

ALASKA LEGISLATURE COMMITTEE FILES 1983 - 1984 8672

2700 SLC HB 210 - HB 211 (FILE 1)

22

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210

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: HB 205/210
 Title: Relating to Payment of Interest
 Sponsor: Duncan/Shultz by State
 Requestor: House State Affairs

II. FISCAL DETAIL

Agency Affected: All
 Program Category Affected: All
 BRU, Program of Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC	0	1,125.0	1,125.0	1,125.0	1,125.0	1,125.0
TOTAL OPERATING	0	1,125.0	1,125.0	1,125.0	1,125.0	1,125.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	1,125.0	1,125.0	1,125.0	1,125.0	1,125.0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

No source identified by the Legislature.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Tom Haas, Acting Director
 Division: Finance

Phone: 465-2240
 Date: 3/17/83

Approved by Commissioner: Lisa Rudd
 Department: Administration

Date: 3/17/83

Distribution:

Original to Legislative Finance
 Copy to Office of Management and Budget (for Legislature introduced bills)
 Copy to Department (for Governor introduced bills)
 Copy to Sponsor
 Copy to Requestor (if different from Sponsor)

IV. ANALYSIS

The Department of Administration is opposed to this Legislation, not because we disagree with the idea of the State paying its bill in a timely manner, but because we feel there are better ways to address this problem. In determining the fiscal impact on mandatory payment of interest, it is impossible to place a definite dollar amount for the cost. Many items must be taken into consideration.

First, in order to calculate what the interest cost would be, a detailed analysis would be necessary to determine what the dollar amount of bills paid in excess of 30 days might be. Readily available information does not exist. However, to show what the potential impact might be, we offer this example, making a number of assumptions.

On the assumption that the State annual budget is \$3.0 billion and that 50% of that budget represents vendor payments effected by this legislation. Further we assume that 5% of the vendor payments might be subject to penalty as defined in the Legislation. Based on these assumptions, the interest penalty could be as high as \$1,125,000.00.

Calculated as follows:

\$3,000,000,000.00	Annual Budget
X 50%	

\$1,500,000,000.00	Potential Vendor Payments
X 5%	

\$ 75,000,000.00	5% Subject to Penalty
X 0.15%	

<u>\$ 1,125,000.00</u>	Interest Penalty for Bills Paid in Excess of 30 Days.

The preferable way to avoid penalty payments is to pay vendors within the 30 day period. This is and always has been the goal of the Department of Administration. The only effective way of doing this is either to divert current staff of the various State agencies to the effort of paying bills timely or to develop the agencies internal procedures and the Department of Administration's automated systems in order to address the payment problem. The cost to the State in providing additional staff or a bill paying effort that would pay all bills within 30 days using the current system has not be determined. The Department of Administration is currently in the process of

March 17, 1983

redesigning the statewide accounting system which will include features that will improve the bill paying and tracking capabilities of the State.

While we recognize the problem of paying vendors in a timely manner is a serious matter, we should point out that for the most part, vendors are paid timely. For a 12 month period, the State paid on the average of 70,200 invoices a month. During that time, the average payment time was 29 days. The high monthly average was 33 days while the low monthly average was 24 days. During this period, only two months exceeded 30 days payment time.

In addition to the costs of attempting to improve the payment time and the potential interest penalties, we should also consider the cost of increased bureaucracy that would be involved in determining what payments would be subject to penalty, what period of time would be covered, as well as the logistics of making the interest payments, all of these would be costs to the State in time and effort.

Lastly, it should be noted that the funding of the interest payments would need to be 100% State funds. We have been advised by the U.S. Office of Management and Budget that the Prompt Payment Act (P.L. 970177) prohibits the use of Federal grant funds for the agencies that are primarily federally funded. (Copy of OMB letter attached)

Again, we are not opposed to timely payment of vendor bills but are concerned with the method of achieving that goal.

*Al
Fin*

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHB 210 (finance)
Title Relating to payment for purchases by the state
Requested by House Finance Committee Date 5/26/83

II. FISCAL DETAIL

Agency Affected all
Program Category Affected all
BRU, Program, Or Subprogram(s) Affected _____
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		0				

FUNDING (Thousands of Dollars)

GENERAL FUND		0				
FEDERAL FUNDS		0				
OTHER (Specify Source)		0				

POSITIONS

FULL TIME		0				
PART TIME		0				
TEMPORARY		0				

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Al Adams

IV. DATE 5/18/83 PREPARED BY Al Adams, Chairman
AGENCY House Finance Committee
PHONE 465-3706

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

PROPOSED TITLE: SCS CSHB 210(RLS)
 AN ACT RELATING TO PAYMENT FOR PURCHASES BY THE STATE;
 AND PROVIDING FOR AN EFFECTIVE DATE

GENERAL DOLLARS: \$0 (F. NOTE)

PRIME SPONSOR: SKULTZ.

OTHER DOLLARS: \$0

CO-SPONSORS: DUNCAN, LISKA.

CURRENT STATUS: 4/16/84 EXPIRED 1ST SESSION

DATE	SEQ	PAGE	ACTION
02/17/83	01	0286	FIRST READING -- COMMITTEE REPORTS
03/02/83	02	1143	S.A. -- CS05, NR02
05/02/83	03	1143	S.A. F/NOTE USE SUPPL #52
05/17/83	04	1382	FIN -- 0500
			TAKEN UP IMMEDIATELY
05/17/83	05	1382	FIN F/NOTE EQUALS ZERO
05/17/83	06	1372	SECOND READING
05/17/83	07	1372	FIN CS ADOPTED BY UNAN CONSENT
05/17/83	08	1373	AM01 ADOPTED BY UNAN CONSENT
05/17/83	09	1373	ADVANCED TO 3RD READING BY UNAN CONSENT
05/17/83	10	1373	THIRD READING
05/17/83	11	1393	PASSED BY DIV 38-02-04
05/17/83	12	1394	EFFECTIVE DATE VOTE SAME AS PASSAGE
06/22/83	23	1712	CONCURRED IN SENATE AMS BY DIV 38-02-00
06/22/83	24	1712	EFFECTIVE DATE VOTE SAME AS PASSAGE
06/25/83	25	2017	TRANSMITTED TO GOVERNOR
07/19/83	26	2157	REVOKED BY GOVERNOR
04/16/84	27	0000	EXPIRED FIRST SESSION
***	**	**	*** **

DATE	SEQ	PAGE	ACTION
05/18/83	12	1014	FIRST READING -- COMMITTEE REPORTS
06/15/83	14	1316	L&C -- CS03
06/17/83	15	1354	FIN -- L&C CS04, NR01
06/21/83	16	1409	RLS -- CS03, OTHER03
			TAKEN UP IMMEDIATELY
06/21/83	17	1419	SECOND READING
06/21/83	18	1419	RLS CS ADOPTED BY UNAN CONSENT
06/21/83	19	1420	ADVANCED TO 3RD READING BY UNAN CONSENT
06/21/83	20	1420	THIRD READING
06/21/83	21	1420	PASSED BY DIV 10-02-00
06/21/83	22	1420	EFFECTIVE DATE VOTE SAME AS PASSAGE
***	**	**	*** **

Offered: 6/15/83
Referred: Finance

Original sponsors: Shultz, Duncan
and Liska

1 IN THE HOUSE BY THE LABOR AND COMMERCE COMMITTEE
2 SENATE CS FOR CS FOR HOUSE BILL NO. 210 (L&C)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION
5 A BILL

6 For an Act entitled: "An Act relating to payment for purchases by the
7 state; and providing for an effective date."

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

9 * Section 1. AS 37.05 is amended by adding a new section to read:

10 Sec. 37.05.275. PAYMENT FOR STATE PURCHASES. (a) Payment for
11 purchases of goods or services provided a state agency must be made on
12 a required payment date that is

13 (1) the date on which payment is due under the terms of a
14 contract; or

15 (2) 30 days after receipt of a proper invoice for the
16 amount of the payment due, if a specific date on which payment is due
17 is not established by contract and if the invoice contains or is
18 accompanied by documents required by the contract or purchase order.

19 (b) If a seller offers a discount from the amount otherwise due
20 for property or services in exchange for payment within a specified
21 period of time, the state agency may make payment in an amount equal
22 to the discounted price only if payment is made within the specified
23 period of time.

24 (c) If payment for goods or services purchased by the state is
25 not made within 30 days of a required payment date under (a)(1) of
26 this section or on the required payment date specified in (a)(2) of
27 this section, the state shall pay interest on the unpaid balance from
28 the date of receipt of the invoice for the goods or services at the
29 rate of one and one-half percent a month unless an agreement exists

1 between the seller and the state that precludes the charging of inte:
2 est.

3 (d) This section does not apply

4 (1) if the cost of the goods or services purchased exceeds
5 \$500,000; or

6 (2) to payment for any specific goods or services in dis-
7 pute after a seller of goods or services receives notice from the
8 state official responsible for authorizing payment for goods and
9 services that the amount of the invoice or quality of specific goods
10 or services is in dispute and stating the reasons for the dispute.

11 (e) Interest paid under (c) of this section shall be charged to
12 the budget of the state agency which purchased the goods or services.

13 (f) In this section

14 (1) "dispute" means a determination by the state official
15 responsible for authorizing the payments for the purchase of goods or
16 services that the performance or price charged is not in compliance
17 with the terms of the contract or purchase order;

18 (2) payment is considered made on the date when the payment
19 is personally delivered to the seller or agent of the seller or on the
20 date the payment is mailed;

21 * Sec. 2. This Act does not apply to contracts entered into before the
22 effective date of this Act.

23 * Sec. 3. This Act takes effect October 1, 1983.

