

**SB**

**12**

<TARGET><BILL>SB 12</BILL><SUBJECT>SB  
12</SUBJECT><COMM>HSTA28</COMM></TARGET>

# HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: March 4, 2013

FURTHER REFERRALS: Finance

Date of Committee Action: 3-19-2013

The STATE AFFAIRS Committee considered:

SB 12

**SENATE BILL NO. 12**

"An Act relating to state and public entity procurement, including the State Procurement Code, procurement preferences, contract awards, the use of small procurement provisions for certain amounts of leased space, the Alaska business license requirement for Alaska bidder and other procurement preferences, the proof of registration of construction contract bidders and offerors, the establishment and maintenance of lists of persons who want to provide supplies or services to the state, state agencies, and state instrumentalities, electronic bids and proposals, the chief procurement officer, small procurements, and writings; relating to the meaning of 'Alaska bidder'; and providing for an effective date."

**SB 12 PUBLIC PROCUREMENT**

Recommends it be replaced with  HCS or  CS for \_\_\_\_\_ (\_\_\_\_\_)  
 For Senate Bills with new title:  Technical Title  New Title: HCR \_\_\_\_\_  Same Title  New Title

- attach amendments
- add new referral to \_\_\_\_\_ Committee
- Letter of Intent \_\_\_\_\_ Committee

List of Abbrev for Depts.:

- ADM
- CED
- COR
- CRT
- EED
- DEC
- DFG
- GOV
- DHS
- LWF
- LAW
- LEG
- MVA
- DNR
- DPS
- REV
- DOT
- UA

<u>NEW FISCAL NOTES</u>				
*FN# is assigned by Chief Clerk's Office				
*FN#	List by Dept(s):	Fiscal	Indet.	Zero

<u>PREVIOUS FISCAL NOTES</u>				
FN#	List by Dept(s):	Fiscal	Indet.	Zero
1	DOA			X

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	Kreiss-Tomkins	✓			
	Gattis	✓			
	Keller	✓			
	Hughes	✓			
	Jackson	✓			
	MilHA	✓			
Chair:	LYNN	X			
Chair:					



# Alaska State Legislature

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## Senator Anna Fairclough – Senate District M

### Sponsor Statement

#### Senate Bill 12

"An Act relating to state and public entity procurement, including the State Procurement Code, procurement preferences, contract awards, the use of small procurement provisions for certain amounts of leased space, the Alaska business license requirement for Alaska bidder and other procurement preferences, the proof of registration of construction contract bidders and offerors, the establishment and maintenance of lists of persons who want to provide supplies or services to the state, state agencies, and state instrumentalities, electronic bids and proposals, the chief procurement officer, small procurements, and writings; relating to the meaning of 'Alaska bidder'; and providing for an effective date."

Senate Bill 12 makes changes to the state's procurement code. Collectively, these changes streamline the procurement code to ensure consistent application of the law, resulting in a more understandable, efficient procurement process. These changes are needed to prevent failed procurements and provide modern procurement tools and techniques for the state's business partners as well as our employees who conduct procurements.

The bill simplifies the procurement process by standardizing complex and confusing preference language and increasing the small procurement thresholds so that more procurements are conducted with less formality. Small procurement procedures are easier for businesses to understand and less expensive for them to comply with, and they are faster and more efficient for the state to conduct.

These changes will encourage broader competition and allow the state to achieve efficiencies and take advantage of today's technology. This bill modernizes the procurement code, allowing for electronic receipt of bids and signatures. The bill also eliminates the requirement to maintain outdated vendor lists in a time when commerce is moving online.

The bill makes application of the preferences uniform – currently, preferences do not contain the same language so they must be applied differently. It also clarifies which preferences are cumulative and those that may not be combined.

The bill clarifies now complex requirements such as qualification for preferences and clearly explains when an Alaskan Business license is required to qualify for award of a contract. The bill modernizes and streamlines state procurement by elimination of outdated requirements such as bidders lists, and it allows for electronic bidding.

