted by the person selected under (a) of this section is
5 not subject to AS 36.30 or to AS 36.15. However, [WHERE PRACTICABLE,] the
6 procurement is subject to (e) - (u) of this section [SHALL BE MADE IN
7 ACCORDANCE WITH PREFERENCES UNDER AS 36.15 AND AS 36.30.322 -
8 36.30.338].

9 * Sec. 4. The uncodified law of the State of Alaska enacted by sec. 2(d), ch. 51, SLA 2003,
10 is amended by adding new paragraphs to read:

11 (2) "agency" has the meaning given in AS 36.30.990;

12 (3) "agricultural products" has the meaning given in AS 36.15.050(g);

13 (4) "Alaska bidder" has the meaning given in AS 36.30.170(b);

14 (5) "Alaska product" has the meaning given in AS 36.30.338;

15 (6) "contract" has the meaning given in AS 36.30.990;

16 (7) "employment program" has the meaning given in AS 36.30.990;

17 (8) "person" has the meaning given in AS 36.30.990;

18 (9) "person with a disability" has the meaning given in AS 36.30.170;

19 (10) "pilot program" means the program authorized by (a) of this
20 section;

21 (11) "program contractor" means the contractor selected by the
22 department to manage the program;

23 (12) "qualifying entity" has the meaning given in AS 36.30.170(e);

24 (13) "recycled Alaska product" has the meaning given in
25 AS 36.30.338.

26 * Sec. 5. The uncodified law of the State of Alaska enacted by sec. 2, ch. 51, SLA 2003, is
27 amended by adding new subsections to read:

28 (e) A contract based on solicited bids shall be awarded to the lowest
29 responsive and responsible bidder after an Alaska bidder preference of five percent
30 has been applied for evaluation purposes.

31 (f) If a bidder qualifies as an Alaska bidder and is offering services through an

1 employment program, a 15 percent cost preference shall be applied during evaluation.

2 (g) If a bidder is an Alaska bidder and is a qualifying entity, a 10 percent cost
3 preference shall be applied during evaluation.

4 (h) If a bidder is an Alaska bidder and if 50 percent or more of the bidder's
5 employees at the time the bid is submitted are persons with disabilities, a 10 percent
6 cost preference shall be applied during evaluation. The contract must contain a
7 promise by the bidder that the percentage of the bidder's employees who are persons
8 with disabilities will remain at 50 percent or more during the contract term.

9 (i) Insurance-related contracts shall be awarded to the lowest responsive and
10 responsible bidder after an Alaska bidder preference of five percent has been applied
11 during evaluation. In this subsection, "Alaska bidder" means a person who is an
12 Alaska bidder and an Alaska domestic insurer.

13 (j) Alaska products shall be used whenever practicable. Recycled Alaska
14 products shall be used when they are of comparable quality, of equivalent price, and
15 appropriate for the intended use.

16 (k) If a bid indicates that the product being purchased will be a recycled
17 Alaska product, a cost preference of five percent shall be applied during evaluation.

18 (l) In a project financed by state money in which the use of timber, lumber,
19 and manufactured lumber products is required, only timber, lumber, and manufactured
20 lumber products originating in this state from local forests shall be used wherever
21 practicable.

22 (m) When agricultural products are purchased, a seven percent cost preference
23 shall be applied during evaluation to agricultural products harvested in the state.

24 (n) When fisheries products are purchased, a seven percent cost preference
25 shall be applied during evaluation to fisheries products harvested or processed within
26 the jurisdiction of the state.

27 (o) If a bid or offer designates the use of an Alaska product that is identified in
28 the contract specifications and designated as a Class I, Class II, or Class III state
29 product under AS 36.30.332, a cost preference equal to the percentage established for
30 the class under AS 36.30.332(c) shall be applied to the product during evaluation. The
31 program contractor shall use the Alaska product preference list, as described in

1 regulations of the department. as the basis for establishing the percentage of Alaska
2 product preference.

3 (p) If a contractor designates the use of an Alaska product in a bid or proposal
4 and fails to use the designated product for a reason within the contractor's control,
5 each payment under the contract shall be reduced according to the schedule in
6 AS 36.30.330(a).

7 (q) Except as provided under (r) of this section, all preferences are cumulative
8 and shall be applied in the order referenced under (e) - (r) of this section.

9 (r) A bidder may not receive a preference under this section under both (e) and
10 (f), (e) and (g) or (f) and (g) for the same contract.

11 (s) In order to qualify for a preference under (f), (g), or (h) of this section, a
12 bidder shall add value by actually performing, controlling, managing, and supervising
13 the services provided, or a bidder shall have sold supplies of the general nature
14 solicited to another agency, to another government, or to the general public.

15 (t) When awarding a contract under competitive sealed proposals, the program
16 contractor shall consider the preferences described in this section. Applicable
17 preferences shall be applied solely to the cost portion of the proposals during
18 evaluation.

19 (u) Informal procurements conducted by the program contractor are subject to
20 the preferences described in this section.