Definition of "state agency"
dropped by mistake at drafting.
Straightened out between Finance
& Rules 6-17-83

Offered: 5/17/83
For Today's Calendar

Original sponsors: Shultz, Duncan
and Liska

IN THE HOUSE

BY THE FINANCE COMMITTEE

CS FOR HOUSE BILL NO. 210 (Finance) am
IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

6 For an Act entitled: "An Act relating to payment for purchases by the
7 state; and providing for an effective date."

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

9 * Section 1. AS 37.05 is amended by adding a new section to read:

10 Sec. 37.05.275. PAYMENT FOR STATE PURCHASES. (a) Payment for
11 purchases of goods or services provided a state agency must be made on
12 a required payment date that is

13 (1) the date on which payment is due under the terms of a
14 contract; or

15 (2) 30 days after receipt of a proper invoice for the
16 amount of the payment due, if a specific date on which payment is due
17 is not established by contract and if the invoice contains or is
18 accompanied by documents required by the contract or purchase order.

19 (b) If a seller offers a discount from the amount otherwise due
20 for property or services in exchange for payment within a specified
21 period of time, the state agency may make payment in an amount equal
22 to the discounted price only if payment is made within the specified
23 period of time.

24 (c) If payment for goods or services purchased by the state is
25 not made within 10 days of a required payment date under (a)(1) of
26 this section or on the required payment date specified in (a)(2) of
27 this section, the state shall pay interest on the unpaid balance from
28 the date of receipt of the invoice for the goods or services at the
29 rate of one and one-half percent a month unless an agreement exists

1 between the seller and the state that precludes the charging of in-
2 terest.

3 (d) This section does not apply

4 (1) if the cost of the goods or services purchased exceeds
5 \$500,000; or

6 (2) to payment for any specific goods or services in dis-
7 pute after a seller of goods or services receives notice from the
8 state official responsible for authorizing payment for goods and
9 services that the amount of the invoice or quality of specific goods
10 or services is in dispute and stating the reasons for the dispute.

11 (e) Interest paid under (c) of this section shall be charged to
12 the budget of the state agency which purchased the goods or services.

13 (f) In this section

14 (1) "dispute" means a determination by the state official
15 responsible for authorizing the payments for the purchase of goods or
16 services that the performance or price charged is not in compliance
17 with the terms of the contract or purchase order;

18 (2) payment is considered made on the date when the payment
19 is personally delivered to the seller or agent of the seller or on the
20 date the payment is mailed;

21 (3) "state agency" has the meaning given in AS 37.05.320
22 and also includes the legislative and judicial branches.

23 * Sec. 2. This Act does not apply to contracts entered into before the
24 effective date of this Act.

25 * Sec. 3. This Act takes effect July 1, 1983.

Amended to
Oct 1, 1983

6-14-83 Sam L+C



**National Federation of
Independent Business**

June 14, 1983

Senator Richard Eliason, Chairman
Labor and Commerce Committee
Alaska State Senate
Fouch V
Juneau, Alaska 99811

SUBJECT: Support of HB 210

Dear Senator Eliason:

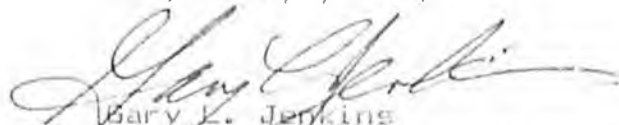
This bill would resolve the most serious problem encountered by the Alaska business community when doing business with the State of Alaska. That problem being the difficulty of obtaining a timely payment of invoices when providing goods or services to the state. The problem has become so severe in recent years that many businesses will not do business with the state because they cannot afford the three to six month wait before being paid. Presently, the state may be charged interest on a late payment only on construction projects, while all other vendors have no recourse but to wait until the state agency gets around to processing their invoice for payment.

The National Federation of Independent Business is a national organization representing small businesses. Of all the states, Alaska has the highest percentage of the business community as members, currently in excess of 3,800. Before we take a position on an issue in the Legislature, it must have been voted on by our membership. When the issue of the state paying interest on overdue accounts was presented, 92% of our Alaska membership voted in support of requiring the state to pay interest. This was the strongest support for any of the issues voted on in recent years.

The Department of Administration has prepared a fiscal note which dramatically overstates the cost to the state agencies if this legislation were adopted. This was noted by the various committees in the House who passed the bill out with a zero fiscal note. It is our strongly held position that when confronted with having to pay interest, the agencies which have historically been late paying their bills will modify their payment procedures to insure timely payment.

The membership of NFIB in Alaska will appreciate your committee taking favorable action on this bill.

Very truly yours,



Gary L. Jenkins
Director, Governmental Relations
Alaska

HB 210

STATE OF ALASKA
FISCAL NOTE

Eliason

Revision Date: May 26, 1983

I. REQUEST

Bill/Resolution No.: CSHB210(FIN)am
Title: Relating to Payment of Interest
Sponsor: Duncan/Shultz by State
Requestor: House Finance Committee

II. FISCAL DETAIL

Agency Affected: All
Program Category Affected: All
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC	0	1,125.0	1,125.0	1,125.0	1,125.0	1,125.0
TOTAL OPERATING	0	1,125.0	1,125.0	1,125.0	1,125.0	1,125.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	1,125.0	1,125.0	1,125.0	1,125.0	1,125.0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By : Kenneth E. Bischoff Director
Division: Finance

Phone: 465-2240
Date: 5/26/83

Approved by Commissioner: Lisa Rudd
Department: ADMINISTRATION

Date: 5/26/83

Distribution:

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3/26/83

IV. ANALYSIS:

Differences between CS for HB-210(SA) and CS for HB-210(FIN) am (May 17, 1983)

1. The Finance version section 1(c) changes the date for determining when payment of interest should begin from the required payment date to the date invoice for the goods or services is received.
2. Sections 1(d)(2) of the finance version require notification by the official responsible for authorizing payment rather than the officer responsible for administering the contract when payment for goods and services is in dispute.
3. Section 1(f)(1) was changed to be consistent with the change in 1(d)(2) and made more generally applicable by adding purchase order.
4. Section 1(f)(3) was changed to narrow the scope and specifically include the legislative and judicial branches.

This does not appear to have a significantly different fiscal impact from the analysis done versus the previous bill version CSHB210 (State Affairs). That analysis dated May 15, 1983 is attached. There are some potential administrative impacts as follows:

- a. The change to section 1(c) requiring interest be paid based upon date of invoice receipt may be challengeable by vendors who receive no interest for the same time frame. If a vendor is paid on the 29th day after receipt of invoice, no interest will be paid to that vendor. If a vendor is paid on the 31st day after receipt of invoice that vendor will be entitled to 31 days interest. Twenty-nine days of the two examples overlap. Why should one vendor be paid and the other vendor not paid? The prior version would have given all subject vendors equal treatment.
- b. Is the term Purchase Order singularly applicable to the State purchase order form or should it be defined broadly to all purchase type documents?

IV. ANALYSIS:

Differences between Orig. HB-210 and CS for HB-210 (May 2, 1983)

1. The CS removes the stipulation that a discount must be taken when discount is at least 2% and payment is made within 10 days of receipt of goods, services or invoice, whichever is later, and substitutes, may take discount if made within the specified period of time until payment is due.
2. The CS excludes the legislative agencies and the Court System from subjectivity of this bill.
3. The CS specifies that the interest will be paid out of the paying agencies budget. The original bill specifies that the State will pay interest.
4. The substitute provides for a daily interest calculation after 30 days where the original bill specifies a monthly calculation. For example, if paid in 45 days under original bill the state would owe 2% interest, under CS state would owe approximately 3% interest.
5. The original bill specifies that interest will be paid if payment is not made within 30 days of receipt of goods and invoice, but the substitute requires payment by contract due date or within 30 days of receipt of invoice (excludes receipt of goods which may be after receipt of invoice).

This does not appear to have a significant, different impact from the analysis done versus the previous bill version HB205/210. That analysis dated March 17, 1983 is attached.

Fiscal Note: HB 205/210

March 17, 1983

IV. ANALYSIS

The Department of Administration is opposed to this Legislation, not because we disagree with the idea of the State paying its bills in a timely manner, but because we feel there are better ways to address this problem. In determining the fiscal impact on mandatory payment of interest, it is impossible to place a definite dollar amount for the cost. Many items must be taken into consideration.

First, in order to calculate what the interest cost would be, a detailed analysis would be necessary to determine what the dollar amount of bills paid in excess of 30 days might be. Readily available information does not exist. However, to show what the potential impact might be, we offer this example, making a number of assumptions.

On the assumption that the State annual budget is \$3.0 billion and that 50% of that budget represents vendor payments effected by this legislation. Further we assume that 5% of the vendor payments might be subject to penalty as defined in the Legislation. Based on these assumptions, the interest penalty could be as high as \$1,125,000.00.

Calculated as follows:

\$3,000,000,000.00	Annual Budget
X 50%	
<hr/>	
\$1,500,000,000.00	Potential Vendor Payments
X 5%	
<hr/>	
\$ 75,000,000.00	5% Subject to Penalty
X 0.15%	
<hr/>	
<u>\$ 1,125,000.00</u>	Interest Penalty for Bills Paid in Excess of 30 Days.

The preferable way to avoid penalty payments is to pay vendors within the 30 day period. This is and always has been the goal of the Department of Administration. The only effective way of doing this is either to divert current staff of the various State agencies to the effort of paying bills timely or to develop the agencies internal procedures and the Department of Administration's automated systems in order to address the payment problem. The cost to the State in providing additional staff or a bill paying effort that would pay all bills within 30 days using the current system has not been determined. The Department of Administration is currently in the process of

Fiscal Note: HB 205/210

March 17, 1983

redesigning the statewide accounting system which will include features that will improve the bill paying and tracking capabilities of the State.