It has been many years since our procurement code has been modernized. These changes will reduce barriers to Alaskan businesses, especially small and rural based firms, and will decrease costs, and increase the effectiveness of state employees who procure and administer contracts for goods and services

I appreciate your support and consideration of this legislation.

# Fiscal Note

State of Alaska  
2013 Legislative Session

Bill Version: SB 12 (N)  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: SB012-DOA-PUR-1-23-13  
Title: PUBLIC PROCUREMENT  
Sponsor: FAIRCLOUGH  
Requester: Senate State Affairs

Department: Department of Administration  
Appropriation: General Services  
Allocation: Purchasing  
OMB Component Number: 60

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2014	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2014 Request	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
<b>OPERATING EXPENDITURES</b>	<b>FY 2014</b>	<b>FY 2014</b>					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

**Change in Revenues**

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Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? Yes  
If yes, by what date are the regulations to be adopted, amended or repealed? 01/31/14

**Why this fiscal note differs from previous version:**

Not applicable, initial version

Prepared By: Vern Jones	Phone: (907)465-5684
Division: General Services	Date: 01/23/2013 03:52 PM
Approved By: Curtis Thayer, Deputy Commissioner	Date: 01/23/13
Department of Administration	

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2013 LEGISLATIVE SESSION

BILL NO. SB012

**Analysis**

This bill makes changes to simplify, clarify and modernize the State Procurement Code to encourage broader competition and allow the state to achieve efficiencies and take advantage of today's technology. The bill reorganizes and provides consistent language for procurement preferences, increases small procurement thresholds, and makes other changes to improve the effectiveness of state procurement, while reducing barriers to Alaskan vendors. The Department of Administration, Division of General Services does not anticipate any fiscal impact from the proposed legislation.



# Alaska State Legislature

## Senator Anna Fairclough — Senate District M

### Senate Bill 12 - Sectional Analysis

**\* Section 1:** Amends AS 24.55.275

Updates a citation to reflect the renumbering of a preference.

**\* Section 2:** Amends AS 36.15.050(a)

Amends the local agricultural preference to grant a seven percent cost preference to the qualifying bid rather than to the low bid, making this preference consistent with other procurement preferences.

**\* Section 3:** Amends AS 36.15.050(b)

Amends the local fisheries preference to grant a seven percent cost preference to the qualifying bid rather than to the low bid, making this preference consistent with other procurement preferences.

**\* Section 4:** Amends AS 36.15.050 by adding a new subsection (h)

Amends the local agricultural and fisheries preferences to disallow a bidder from being granted both a local agricultural/fisheries preference and an Alaska product preference under another statute.

**\* Section 5:** Amends AS 36.30.010

Amends the salary of the Chief Procurement Officer from range 27 to range 25 due to changes made to the position, which will no longer serve as Director of the Division of General Services.

**\* Section 6:** Amends AS 36.30.015(e)

Updates a citation to reflect the renumbering of a preference.

**\* Section 7:** Amends AS 36.30.015(f)

Updates a citation to reflect the renumbering of a preference.

- \* Section 8:** Amends AS 36.30.015(h)  
Updates a citation to reflect the renumbering of a preference.
- \* Section 9:** Amends AS 36.30.020  
Updates a citation to reflect the renumbering of a preference.
- \* Section 10:** Amends AS 36.30.030  
Updates a citation to reflect the renumbering of a preference.
- \* Section 11:** Amends AS 36.30.080(f)  
Increases the threshold limit for small procurements of leased space from 3,000 square feet to 7,000 square feet, consistent with section 18.
- \* Section 12:** Amends AS 36.30.110(b)  
Clarifies Alaska business license requirements for competitive sealed bids and qualification for the Alaska bidder preference. This change requires bidders to show proof of their Alaska Business License prior to award, but requires the license at the time of bid submission in order to qualify for the Alaska bidder preference.
- \* Section 13:** Amends AS 36.30.130(a)  
Eliminates reference to a procurement officer's use of vendor lists, reflecting the repeal of the statute establishing the vendor lists, consistent with section 33.
- \* Section 14:** Amends AS 36.30.170 by repealing and reenacting  
Updates a citation to reflect the renumbering of the Alaska bidder preference.
- \* Section 15:** Amends AS 36.30.210(b)  
Clarifies construction contractor registration requirements, now explicitly requiring registration before award of a contract.
- \* Section 16:** Amends AS 36.30.210(e)  
Clarifies Alaska business license requirements for competitive sealed proposals and qualification for the Alaska bidder preference using language consistent with that used in section 12.
- \* Section 17:** Amends AS 36.30 by adding a new section 36.30.290  
Adds a new section allowing an agency to accept electronic bids and proposals.