21 * Sec. 6. Section 3, ch. 51, SLA 2003, is amended to read:

22 Sec. 3. Section 2 of this Act is repealed July 1, 2009 [2006].

23 * Sec. 7. The uncodified law of the State of Alaska is amended by adding a new section to
24 read:

25 APPLICABILITY. Nothing in this Act affects the validity of actions taken by the
26 Department of Administration under ch. 51, SLA 2003, before the effective date of this Act.

27 * Sec. 8. This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

Incorrect - per Lynn Smith

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SCS CS HB 257
() Publish Date: 5/5/2005

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title: State Procurement Electronic Tools BRU: _____
Component: _____
Sponsor: Senator Con Bunde
Requester: Senate Finance Committee Component No.: _____

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		100.0	100.0	100.0		
Supplies						
Equipment		250.0				
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	350.0	100.0	100.0	0.0	0.0

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

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Intent is to provide funds adequate for two agencies not included in the pilot procurement program to purchase e-Commerce software and a one year maintenance agreement that is substantially equivalent to the e-Commerce software used by the pilot procurement program in order to facilitate comparison of productivity and benefits delivery between state employees and private contractors.

Prepared by: Senator Con Bunde
Division: Senate Labor and Commerce Committee
Approved by: _____
Agency: _____

Phone: 465-4843
Date/Time: 5/5/05 5:02 PM
Date: 5/5/2005

HB 257 Fiscal Note:

Per testimony from public employee interests in the hearings on SB 160/ HB 257, the fiscal note would give similar sized procurement groups with state government substantially equivalent e-commerce tools that provide for a clear comparison of productivity and benefits. Funds in the fiscal note would be administered by the Department of Administration, Division of General Services.

E-Commerce tools:

- Provide opportunity for two full other agencies not in the pilot program, operating with state employee procurement personnel, to acquire e-Commerce software that is substantially equivalent to the e-Commerce software used by the pilot procurement program in order to provide a comparison of results.
- For two full agencies, software estimate would be for \$250K for set-up and integration, and an estimated \$100K annually for maintenance and support. Tools would be deployed by 7/1/05. Total funding for FY 2006 would be \$350K.

Performance Reviews:

Subject the two public sector agencies utilizing the tools to the same level of scrutiny as a private contractor under the pilot. OMB would do an audit review annually, to compare privatized and State employee performance using the e-commerce tools.

24-LS0826\X
Bannister
5/2/05

SENATE CS FOR CS FOR HOUSE BILL NO. 257()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to and extending the pilot program for state procurement and
2 electronic commerce tools; and providing for an effective date."

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

4 * Section 1. The uncodified law of the State of Alaska enacted by sec. 2(a), ch. 51, SLA
5 2003, is amended to read:

6 (a) The Department of Administration may enter into a pilot program under
7 which the Department of Administration [DEPARTMENT] contracts with a person
8 from the private sector to provide for the delivery of procurement services and
9 electronic commerce tools. The contract shall be awarded in accordance with
10 competitive bidding procedures outlined in AS 36.30.

11 * Sec. 2. The uncodified law of the State of Alaska enacted by sec. 2(b), ch. 51, SLA 2003,
12 is repealed and reenacted to read:

13 (b) The pilot program [AUTHORIZED BY (a) OF THIS SECTION] may not
14 apply to more than two state departments and two other instrumentalities of the state

1 [AND MAY NOT EXCEED THREE YEARS IN LENGTH].

2 * Sec. 3. The uncodified law of the State of Alaska enacted by sec. 2(c), ch. 51, SLA 2003,
3 is amended to read:

4 (c) A procurement conducted by the person selected under (a) of this section is
5 not subject to AS 36.30 or to AS 36.15. However, [WHERE PRACTICABLE,] the
6 procurement is subject to (e) - (u) of this section [SHALL BE MADE IN
7 ACCORDANCE WITH PREFERENCES UNDER AS 36.15 AND AS 36.30.322 -
8 36.30.338].

9 * Sec. 4. The uncodified law of the State of Alaska enacted by sec. 2(d), ch. 51, SLA 2003,
10 is amended by adding new paragraphs to read:

11 (2) "agency" has the meaning given in AS 36.30.990;

12 (3) "agricultural products" has the meaning given in AS 36.15.050(g);

13 (4) "Alaska bidder" has the meaning given in AS 36.30.170(b);

14 (5) "Alaska product" has the meaning given in AS 36.30.338;

15 (6) "contract" has the meaning given in AS 36.30.990;

16 (7) "employment program" has the meaning given in AS 36.30.990;

17 (8) "person" has the meaning given in AS 36.30.990;

18 (9) "person with a disability" has the meaning given in AS 36.30.170;

19 (10) "pilot program" means the program authorized by (a) of this

20 section;

21 (11) "program contractor" means the contractor selected by the
22 department to manage the program;

23 (12) "qualifying entity" has the meaning given in AS 36.30.170(e);

24 (13) "recycled Alaska product" has the meaning given in
25 AS 36.30.338.

26 * Sec. 5. The uncodified law of the State of Alaska enacted by sec. 2, ch. 51, SLA 2003, is
27 amended by adding new subsections to read:

28 (e) A contract based on solicited bids shall be awarded to the lowest
29 responsive and responsible bidder after an Alaska bidder preference of five percent
30 has been applied for evaluation purposes.