While we recognize the problem of paying vendors in a timely manner is a serious matter, we should point out that for the most part, vendors are paid timely. For a 12 month period, the State paid on the average of 70,200 invoices a month. During that time, the average payment time was 29 days. The high monthly average was 33 days while the low monthly average was 24 days. During this period, only two months exceeded 30 days payment time.

In addition to the costs of attempting to improve the payment time and the potential interest penalties, we should also consider the cost of increased bureaucracy that would be involved in determining what payments would be subject to penalty, what period of time would be covered, as well as the logistics of making the interest payments, all of these would be costs to the State in time and effort.

Lastly, it should be noted that the funding of the interest payments would need to be 100% State funds. We have been advised by the U.S. Office of Management and Budget that the Prompt Payment Act (P.L. 970177) prohibits the use of Federal grant funds for the agencies that are primarily federally funded. (Copy of OMB letter attached)

Again, we are not opposed to timely payment of vendor bills but are concerned with the method of achieving that goal.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

December 14, 1982

MEMORANDUM

SUBJECT: Payment Practices

It has come to our attention that several States have laws, or are considering legislation, that requires the payment of interest penalties to contractors when bills are paid late.

This is to alert you to the fact that the Prompt Payment Act (P.L. 97-177) prohibits the use of Federal grant funds for the payment of such interest penalties. The act says

"(A) in no case shall an obligation to pay such interest penalties be construed to be an obligation of the United States, and

"(B) any payment of such interest penalties shall not be made from funds provided to the grant recipient by a Federal agency, nor shall any non-Federal funds expended for such interest penalties be counted toward any matching requirement applicable to that grant."

We would appreciate your alerting your staff to this prohibition to assure that the Federal Government is not charged improperly for interest penalty costs.

John J. Lordan
Deputy Associate Director
for Financial Management

ANALYSIS OF SSHB 210

"An Act relating to payment for purchase by the State; and providing for an effective date."

Section 1 (a) requires the agency to pay on a required payment date as defined under terms of a contract or 30 days after receipt of proper invoice.

Subsection (b) provides for the State to take advantage of any discounts offered by a vendor and if invoice is paid in time, the State agency will deduct the amount of the discount offered from the total amount of the invoice.

Subsection (c) establishes the rate of interest at 1.5% per month that must be paid by the State for a past due balance - also provides for the exclusion of interest in the event that the seller and the State have a mutual agreement.

Subsection (d) 1. exempts purchases of more than \$500,000 from the provisions of the bill.

Subsection (d) 2. provides for an exception in the event the State notifies the vendor or seller of a dispute in the invoice.

Subsection (e) provides that any interest incurred by lack of prompt payment will be charged to the budget of the department involved.

Subsection (f) 1. defines "dispute" as noncompliance, in performance or price, with the terms of the contract, as determined by administering State officer.

Subsection (f) 2. defines when payment is made.

Subsection (f) 3. defines a state agency

Section 2. Exempts any contracts entered into before the effective date from this Act's provisions.

Section 3. Provides an effective date of July 1, 1983.

This bill has been requested by numerous vendors that do business with the State of Alaska. The State has become notorious for late payment of invoices, forcing many private vendors to borrow money to supplement their cash flow. This reduces their profit, and in some cases even eliminates it as the profit on articles is very marginal.

The bill is patterned after a federal law entitled "The Prompt Payment Act - Public Law 97-177." The Prompt Payment Act became effective October 1, 1982 and when it was introduced in Congress, it carried 133 sponsors.

Mr. Leonard Lemon, Comptroller of the U.S. Army, ^{As Paul Greedy} advised that the Prompt Payment Act has improved their payment scheduling and the payment of their accounts payable has become prompt and very routine. The U.S. Army has incorporated it in their Army Regulations.

The State has put an amount of more than \$1.2 million annual cost on its fiscal note, which should be a good indication of how much money is involved in overdue accounts. The agencies further claim that they will have to reorganize their payment system in order to fulfill the requirements of this bill. If this is so, then it should be done. This should be an indication that their method of paying accounts payable is presently inefficient and needs modifying.

The bill is needed in Alaska and will be a great help to the average small businessman that does business with state government.

Provided by Rep. Shultz

appropriated for fiscal
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the Commission.

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tion and shall be

provisions in the

1937, as amended

as of the 90th day

and Transportation).

PROMPT PAYMENT ACT

For Legislative History of Act, see p. 111

An Act to require the Federal Government to pay interest on overdue payments, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Prompt Payment Act.

SHORT TITLE

SECTION 1. This Act may be cited as the "Prompt Payment Act".

31 USC 1801 note.

INTEREST PENALTIES ON LATE PAYMENTS

SEC. 2. (a)(1) In accordance with regulations prescribed by the Director of the Office of Management and Budget, each Federal agency which acquires property or services from a business concern but which does not make payment for each such complete delivered item of property or service by the required payment date shall pay an interest penalty to such business concern in accordance with this section on the amount of the payment which is due.

31 USC 1801.

(2) Such regulations—

(A) shall specify that the required payment date shall be—

(i) the date on which payment is due under the terms of the contract for the provision of such property or service; or

(ii) thirty days after receipt of a proper invoice for the amount of the payment due; if a specific date on which payment is due is not established by contract;

(B)(i) in the case of any acquisition of meat or of a meat food product, as defined in section 2(a)(3) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(3)), shall specify a required payment date which is not later than seven days after the date of delivery of such meat or meat food product; and

(ii) in the case of any acquisition of a perishable agricultural commodity, as defined in section 1(4) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a(4)), shall specify a required payment date consistent with requirements imposed pursuant to such Act;

(C) shall specify separate required payment dates for contracts under which property or services are provided in a series of partial executions or deliveries, to the extent that such contract provides for separate payment for such partial execution or delivery; and

(D) shall require that, within fifteen days after the date on which any invoice is received, Federal agencies notify the business concern of any defect or impropriety in such invoice which would prevent the running of the time period specified in subparagraph (A)(ii).

(b)(1) Interest penalties on amounts due to a business concern under this Act shall be paid to the business concern for the period

beginning on the day after the required payment date and ending on the date on which payment of the amount due is made, except that no interest penalty shall be paid if payment for the complete delivered item of property or service concerned is made on or before (A) the third day after the required payment date, in the case of meat or a meat food product described in subsection (a)(2)(B)(i); (B) the fifth day after the required payment date, in the case of an agricultural commodity described in subsection (a)(2)(B)(ii); or (C) the fifteenth day after the required payment date, in the case of any other item. Interest shall be computed at the rate determined by the Secretary of the Treasury for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611). The Secretary of the Treasury shall publish each such rate in the Federal Register.

Interest rate
computation.

Publication in
Federal Register.

Unpaid interest
penalty.

(2) Any amount of an interest penalty which remains unpaid at the end of any thirty-day period shall be added to the principle amount of the debt and thereafter interest penalties shall accrue on such added amount.

(c) This section does not authorize the appropriation of additional funds for the payment of interest penalties required by this section. A Federal agency shall pay any interest penalties required by this section out of funds made available for the administration or operation of the program for which the penalty was incurred.

Interest penalty
payments.

(d)(1) Any recipient of a grant from a Federal agency may provide in a contract for acquisition of property or services from a business concern for the payment of interest penalties on amounts overdue under such contract, except that—

(A) in no case shall an obligation to pay such interest penalties be construed to be an obligation of the United States, and

(B) any payment of such interest penalties shall not be made from funds provided to the grant recipient by a Federal agency, nor shall any non-Federal funds expended for such interest penalties be counted toward any matching requirement applicable to that grant.

(2) Such interest penalty payments shall be made under such terms and conditions as agreed to by the grant recipient and the business concern, consistent with the grant recipient's usual business practices and applicable State and local law.

LIMITATION ON DISCOUNT PAYMENTS

31 USC 1802.

SEC. 3. (a) If a business concern offers a Federal agency a discount from the amount otherwise due under a contract for property or services in exchange for payment within a specified period of time, the Federal agency may make payment in an amount equal to the discounted price only if payment is made within such specified period of time.

(b) Each agency which violates subsection (a) shall pay an interest penalty on any amount which remains unpaid in violation of such subsection. Such interest penalty shall accrue on such unpaid amount in accordance with the regulations prescribed pursuant to section 2, except that the required payment date with respect to such unpaid amount shall be the last day of the specified period of time described in subsection (a).

CLAIMS

SEC. 4. (a)(1) Claims for interest which a business concern has failed to pay in accordance with section 2 of this Act may be filed under the Contract Disputes Act of 1978 (41 U.S.C. 611).

(2) Interest penalties under this Act shall be computed (A) after the filing of a claim under the Contract Disputes Act of 1978, or (B) after the filing of a claim under the Contract Disputes Act of 1978, or (C) after the filing of a claim under the Contract Disputes Act of 1978.

(3) Paragraph (2) shall not apply to any amount of interest pursuant to section 2 of this Act, and interest on such amount shall be computed under this Act, and interest on both any unpaid contract amount and any interest penalty required by this Act shall be computed under this Act.

(b) Except as provided in subsection (a), this Act shall not apply to interest on payments made after the payment date by reason of a business concern over the period of time during which any such dispute, and any interest on such amount, is subject to the Contract Disputes Act of 1978.

CONGRU

SEC. 5. (a) Each Federal agency shall submit a report to the Office of Management and Enterprise Services on interest penalty payments made under this Act during each fiscal year.

(b) Such report shall include information on the frequency of interest penalty payments were not avoided by the Director within sixty days after the end of each fiscal year.

(c) The Director shall submit a report to the Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives not later than sixty days after the end of each fiscal year on the progress made in reducing interest penalty payments from previous years.