\* **Section 18:** Amends AS 36.30.320(a)

Increases the threshold under which a state agency may use informal procurement process to \$100,000 for goods and professional services, to \$200,000 for construction, and 7,000 square feet for lease of space.

\* **Section 19:** Amends AS 36.30 by adding a new section 36.30.321

Adds a new section consolidating the Alaska bidder preference, Alaska veterans' preference, and other preferences formerly at AS 36.30.170(b). This section also simplifies the qualification for the disability and employment program preferences, eliminates the seldom used employers of people with disabilities preference, and excludes real estate leases from application of procurement preferences.

\* **Section 20:** Amends AS 36.30.322(a)

Modifies the use of local forest products statute to grant a seven percent cost preference to the qualifying bid rather than to the low bid, making this preference consistent with other preferences.

\* **Section 21:** Amends AS 36.30.336 by repealing and reenacting

Clarifies which preferences are cumulative and which may not be combined. (example: bidders cannot claim both an employment program preference and a disabled bidder preference)

\* **Section 22:** Amends AS 36.30.655

Eliminates reference to the removal of debarred or suspended persons from vendor lists, reflecting the repeal of the statute establishing the vendor lists, consistent with section 33.

\* **Section 23:** Amends AS 36.30.990 by adding a new paragraph

Moves the definition for "Alaska bidder" (formerly contained in 36.30.170(b)) and adds new definitions for "in writing" and "written" to include information in electronic form.

\* **Section 24:** Amends AS 36.90.049(a)

Updates a citation to reflect the renumbering of a preference.

\* **Section 25:** Amends AS 38.35.017(a)

Updates a citation to reflect the renumbering of a preference.



\* **Section 26:** Repeals AS 36.30.050, which established the vendor lists, repeals AS 36.30.175, which established the veteran preference, because it has been relocated to AS 36.30.321(f), repeals AS 36.30.250(b), because competitive sealed proposals preference application language is now included in section 19 (AS 36.30.321), and repeals AS 36.30.335 because language outlining application of certain preferences is now included in section 21 (AS 36.30.336).

\* **Section 27:** Amends the uncodified law of the State of Alaska

Clarifies the application of this bill to pending solicitations during the transition period.

\* **Section 28:** Effective Date

This bill is effective immediately



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February 5, 2013

Honorable Anna Fairclough  
Alaska State Senate  
Alaska State Capitol Building, Room 514  
Juneau, Alaska 99801

RE: SB 12

Dear Senator Fairclough,

On behalf of the Alaska Municipal League, we would like to thank you for the submission of SB 12. It is refreshing to see bills that actually intend to fix a problem that affects how Alaska deals with businesses and accomplishes goals.

This bill appears to reach a broad spectrum of business in the State of Alaska and can hopefully raise our position in national polls. Alaska's municipalities realize that without successful projects and business, our communities will not succeed. We hope to support what we can to make that happen. Due to our higher costs in Alaska, we must find ways to allow Alaska's businesses to have every advantage.

The Alaska Municipal League supports SB 12.

Sincerely,

Kathie Wasserman  
Executive Director  
Alaska Municipal League

January 28, 2013

The Honorable Anna Fairclough  
Senator, Alaska State Senate  
Alaska State Capitol, Room 514  
Juneau, AK 99801

Re: Senate Bill 12

Dear Senator Fairclough:

The mission of the Alaska State Chamber of Commerce (Alaska Chamber) is to promote a positive business environment in Alaska. The Alaska Chamber represents hundreds of businesses and local chambers from across Alaska. These member businesses share the goal of improving Alaska's low "business friendliness" rankings in national polls. Often government regulations erect unnecessary barriers to doing business. Senate Bill (SB 12) streamlines and clarifies the State's procurement code removing rather than adding barriers.