31 (f) If a bidder qualifies as an Alaska bidder and is offering services through an

1 employment program, a 15 percent cost preference shall be applied during evaluation.

2 (g) If a bidder is an Alaska bidder and is a qualifying entity, a 10 percent cost
3 preference shall be applied during evaluation.

4 (h) If a bidder is an Alaska bidder and if 50 percent or more of the bidder's
5 employees at the time the bid is submitted are persons with disabilities, a 10 percent
6 cost preference shall be applied during evaluation. The contract must contain a
7 promise by the bidder that the percentage of the bidder's employees who are persons
8 with disabilities will remain at 50 percent or more during the contract term.

9 (i) Insurance-related contracts shall be awarded to the lowest responsive and
10 responsible bidder after an Alaska bidder preference of five percent has been applied
11 during evaluation. In this subsection, "Alaska bidder" means a person who is an
12 Alaska bidder and an Alaska domestic insurer.

13 (j) Alaska products shall be used whenever practicable. Recycled Alaska
14 products shall be used when they are of comparable quality, of equivalent price, and
15 appropriate for the intended use.

16 (k) If a bid indicates that the product being purchased will be a recycled
17 Alaska product, a cost preference of five percent shall be applied during evaluation.

18 (l) In a project financed by state money in which the use of timber, lumber,
19 and manufactured lumber products is required, only timber, lumber, and manufactured
20 lumber products originating in this state from local forests shall be used wherever
21 practicable.

22 (m) When agricultural products are purchased, a seven percent cost preference
23 shall be applied during evaluation to agricultural products harvested in the state.

24 (n) When fisheries products are purchased, a seven percent cost preference
25 shall be applied during evaluation to fisheries products harvested or processed within
26 the jurisdiction of the state.

27 (o) If a bid or offer designates the use of an Alaska product that is identified in
28 the contract specifications and designated as a Class I, Class II, or Class III state
29 product under AS 36.30.332, a cost preference equal to the percentage established for
30 the class under AS 36.30.332(c) shall be applied to the product during evaluation. The
31 program contractor shall use the Alaska product preference list, as described in

1 regulations of the department, as the basis for establishing the percentage of Alaska
2 product preference.

3 (p) If a contractor designates the use of an Alaska product in a bid or proposal
4 and fails to use the designated product for a reason within the contractor's control,
5 each payment under the contract shall be reduced according to the schedule in
6 AS 36.30.330(a).

7 (q) Except as provided under (r) of this section, all preferences are cumulative
8 and shall be applied in the order referenced under (e) - (r) of this section.

9 (r) A bidder may not receive a preference under this section under both (e) and
10 (f), (e) and (g) or (f) and (g) for the same contract.

11 (s) In order to qualify for a preference under (f), (g), or (h) of this section, a
12 bidder shall add value by actually performing, controlling, managing, and supervising
13 the services provided, or a bidder shall have sold supplies of the general nature
14 solicited to another agency, to another government, or to the general public.

15 (t) When awarding a contract under competitive sealed proposals, the program
16 contractor shall consider the preferences described in this section. Applicable
17 preferences shall be applied solely to the cost portion of the proposals during
18 evaluation.

19 (u) Informal procurements conducted by the program contractor are subject to
20 the preferences described in this section.

21 (v) The office of management and budget shall review the pilot program each
22 year, beginning with a review for 2005. The review shall begin after December 31 of
23 the year being reviewed. The office of management and budget shall provide the
24 Department of Administration with a report of the review on or before February 28 of
25 the calendar year that follows the year being reviewed.

26 (w) The review and report required by (v) of this section must include

27 (1) the planned and actual personnel cost savings achieved by the pilot
28 program;

29 (2) the extent and effectiveness of the use of electronic commerce tools
30 in the pilot program;

31 (3) an assessment, after the pilot program is fully implemented and

1 given adequate time to develop its operation, of the costs of goods and services during
2 the pilot program; the assessment must include comparisons, including the results
3 achieved, between catalog-based procurements and non-catalog-based procurements;
4 the time frame of the assessment must cover July through December of the year in
5 which the review occurs;

6 (4) the total combined cost savings achieved by the pilot program from
7 personnel, overhead, and purchased goods and services;

8 (5) an analysis, after the pilot program is fully implemented, of the
9 average time for processing procurements under the pilot program;

10 (6) comparisons of the pilot program with comparable measures from
11 instrumentalities of the state that are not involved in the pilot program; and

12 (7) an identification of obstacles to achieving the goals of the pilot
13 program.

14 * Sec. 6. Section 3, ch. 51, SLA 2003, is amended to read:

15 Sec. 3. Section 2 of this Act is repealed July 1, 2009 [2006].

16 * Sec. 7. The uncodified law of the State of Alaska is amended by adding a new section to
17 read:

18 APPLICABILITY. Nothing in this Act affects the validity of actions taken by the
19 Department of Administration under ch. 51, SLA 2003, before the effective date of this Act.

20 * Sec. 8. This Act takes effect immediately under AS 01.10.070(c).