SEC. 6. For the purposes of this Act—

(1) the term "Federal agency" in section 2 of this Act includes any entity which is acting as an instrumentality of the Federal Government in administering one or more

SEC. 4. (a)(1) Claims for interest penalties which a Federal agency has failed to pay in accordance with the requirements of section 2 or 3 of this Act may be filed under section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605).

31 USC 1803

(2) Interest penalties under this Act shall not continue to accrue (A) after the filing of a claim for such penalties under the Contract Disputes Act of 1978, or (B) for more than one year.

41 USC 601 note.

(3) Paragraph (2) shall not be construed to preclude the accrual of interest pursuant to section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) after interest penalties have ceased accruing under this Act, and interest pursuant to such section may accrue on both any unpaid contract payment and on the unpaid interest penalty required by this Act.

(b) Except as provided in section 3 with respect to disputes concerning discounts, this Act shall not be construed to require interest penalties on payments which are not made by the required payment date by reason of a dispute between a Federal agency and a business concern over the amount of that payment or other allegations concerning compliance with a contract. Claims concerning any such dispute, and any interest which may be payable with respect to the period while the dispute is being resolved, shall be subject to the Contract Disputes Act of 1978.

CONGRESSIONAL OVERSIGHT

SEC. 5. (a) Each Federal agency shall file with the Director of the Office of Management and Budget a detailed report on any interest penalty payments made under this Act during the preceding fiscal year.

Report, filing with OMB. 31 USC 1804

(b) Such report shall include the number, amounts, and frequency of interest penalty payments, and the reasons such payments were not avoided by prompt payment, and shall be delivered to the Director within sixty days after the conclusion of each fiscal year.

Contents.

(c) The Director shall submit to the Committee on Governmental Affairs, the Committee on Appropriations, and the Committee on Small Business of the Senate and to the Committee on Government Operations, the Committee on Appropriations, and the Committee on Small Business of the House of Representatives within one hundred and twenty days after the conclusion of each fiscal year a report on Federal agency compliance with the requirements of this Act. Such report shall include a summary of the report submitted by each Federal agency under subsection (b) and an analysis of the progress made in reducing interest penalty payments by that agency from previous years.

Federal agency compliance; submittal to congressional committees.

DEFINITIONS

SEC. 6. For the purposes of this Act—

31 USC 1805.

(1) the term "Federal agency" has the same meaning as the term "agency" in section 551(1) of title 5, United States Code, but also includes any entity (A) which is operated exclusively as an instrumentality of such an agency for the purpose of administering one or more programs of that agency, and (B)

which is so identified for this purpose by the head of such agency;

(2) the term "business concern" means any person engaged in a trade or business and nonprofit entities operating as contractors;

(3) an invoice shall be considered a "proper invoice" when it contains or is accompanied by such substantiating documentation (A) as the Director of the Office of Management and Budget may require by regulation; and (B) as the Federal agency involved may require by regulation or contract;

(4) an invoice shall be deemed to have been received by an agency on the later of—

(A) the date on which the agency's designated payment office or finance center actually receives a proper invoice; or

(B) the date on which such agency accepts the property or service concerned;

(5) a payment shall be considered made on the date on which a check for such payment is dated; and

(6) a contract for the rental of real or personal property is a contract for the acquisition of that property.

EFFECTIVE DATE

31 USC 1801
note.

SEC. 7. (a) This Act applies to the acquisition of property or services on or after the beginning of the first calendar quarter which begins more than ninety days after the date of enactment of this Act.

31 USC 1801
note.

(b) The provisions of this Act requiring the promulgation of regulations shall be effective upon enactment, and such regulations shall be promulgated not later than ninety days after the date of enactment of this Act.

31 USC 1806.

(c) The provisions of this Act shall apply to the Tennessee Valley Authority, but any regulations promulgated under the authority of this Act shall not be applicable to the Tennessee Valley Authority, which shall be solely responsible for implementing the provisions of this Act with respect to its contracts.

Approved May 21, 1982.

LEGISLATIVE HISTORY—S. 1131 (H.R. 4709):

HOUSE REPORT No. 97-461 accompanying H.R. 4709 (Comm. on Government Operations).

SENATE REPORT No. 97-302 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD:

Vol. 127 (1981): Dec. 15, considered and passed Senate.

Vol. 128 (1982): Mar. 23, H.R. 4709 considered and passed House; proceedings vacated and S. 1131, amended, passed in lieu.

May 11, Senate concurred in House amendments.

PUBLIC LAW 97

AMELIA EARHART DAY

Joint Resolution to authorize and request the President to observe Earhart Day.

Whereas Amelia Earhart was the first woman to fly solo across the Atlantic Ocean as a pilot;

Whereas Amelia Earhart was the first woman to fly solo across the Atlantic Ocean in various airplanes and aircraft;

Whereas Amelia Earhart was an inspiring example to all women in aviation;

Whereas Amelia Earhart was a pioneer in aviation and was a strong advocate of aviation;

Whereas Amelia Earhart was the first woman to be awarded the Distinguished Flying Cross;

Whereas Amelia Earhart was the first woman to fly solo across the Atlantic Ocean on May 20, 1932;

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be and he is authorized and requested to observe Earhart Day, as a tribute to the achievements of women aviators, and to call upon all Federal agencies and the people of the United States to observe Earhart Day with appropriate ceremonies.

Approved May 21, 1982.

Approved May 21, 1982.

Approved May 21, 1982.

Approved May 21, 1982.

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Approved May 21, 1982.

Approved May 21, 1982.

Bill Fact Sheet

Date Received _____

Bill Number HB 240 Title Relating to payment of interest by state

Fiscal Note - Date Requested revised 6-1 Date Received _____

- Of Whom _____

Dept. Position Paper - Date Requested _____ Date Received _____

- Of Whom _____

Resource People

Initial Hearing - Date fell through 5-26, 6-7
People Contacted

Shultz - 4940 - requested info 5/18
Dept of Admin/

- 6-1 ✓ Net. T. Gary Jenkins 6-4100 ✓ answering service
- ✓ Cynthia Halterman 2200
- Kenneth Bischoff, Director

Fol

Hear only
C

Final Action _____ Date _____

H B

211

#1



McGLOTHLIN BALIVET CO.
ARCHITECTS & PLANNERS

March 29, 1984

Honorable Robert H. Ziegler, Sr.
Alaska State Legislature
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Subject: HB-211 (Architectural, Engineering and Land Surveying Contracts)

Dear Senator Ziegler:

I urge you to pass HB-211 for the following reasons:

1. Architectural and engineering services should be procured on a quality basis. Often fees are not accurate reflections of this. A large firm may not offer the quality of service on smaller projects which a small firm offers. Conversely, a larger project may require the extensive production capabilities of a large firm. Overhead burdens, principal involvement, production systems, and quality control may differ in each case depending on the quality of services demanded. Only through negotiations is the Contracting Agency able to control this quality of services, whereas selection on a fee basis gives little or no control.
2. The old adage, "You get what you pay for", applies. In recent years, competitive bidding in construction contracts has been very keen. Bidders have underbid projects in hopes of lucrative change orders and/or claims. Where on-site quality control is lax, workmanship suffers. The Contracting Agency, therefore, is required to spend much more on site inspections. Eventually, the extra administrative costs lose anticipated savings. By selecting architects, engineers, or land surveyors also on lowest fees, the lack of quality control is compounded. In the end, the State will suffer with high maintenance costs, as well as poor quality control in design and construction.
3. Alaska has unique design and construction conditions. Outside firms who go through the paperwork of receiving Alaskan registration may be more competitive in fees, yet offer very little demonstrated competency in arctic design.

For these reasons, I again urge you to pass HB-211. Thank you for your consideration and attention.

Sincerely,

Robert F. Balivet, AIA
rmm

Municipality of Anchorage

MEMORANDUM

DATE: March 9, 1984
TO: Daniel Cowden, Program Planning and Budgeting Office
FROM: Purchasing Officer
SUBJECT: Comments on CS for HB 211

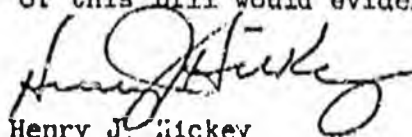
There are at least two areas of concern in CS for HB 211 from the Purchasing Division's perspective.

The first is under 36.98.041 (b) beginning at line 24 "Before selection and negotiation the State may not request or consider any statement, bid, or estimate of fees or charges for architectural, engineering, or land surveying services." This would be construed to prevent this 'political subdivision' or any 'political subdivision' from getting an estimate from any source to assist them in establishing 'fair and reasonable prices.'

It is obvious if we were prevented by law from requesting or considering competitive information on fees we would be at the mercy of the A/E community to establish the fee level. It is patently ridiculous to enter into fee negotiations and not be able to know current market conditions. Moreover, this act would put smaller political subdivisions at a major disadvantage. Smaller subdivisions only occasionally retain A/E consultants so they would not even possess the experience gained from their own negotiations - and could not seek pricing assistance even from other political subdivisions.

Although it is religiously resisted by the A/E community, there is an increasing propensity to receive unpriced proposals and, through negotiation discussions, define the work scope with several qualified consultants. When the scope is defined then competitive prices are solicited and the contract is awarded to the low priced offer. This process insures the best efforts of the consulting firms with regard to both work scope and price.

The second problem under 36.98 Section I, as proposed, is that it appears no consideration is given to small design and land surveying contracts. There are many small jobs where minimum technical effort is required. In other words, any professional of that particular design discipline should be able to equally perform. Price, then, is the only separating criterion. Passage of this bill would evidently prevent proceeding in this manner.