The Alaska Chamber supports SB 12. During its board meeting last week the Alaska Chamber Board of Directors affirmed a position similar to one that membership has advanced for the past several years. In part it states that the Alaska Chamber supports ensuring that the preferences currently in Alaska's procurement regulations are protected and continue to provide a competitive advantage to Alaska-based or Alaska-owned businesses.

Alaska Chamber members believe the State of Alaska has an interest in maintaining competitive procurement advantages for Alaska-based and Alaska-owned businesses. Alaska's private sector businesses create the jobs and livelihoods that fuel Alaska's economy and population growth.

Alaska businesses face more challenges compared to outside institutions. Outside firms have a lower cost of doing business and the preference currently in statute and regulation help offset the advantage outside firms have over Alaska businesses. The intent of these preferences is that when all factors are equal, a preference is provided to businesses located within Alaska. By advantaging Alaskan-based businesses over outside interests, that State of Alaska works to keep Alaskan companies from relocating to outside markets with larger labor pools and greater customer bases. SB 12 streamlines and clarifies Alaska bidder preferences in statute.

The Alaska Chamber appreciates your work to improve Alaska's business climate and fully supports SB 12.

Sincerely,



Rachael A. Petro  
President/CEO



ALASKA STATE  
**CHAMBER**  
OF COMMERCE

*The Voice of  
Alaska Business*

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UNIVERSITY  
*of* ALASKA  
*Many Traditions One Alaska*

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Fairbanks, AK 99775-5120

February 15, 2013

To Whom It May Concern,

On behalf of the University of Alaska Statewide System Procurement Office and the procurement offices located at the MAU's in Fairbanks, Anchorage and Juneau, I would like to express support for Senate Bill 12 (SB 12) relating to the State Procurement Code.

After review and consideration of the proposed changes, it is my opinion that this Bill will benefit the university, along with other public procurement units in Alaska, by helping to make its procurements in a timely, efficient manner while still meeting the needs of its various customers and maintaining fair treatment of the vending community.

The changes will shorten the time necessary to award contracts for space leases and purchases between the old and new thresholds without sacrificing the quality of public notice given to interested parties. Accepting electronic bids and proposals will allow for, and ensure, more timely receipt of competition, and along with the proposed changes to the requirements for Alaska Business Licenses, should stimulate competition. These changes are fair, reasonable, in some cases long overdue, and on the whole very much welcome.

Thank you for considering the passage of this much needed piece of legislation.

Respectfully,

University of Alaska

A handwritten signature in cursive script that reads "Michael Grahek".

Michael Grahek, C.P.M.  
Chief Procurement Officer



# Alaska State Legislature

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**Senator Anna Fairclough** — Senate District M

## MEMORANDUM

**DATE:** February 27, 2013

**TO:** Representative Bob Lynn  
Chair, House State Affairs Committee

**FROM:** Senator Anna Fairclough *Anna*

**RE:** Senate Bill 12 Hearing Request – Pending Referral

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I am requesting a hearing as soon as your committee schedule will permit for Senate Bill 12 relating to public procurement. This bill is my priority piece of legislation this year.

This bill is the same legislation I have run through the process for the last four years. As you may recall, it made it through both bodies last year without opposition, only to die in the Senate Rules Committee on the last day of session.

Collectively, these proposed changes to our state procurement code will help streamline the procurement process and help small business grow and be successful in our communities statewide.

Thank you for your consideration and attention to this request. Please do not hesitate to contact Laura Pierre on my staff with any questions at 465-4695.



# Alaska State Legislature

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**Senator Anna Fairclough** – Senate District M

## Senate Bill 12 – Senate State Affairs Witness List

Vern Jones, Chief Procurement Officer, Department of Administration - In Person

Scott Thorson, Alaska State Chamber, - Teleconference, off-site