Henry J. Hickey
Purchasing Officer

Copy to: Barbara Steckel, Municipal Manager
Robert M. Nelson, Chief Fiscal Officer

**ANDERSEN
BJORNSTAD
KANE
JACOBS, INC.**

CONSULTING ENGINEERS

500 L STREET, SUITE 401
ANCHORAGE, ALASKA 99501
(907) 274-3660

Senator Richard Eliason
Pouch V
Juneau, Alaska 99811

20 March 1984

Subject: HB211

Dear Senator Eliason:

Though you have not acknowledged receipt of my recent letter to you regarding the subject bill, I now have a copy of your 12 March memo to the other senators. I would like to correct some of the misstatements in the memo:


First, the DOJ suit against the Board of Registration is not directly related to HB211. If you will read the disputed regulation, which has not been deleted from the books, since the outcome of the suit has not yet been decided by the judge, you will see that it is a prohibition against the submission of bids by individual registrants. HB211, on the other hand, refers only to publicly financed projects, and gives direction only to public entities.

I do agree with your comment that HB211 "had the appearance of being special interest legislation". It is, indeed, and the beneficiaries of that "special interest" are the members of the Alaska public--they will receive much better projects for less money. I am enclosing a rather well-known quotation from John Ruskin which is quite pertinent to this matter. There is another, by whom I don't know, which is, "The bitter taste caused by poor workmanship and inferior materials remains long after the sweet flavor of the low bid".

I think you should probably ask Commissioner Knapp before you publicize what you purport to be DOT/PF's position on HB211. You may be surprised at his answers.

I don't agree there is any need for a "committee substitute" to HB211. The Alaska public deserves the protection it affords for public funds.

Sincerely,



Arthur R. Jacobs, PE

ARJ/ik
cc: Scott Burgess
Senator Sturgulewski

“The Lowest Bidder . . .

It's unwise to pay too much, but it's worse to pay too little. When you pay too much, you lose a little money — that is all. When you pay too little, you sometimes lose everything, because the thing you bought was incapable of doing the thing it was bought to do. The common law of business balance prohibits paying a little and getting a lot — it can't be done! If you deal with the lowest bidder, it is well to add something for the risk you run. And if you do that, you will have enough to pay for something better.”

John Ruskin
1819 - 1900



Peratrovich, Nottingham & Drage, Inc.

Engineering Consultants

Telex 090 26436
Int. Telex 200 26436

1506 West 36th Avenue • Suite 101 • Anchorage, Alaska 99503 • 907-561-1011

April 2, 1984

PN&D 84000

The Honorable Richard I. Eliason
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Re: HB 211

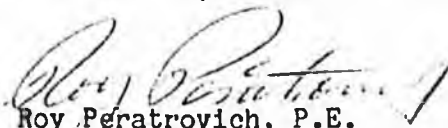
Dear Senator:

I recently contacted several senators, including yourself, concerning the above-referenced house bill. Some have replied with copies of your Committee on Labor and Commerce memorandum, dated March 12, 1984, in which you encourage talks between the architectural community and the Alaska Department of Transportation and Public Facility (DOT/PF) officials. Which DOT/PF officials do you suggest we contact, and what steps have been taken to promote these talks?

I still believe the above legislation is the best route for all concerned, especially the people of Alaska, but I am willing to discuss alternative solutions. Please contact me as soon as you are able so that this matter may be dealt with expeditiously.

Sincerely,

PERATROVICH, NOTTINGHAM & DRAGE, INC.


Roy Peratrovich, P.E.
Vice President

RP/bm/L2



Peratrovich, Nottingham & Drage, Inc.

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Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Re: HB 211

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Sincerely,

PERATROVICH, NOTTINGHAM & DRAGE, INC.

Brent T. Drage, P.E.
Vice President

BTD/lm/L2

REGINA GRIMES
4049 San Ernesto Avenue
Anchorage, Alaska 99508

March 27, 1984

Robert H. Ziegler
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Ziegler,

I'm writing to request your support for HB 211. This bill would codify the current procedure whereby architects and engineers are chosen by the State and local governments. It would preclude price bidding for those services.

The architectural and engineering community has been working on this bill for three years. The bill has passed the House and currently resides in the Senate Labor and Commerce Committee. It will likely remain in this committee until there is a substantial show of support for the bill by the rest of the Senate.

During a recent poll of 1,600 architects and engineers, more than 91% indicated they supported this bill.

The Federal government and twenty-nine other states have enacted similar legislation.

Thank you for your consideration. Any help you can give to move this bill will be greatly appreciated by our community.

Sincerely,



Regina Grimes

RG/glj

Marilyn M. Barbeau
6624 East Sixth Avenue
Anchorage, Alaska 99504

March 29, 1984

Honorable Robert H. Ziegler, Sr.
Alaska State Legislature
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Ziegler:

I am writing you to enlist your support for HB-211. This bill is important to the members of the Architectural and Engineering community, but on a broader scale, to all of those in our State.

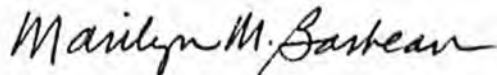
This bill would provide a procedure whereby Architect and Engineers are selected by State and local governments on the basis of professional qualification and previous experience. It would preclude price bidding for those services.

The Federal Government has for many years had similar legislation known as the Brooks Bill and twenty-nine other states have also enacted similar legislation. The Architectural and Engineering community has been working on this bill for three years and the bill is favored by over 90% of the community. The bill has passed the House and it is my understanding that it currently is in the Senate Labor & Commerce Committee.

Alaskan conditions are unique as they relate to the design and construction of facilities within our State and as such it is extremely important that design services for these facilities are selected based on qualifications and experience. We will all benefit.

I thank you for your consideration and urge your support to move HB-211 through the Senate during this legislative session.

Sincerely,



Marilyn M. Barbeau, AIA

HAEG · BETTIS · ASSOCIATES^{INC.}

March 30, 1984

Richard I. Eliason
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Eliason,

Recently I sent you a letter urging your support for HB 211, a Mini-Brooks Bill which precludes bidding for A/E Services. The bill currently resides in the Senate.

Attached you will find a Cost Benefit Analysis prepared by Consultant Management Services, Inc. which compares competitive bidding with competitive negotiation. This is the best comparison I have seen. Important points have been highlighted.

If you have not yet concluded negotiated A/E contracts are far superior to bidding design services, a review of the document would be highly informative.

Again, your support of HB 211 is appreciated.

Thank you for your time and consideration.

Sincerely,



Thomas Steven Bettis, Architect
Vice President

Attachment

TSB/glj

HAEG · BETTIS · ASSOCIATES^{INC.}

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Alaska State Legislature
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Juneau, Alaska 99811

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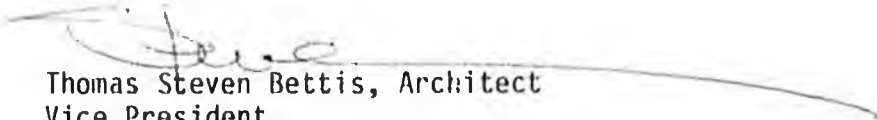
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Vice President

Attachment

TSB/glj

FP
E.

March 30, 1984

Senator Richard I. Eliason
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

REFERENCE: HB 211

Dear Senator Eliason:

This letter is written in the hope you will support HB 211. The bill represents three years of work by the architectural and engineering communities, and we feel is worthy of passage.

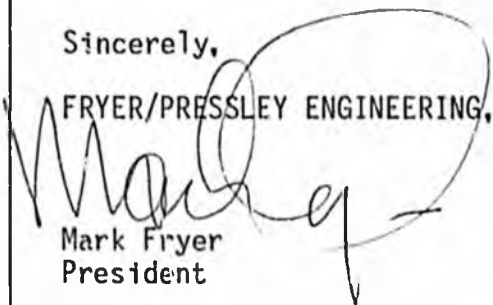
The bill provides for competition among design professionals on the basis of qualifications. The current trend toward the selection of design professionals on the basis of price alone, if allowed to continue, will effectively subsidize the legal community at the expense of the citizen. The current trend toward selection based upon price alone will also assure that the state will retain the least talented of engineers available. Imagine accepting the bid of an engineer to design a road on the North Slope when that engineer has never set foot north of Juneau. Such a situation could happen if the current trend toward competitive bidding of design services continues.

HB 211 can stop the trend while providing a basis for competition in the design marketplace.

Thank you for consideration of this matter.

Sincerely,

FRYER/PRESSLEY ENGINEERING, INC.



Mark Fryer
President

Marilyn M. Barbeau
6624 East Sixth Avenue
Anchorage, Alaska 99504

March 29, 1984

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Alaska State Legislature
Alaska State Senate
Pouch V
Juneau, Alaska 99811

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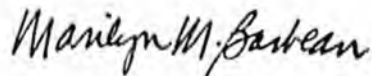
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I thank you for your consideration and urge your support to move HB-211 through the Senate during this legislative session.

Sincerely,



Marilyn M. Barbeau, AIA



McGLOTHLIN BALIVET CO.
ARCHITECTS & PLANNERS

March 29, 1984

Honorable Richard J. Eliason
Alaska State Legislature
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Subject: HB-211 (Architectural, Engineering and Land Surveying Contracts)

Dear Senator Eliason:

I urge you to pass HB-211 for the following reasons:

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For these reasons, I again urge you to pass HB-211. Thank you for your consideration and attention.

Sincerely,

Robert F. Balivet, AIA

mm

LEO MC GLOTHLIN, AIA

ARCHITECT

600 CORDOVA, SUITE SIX, ANCHORAGE, ALASKA 99501 (907) 279-7811
276-2900

March 28, 1984

Honorable Richard J. Eliason
Alaska State Legislature
Alaska State Senate
Pouch V
Juneau, Alaska 99811

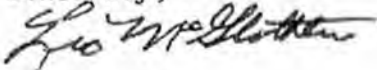
Dear Senator Eliason:

I am writing you to request your support for HB-211. This bill would provide a procedure whereby Architects and Engineers are chosen by State and local governments on the basis of professional qualifications and past experience and would preclude price bidding for those services. The Federal government has for many years had similar legislation known as the Brooks Bill. Twenty-nine other states have enacted similar legislation. The Architectural and Engineering community has been working on this bill for three years and the bill is favored by over 90% of the community. The bill has passed the House. It is my understanding that it currently resides in the Labor & Commerce Committee and as Chairman your support is vital and would be greatly appreciated.

The value of this type of a bill relates very closely to the current and ongoing disputes relative to correctional facilities in the State. Everyone currently seems to be playing down or ignoring the ongoing costs of operation and maintenance for any new facilities. On the assumption that a correctional officer including salary and benefits would cost the State approximately \$50,000.00 per year, such a position on a 24 hour a day basis, 365 days a year, would require at least four men or \$200,000.00 per year. It is very easy to calculate that through efficient design, particularly in a maximum security facility, the long term cost savings to the State can be very significant. Not only will a well conceived design reduce the staff requirements, but further can substantially reduce the ongoing operation and maintenance costs. This attention to design cannot be realized in a competitive bid situation, but only by selection based on professional qualifications and experience.

I would thank you for your consideration and urge you to provide any assistance you can give to move the bill through the Senate during this session.

Sincerely,



Leo McGlothlin, AIA

mm

RICHARD E. KEITHAHN, ARCHITECT, AIA
10480 FRITZ COVE ROAD
JUNEAU, ALASKA 99801
907-789-7495

March 29, 1984

Senator Robert Ziegler
State Capitol
Juneau, Alaska 99801

Dear Senator Ziegler

I'm writing in reference to HB 211 which is of significant interest to the architects and engineers of Alaska. As you may know this bill would codify procedures whereby architects and engineers are chosen by state and local governments. It would preclude bidding for services and would allow selection of the most competent with cost considerations, rather than the lowest bidder.

The bill, having passed the House, resides in the Senate Labor and Commerce Committee where it is likely to remain without substantial support from the rest of the Senate.

If you desire additional information on this legislation please refer to the material furnished to your office by the Alaska Chapter of the American Institute of Architects.

Your help in moving this bill through the Senate would be greatly appreciated.

Thank you for your consideration.

Sincerely,



Richard E. Keithahn

RE Kb

LEO MC GLOTHLIN, AIA

ARCHITECT

600 CORDOVA, SUITE SIX, ANCHORAGE, ALASKA 99501 (907) ~~279-7811~~
276-2900

March 28, 1984

Honorable Robert H. Ziegler, Sr.
Alaska State Legislature
Alaska State Senate
Pouch V
Juneau, Alaska 99811

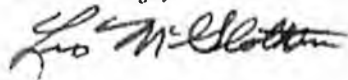
Dear Senator Ziegler:

I am writing you to request your support for HB-211. This bill would provide a procedure whereby Architects and Engineers are chosen by State and local governments on the basis of professional qualifications and past experience and would preclude price bidding for those services. The Federal government has for many years had similar legislation known as the Brooks Bill. Twenty-nine other states have enacted similar legislation. The Architectural and Engineering community has been working on this bill for three years and the bill is favored by over 90% of the community. The bill has passed the House. It is my understanding that it currently resides in the Labor & Commerce Committee and I am greatly concerned that it will remain there unless there is substantial support for the bill by the rest of the Senate.

The value of this type of a bill relates very closely to the current and ongoing disputes relative to correctional facilities in the State. Everyone currently seems to be playing down or ignoring the ongoing costs of operation and maintenance for any new facilities. On the assumption that a correctional officer including salary and benefits would cost the State approximately \$50,000.00 per year, such a position on a 24 hour a day basis, 365 days a year, would require at least four men or \$200,000.00 per year. It is very easy to calculate that through efficient design, particularly in a maximum security facility, the long term cost savings to the State can be very significant. Not only will a well conceived design reduce the staff requirements, but further can substantially reduce the ongoing operation and maintenance costs. This attention to design cannot be realized in a competitive bid situation, but only by selection based on professional qualifications and experience.

I would thank you for your consideration and urge you to provide any assistance you can give to move the bill through the Senate during this session.

Sincerely,



Leo McGlothlin, AIA

mm

2357 Hialeah Drive
Anchorage, Alaska 99503

March 29, 1984

Senator Robert H. Ziegler Sr.
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Ziegler,

HB 211 pertaining to State selection procedures for obtaining architectural and engineering services is currently being considered by the Senate Labor and Commerce Committee. In essence, HB 211 would preclude the State from selecting architects and engineers on the basis of price alone.

Clients who are accustomed to procuring commodities believe that competitive bidding offers the advantage of safely obtaining design services at the lowest possible cost. While there is the advantage of potential savings in the cost of design services, the problems with bidding present the State with potential disadvantages that are very real:

1. A solicitation for design services that exactly describes the scope and quality of those services is difficult if not impossible to prepare. This would be analogous to the plans and specifications an architect or engineer would provide to a contractor that wished to prepare a bid for the construction of a new structure. Inasmuch as the scope and quality issues will be less specific and more ambiguous than plans and specifications, the architect will have to make assumptions on the kind and scope of services to provide. This situation can produce an adversarial relationship between the owner and the low bidder due to a lack of clarity in the scope documents. Defining a basic scope of work for a project would require that the owner-client conduct an extensive and knowledgeable in-house consultation process to develop this information prior to releasing scope documents to be used as the basis of consultant bidding.
2. All other things being equal, the low bidder will obtain the design commission due to his ability to produce the job in less time. By necessity, he will be required to limit the time he can allot for the development of his design solution. A structure that is economical to construct and economical to operate takes time and effort to design. Bidding may not allow the designer the flexibility to explore alternative solutions to design problems. Life-cycle maintenance and operating cost savings resulting from a thoughtful and deliberative

Senator Robert H. Ziegler Sr.

March 29, 1984

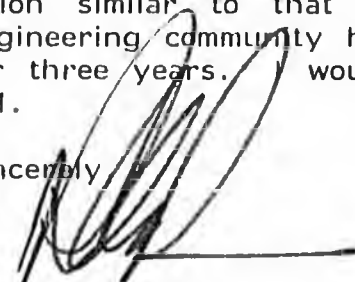
Page 2

design process will be many times greater than the potential fee reduction resulting from bidding design services. The percentage of a project's total construction cost that is utilized for architectural and engineering fees is very small. In fact, total construction cost appears small when compared with a project's life-cycle cost.

3. Quantification of the architect's or engineer's experience, creativity, past performance, financial strength, and professional skill may not be possible in bidding, whereas the success of the project is, to a large part, dependent on these factors.
4. A great deal more money could be spent correcting construction or operational problems if the design or construction documents for a facility are reduced in quality as a result of the bidding process. The effect of bidding on liability insurance claims and costs is not documented at this time but is an issue of increasing concern to design consultants and their E&O insurers. It is felt that those firms successfully bidding for design commissions will be the ones who will feel comfortable treading that fine line between a set of minimally coordinated and detailed project documents and ones potentially containing errors and omissions caused by extremely tight production cost constraints.

The Federal government and twenty-nine other states have enacted legislation similar to that proposed by HB 211. The architectural and engineering community has been working toward the passage of this bill for three years. I would recommend and appreciate your support of HB 211.

Sincerely,



Richard B. Riegels, AIA
Principal
CCC Architects and Planners

cc: Richard I. Eliason

RBR/nri

1055 West 20th Avenue
Anchorage, Alaska 99503

March 26, 1984

Senator Richard I. Eliason
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Eliason,

I'm writing to urge your support for HB 211. This bill would codify the procedure for the selection of architects and engineers by the State and local governments. It would use qualifications rather than price alone as the prime criteria for selection.

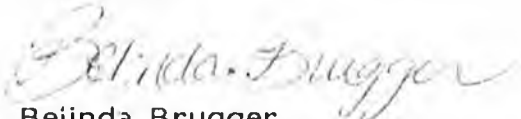
The architectural and engineering community has been working on this bill for three years. The bill has passed the House and currently resides in the Senate Labor and Commerce Committee. Your support for this bill is necessary to bring it out of committee.

The Federal government and twenty-nine other states have enacted similar legislation.

For further information on this legislation, please refer to the material previously provided to your office.

Your support and assistance in passage of this bill will be greatly appreciated.

Sincerely,



Beinda Brugger
Director Interior Design

BB/nri

**JAMES SIPMAN ■ ARCHITECT ■ A.I.A.
& ASSOCIATES**

4101 ARCTIC BLVD., STE. 101 ■ ANCHORAGE, AK. 99503 ■ (907) 878-8088

562-2121

March 23, 1984

Richard Eliason, Chairman
Labor & Commerce Committee
Alaska State Senate
Pouch V, Capitol Bldg., Rm. 417
Juneau, AK 99811

RE: HB 211 (A/E services procurement)

Dear Senator Eliason:

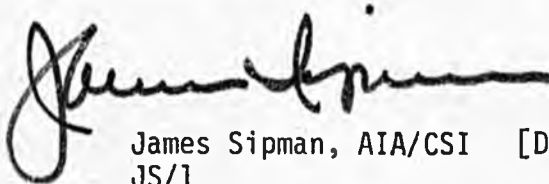
I am writing you to request that you urge the committee to take action on this very critical bill that will have significant impact on the architectural and engineering community directly and its contracting for services with the State.

As you know we have been working on this measure for over three years, such legislation being in force in twenty nine other states as well as the federal government.

The material supplied your office clearly indicates the need for such a bill and tabulates the resulting advantages for implementing the proposed legislation.

Please take a few minutes to review the data available which I am sure will convince you to support HB 211 in the committee as well as on the floor of the Senate for action this session.

Regards,



James Sipman, AIA/CSI [District H]
JS/1

xc: Rick Halford
Tim Kelly

John E. McDonough, P.E.

CIVIL ENGINEER

1220 Glacier Ave. #210
Juneau, Alaska 99801

(907)586-6524

March 22, 1984

The Honorable Richard I. Eliason
Pouch V, Mail Stop 3100
Juneau, Alaska 99811

Re: HB 211-"Mini Brooks Bill"

Dear Senator Eliason:

I was not privileged to attend the Senate Committee hearing concerning HB 211. I am advised that at the conclusion of the hearing, you stated that you were not convinced of the merits of the bill and that the bill would remain in your committee until you were convinced of the bill's merit.

In an attempt to convince you to at least move the bill, I ask that you consider the following analogy. Let us assume that you decide that you want to become a full-time fisherman in the Aleutians-Bering Sea area, and that you desire to be able to fish for crab, long-line, and stern-trawl for bottom fish. Let us further assume that you want a new vessel, one that is to be designed and constructed to meet your requirements.

Would you advertise in the NATIONAL FISHERMAN or in WORKBOAT for a naval architect to submit proposals and then select on the basis of fee alone? I think not! I believe that you would first ascertain whether one of the yards in the northwest had a stock design that would either fulfil or could be reasonably modified to fulfil your requirements. Failing this, I think that you would contact one or more naval architects, who had proven designs actually working in the fishery. Then, after establishing to your satisfaction the competency of one or more designers, the element of design cost would enter into your negotiations.

In other words, the security of obtaining either a proven design or having the design work performed by a successful designer is more important than the mere cost of the design work. In either case you would end up with a vessel that was designed to perform specific tasks in a specific fishery rather than a "cookbook" design.

It is not my contention that all design work performed by designers selected on the basis of price will not be acceptable, or that all design work performed by designers selected by other means will be perfect. It is my belief that the best design work will be performed by persons having previous experience on similar types of projects and knowledge of local and regional conditions.

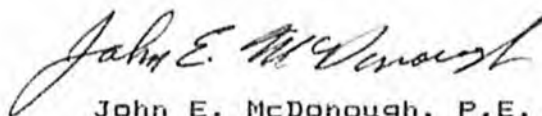
The old axiom, "you get what you pay for", has a very real meaning in the procurement of any kind of services. In my almost thirty-four years since college, it has been my experience that the first cost of anything is rarely the most significant cost element, especially in professional services.

Passage of this legislation would require consideration of criteria other than cost and, hopefully, thereby benefit the public welfare.

I have no personal gain interest in this bill, as I have performed no work for the state since my retirement from the DOT/PF over two years ago nor do I intend to perform any work for the state for several reasons which are not germane to this issue.

I hope that the ideas expressed herein will be of some use to you and at least provide you with the views of one member of the engineering profession.

Sincerely,

A handwritten signature in cursive script that reads "John E. McDonough". The signature is written in dark ink and is positioned above the printed name.

John E. McDonough, P.E.



ANCHORAGE BRANCH
AMERICAN SOCIETY OF CIVIL ENGINEERS

March 21, 1984

Senator Richard I. Eliason
Chairman, Labor and Commerce Committee
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Eliason,

As President of the 500-member Anchorage Branch of ASCE, I am urging you to move HB 211 through the Senate. This bill, currently residing in your committee, is very important to our profession. A recent poll indicates that more than 90% of the architectural and engineering community supports the bill. Any help you can give us will be greatly appreciated.

For further information on this legislation please refer to the material already provided to your office by the Consulting Engineers Council. If you have any questions of the members of ASCE specifically, please contact me at:

4920 Hartman Circle
Anchorage, Alaska
99507
PH. 563-8335

Thank you for your consideration.

Sincerely,

Sharen Walsh Linford, P.E.
Sharen Walsh Linford, P.E.
President

March 19, 1984

Senator Richard I. Eliason
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Eliason,

I'm writing to urge your support for HB 211. This bill would codify the procedure for the selection of architects and engineers by the State and local governments. It would use qualifications rather than price alone as the prime criteria for selection.

The architectural and engineering community has been working on this bill for three years. The bill has passed the House and currently resides in the Senate Labor and Commerce Committee. Your support for this bill is necessary to bring it out of committee.

The Federal government and twenty-nine other states have enacted similar legislation.

For further information on this legislation, please refer to the material previously provided to your office.

Your support and assistance in passage of this bill will be greatly appreciated.

Sincerely,



Jerry Ballantyne, Assoc. AIA
3062 West 42nd Place #4
Anchorage, Alaska 99503

JB/nnl

3131 Lark #4
Anchorage, Alaska 99508

March 19, 1984

Senator Richard I. Eliason
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Eliason,

I'm writing to urge your support for HB 211. This bill would codify the procedure for the selection of architects and engineers by the State and local governments. It would use qualifications rather than price alone as the prime criteria for selection.

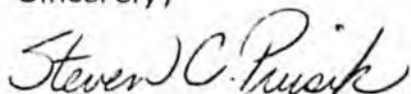
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The Federal government and twenty-nine other states have enacted similar legislation.

For further information on this legislation, please refer to the material previously provided to your office.

Your support and assistance in passage of this bill will be greatly appreciated.

Sincerely,



Steven C. Prusik
Graphics Coordinator

SCP/nnl

1836 Columbine St.
Anchorage, Alaska 99508

March 19, 1984

Senator Richard I. Eliason
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Eliason,

I'm writing to urge your support for HB 211. This bill would codify the procedure for the selection of architects and engineers by the State and local governments. It would use qualifications rather than price alone as the prime criteria for selection.

The architectural and engineering community has been working on this bill for three years. The bill has passed the House and currently resides in the Senate Labor and Commerce Committee. Your support for this bill is necessary to bring it out of committee.

The Federal government and twenty-nine other states have enacted similar legislation.

For further information on this legislation, please refer to the material previously provided to your office.

Your support and assistance in passage of this bill will be greatly appreciated.

Sincerely,



Mark S. Smedley
Intern Architect

MSS/nnl

1736-A West 11th Avenue
Anchorage, Alaska 99501
(907) 274-5414

March 19, 1984

Senator Richard I. Eliason
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Eliason,

I'm writing to urge your support for HB 211. This bill would codify the procedure for the selection of architects and engineers by the State and local governments. It would use qualifications rather than price alone as the prime criteria for selection.

The architectural and engineering community has been working on this bill for three years. The bill has passed the House and currently resides in the Senate Labor and Commerce Committee. Your support for this bill is necessary to bring it out of committee.

The Federal government and twenty-nine other states have enacted similar legislation.

Your support and assistance in passage of this bill will be greatly appreciated.

Sincerely,



Elizabeth G. Braun

EGB/nnl

BID CONTRACTS AS CRITERION:

- . Professionals must compete openly against each other.
- . Profession becomes secretive about methods and practices.
- . State may pay less \$ for projects.
- . Small firms get "break" and chance to work on new building types.
- . Free enterprise.
- . Lessening of professional services - Professional Services = Time = \$.
- . Decrease in quality of buildings and projects.
- . Decrease in salaries of professionals to compensate for low bids.
- . Professionals of quality leaving state for reasonable employment elsewhere.
- . Firms of little or no experience receiving jobs they cannot handle and are not qualified to do.

QUALIFICATIONS AS CRITERION:

- . State allowed to choose firm with best qualifications.
- . Full Service provided by professionals.
- . Projects managed by competent and experienced professionals.
- . State pays same \$ as now for work.
- . State draws well qualified people to live and work here.
- . Quality buildings and projects are produced.
- . Large firms train young professionals in certain construction types - They later branch out on their own after gaining experience.
- . Information concerning building practices is openly shared among professionals.

1835 Northwestern
Anchorage, Alaska 99504

March 19, 1984

Senator Richard I. Eliason
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Eliason,

I'm writing to urge your support for HB 211. This bill would codify the procedure for the selection of architects and engineers by the State and local governments. It would use qualifications rather than price alone as the prime criteria for selection.

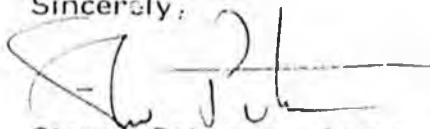
The architectural and engineering community has been working on this bill for three years. The bill has passed the House and currently resides in the Senate Labor and Commerce Committee. Your support for this bill is necessary to bring it out of committee.

The Federal government and twenty-nine other states have enacted similar legislation.

For further information on this legislation, please refer to the material previously provided to your office.

Your support and assistance in passage of this bill will be greatly appreciated.

Sincerely,

A handwritten signature in dark ink, appearing to read "Steven Peterson", written over a horizontal line.

Steven Peterson, Assoc. AIA
Architect

SP/nnl

SRA Box 6354
Wasilla, Alaska 99687

March 19, 1984

Senator Richard I. Eliason
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Eliason,

I'm writing to urge your support for HB 211. This bill would codify the procedure for the selection of architects and engineers by the State and local governments. It would use qualifications rather than price alone as the prime criteria for selection.

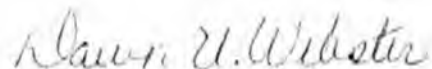
The architectural and engineering community has been working on this bill for three years. The bill has passed the House and currently resides in the Senate Labor and Commerce Committee. Your support for this bill is necessary to bring it out of committee.

The Federal government and twenty-nine other states have enacted similar legislation.

For further information on this legislation, please refer to the material previously provided to your office.

Your support and assistance in passage of this bill will be greatly appreciated.

Sincerely,



Dawn U. Webster
Construction Administrator

DUW/nnl

March 19, 1984

Senator Richard I. Eliason
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Eliason,

I'm writing to urge your support for HB 211. This bill would codify the current procedure whereby architects and engineers are chosen by the State and local governments. It would preclude price bidding for those services as the sole means of selection.

The architectural and engineering community has been working on this bill for three years. The bill has passed the House and currently resides in the Senate Labor and Commerce Committee. ~~The committee chairman has~~ ^{you} ~~has~~ ^{have} said that it will remain in ^{your} ~~his~~ committee until there is a substantial show of support for the bill by the rest of the Senate.

During a recent poll of 1,600 architects and engineers, more than 91% indicated they supported this bill.

The Federal government and twenty-nine other states have enacted similar legislation.

For further information on this legislation, please refer to the material previously provided to your office.

Thank you for your consideration. Any help you can give to move this bill will be greatly appreciated by our community.

Sincerely,



Sharon Davidoff
1335 Latouche
Anchorage, Alaska 99501

SD/nnl

P.O. Box 4817
Anchorage, Alaska 99509

March 19, 1984

Senator Richard I. Eliason
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Eliason,

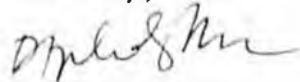
As a licensed architect, I'm writing to urge your support for HB 211. This bill would codify the procedure presently used by the State and local governments for the selection of architects and engineers. Qualifications rather than price alone would be the prime criteria for selection.

The architectural and engineering community has been working on this bill for three years. The bill has passed the House and currently resides in the Senate Labor and Commerce Committee. Your support for this bill is necessary to bring it out of committee.

The Federal government and twenty-nine other states have enacted similar legislation. For further information on this legislation, please refer to the material previously provided to your office.

Your support and assistance in passage of this bill will be greatly appreciated.

Sincerely,



Daphne E. Brown, AIA

DEB/nnl

FRANKLIN & ALLEN, INC.

Consulting Engineers

1813 East First Avenue
Suite 207
Anchorage, Alaska 99501
(907) 277-1631

March 14, 1984

Richard L. Eliason
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Eliason:

I'm writing to request your support for HB 211. This bill states, "The state shall select persons or firms for the performance of Architectural, Engineering or Land Surveying Services and award contracts for these services at fair and reasonable prices only on the basis of demonstrated competence and qualification for the type of professional services required." It would codify the current procedure whereby architects and engineers are chosen by the State and local governments.

The bill has passed the House and currently resides in the Senate Labor and Commerce Committee. It will likely remain in this committee until there is a substantial show of support for the bill by the rest of the Senate. During a recent poll of architects and engineers, more than 90% indicated they supported this bill. The Federal government and twenty-nine other states have enacted similar legislation.

If you have any questions or need further information concerning this bill or the required procedures please call. Thank you for your consideration. Please respond as I am interested in your position on this bill.

Sincerely,

Nelson M. Franklin

Nelson M. Franklin, P.E.

Don't like it!



GOLDEN VALLEY ELECTRIC ASSOCIATION INC. Box 1249, Fairbanks, Alaska 99707, Phone 907-452-1151

February 29, 1984

Dear Legislator:

As a contracting owner that often requires the need of professional services and has recently had the pleasure of performing work for the State of Alaska through the Alaska Power Authority, GVEA would like to enlist your support in opposing HB 211.

Professional services are not something an owner expects to obtain solely on the basis of lowest responsive bidder. Neither should these services be selected solely on the basis of a long, detailed list of qualifications and past experience for projects performed by engineers that have long since left the employment of a large, long time engineering firm.

Any contracting owner must retain the flexibility to solicit professional engineering proposals on the basis of current qualifications together with a statement of hourly charges and reimbursable expenses. These components are both necessary to insure a quality selection at a reasonable price.

Please vote against HB 211.

Best regards,

Michael P. Kelly
General Manager

March 16, 1984

Stephen D. Shrader
1475 Essex Circle
Anchorage, Alaska

Senate Labor & Commerce Committee
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Gentlemen:

I'm writing to urge you to release HB 211 from committee. As you know, this bill would codify the current procedure whereby architects, engineers and land surveyors are selected for contract negotiations by the State and local governments based on experience and qualifications. It would preclude price bidding for those services.

The architectural and engineering community has been working on this bill for three years. The bill has passed the House and presently resides in your committee. I am taking this opportunity to show my support for this bill and urge you to allow it out of committee.

During a recent poll of Alaska's architects, engineers, and land surveyors 90 percent indicated they support this bill. Results of the poll are attached.

The Federal government and twenty-nine other states have enacted similar legislation.

Also, I have enclosed a copy of a recent editorial regarding Maryland's competitive price bidding on State projects. It simply is not prudent to bid a job with little or no well-defined scope of work.

Thank you for your consideration. Any help you can provide in moving this bill will be greatly appreciated by our community.

Sincerely,



Stephen D. Shrader, P.E.

Attachments

XC: CECA
c/o 3812 Spenard Road
Suite 100
Anchorage, Alaska 99503

As We See It

Maryland's Great Experiment: Is it Working?

In 1974, with procurement scandals washing over the State of Maryland, involving Vice President Agnew and ultimately Governor Mandel, state legislators suddenly got religion. In knee jerk fashion they designed and passed a bill mandating competitive price bidding for A/E services on all state projects.

This Great Experiment, fortunately, did not spread to other states. Fortunately, because it has not worked. Whether or not it has stopped the political machinations (read payoffs) is not ours to say. Our question is how the law has affected the A/E profession and design quality in the state.

Consulting Engineers Council of Metropolitan Washington, whose members practice in Washington, D.C., and its surrounding Virginia and Maryland suburbs, queried its members on the system late in 1982.

Sixty one percent of the 119 members replied. Of these, 36% have not sought work since the law went into effect. Of the 46 firms that have, more than one half have abandoned the effort, mostly because of the inability to do a good job for the low fees that regularly win jobs.

Both a technical and a price proposal are required and they do not come cheap, averaging \$2420 for all projects listed by respondents. Counting only those proposals submitted by firms still doing work for the state, the average is \$3428.

Although this is serious because it eliminates many small firms from the field, the real question is quality. What kind of work is the state getting for its money? Asked whether they got the job because of the technical merits of their proposal or a low fee, 68% of the successful bidders cited low fees. Asked to evaluate design quality, 30 of 42 respondents said it was being lowered, nine that it was being maintained, and three thought it was raised. Of these firms, only 13 still seek state work; six of these said quality has suffered, five said it is the same, and two that it had improved.

Almost 68% of the firms working for the state admitted that they either lost money or broke even on their projects. Then why take them? The answer is frightening in its naiveté: to gain a favorable reputation in expectation of future profitable work.

Jane Edmunds

Editorial Director

Editorial Staff

Estel (Bud) Reed	<i>Publisher</i>	Diana Samuels	<i>Associate Editor</i>
Jane Edmunds	<i>Editorial Director</i>	John K. Bowersox	<i>Washington Editor</i>
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Rod Dickens	<i>Associate Editor</i>		
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*Stanley Cohen: 875 Third Ave., New York, N.Y. 10022, 212/605-9651

Coming Next Month

Computer room design, engineering models, and finance and accounting for small firms are a sampling of August features.

RESPONSE TO POLL OF THE PROFESSIONS OF ARCHITECTURE, ENGINEERING AND LAND SURVEYING
REGARDING THE ADOPTION OF HB 211 BY THE STATE OF ALASKA

Poll Conducted December, 1983

Returns as of 2/16/84

	Licensed Respondents			Non-licensed Respondents	TOTALS
	Architects	Engineers	Land Surveyors		
	Government Administrators				
In Favor	8	36	7	15	66
Opposed		8	2	3	13
Indifferent		1			1
Private Consultants					
In Favor	38	114	24	11	187
Opposed		5	2	1	8
Indifferent		1			1
Other Respondents					
In Favor	7	46	6	20	79
Opposed	1	4	4	3	12
Indifferent		1		3	4
All Respondents					
In Favor	53	196	37	46	332
Opposed	1	17	8	7	33
Indifferent	0	3	0	3	6
Total Respondents	54	216	45	56	371

March 16, 1984

Stephen D. Shrader
1475 Essex Circle
Anchorage, Alaska

Richard I. Eliason
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator:

I'm writing to request your support for HB 211. This bill would codify the current procedure whereby architects, engineers, and land surveyors are selected for contract negotiations by the State and local governments based on experience and qualifications. It would preclude price bidding for those services.

The architectural and engineering community has been working on this bill for three years. The bill has passed the House and currently resides in the Senate Labor and Commerce Committee. It will likely remain in this committee until there is a substantial show of support for the bill by the rest of the Senate.

During a recent poll of Alaska's architects, engineers, and land surveyors 90 percent indicated they support this bill. Results of the poll are attached.

The Federal government and twenty-nine other states have enacted similar legislation.

I have enclosed a copy of a recent editorial regarding Maryland's competitive price bidding on State projects.

Thank you for your consideration. Any help you can provide in moving this bill will be greatly appreciated by our community.

Sincerely,



Stephen D. Shrader, P.E.

Attachments

XC: CECA
c/o 3812 Spenard Road
Suite 100
Anchorage, Alaska 99503

March 12, 1984

The Honorable Robert H. Ziegler, Sr.
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Ziegler:

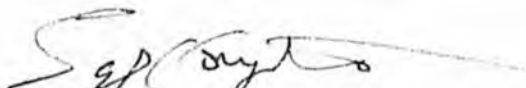
HB 211 would codify the current procedure whereby the State and local governments choose architects and engineers. It would preclude price bidding for their services.

A recent poll of architects and engineers indicated 91% supports this legislation.

Unless there is a substantial show of support for this bill it will die in its current committee, Senate Labor and Commerce.

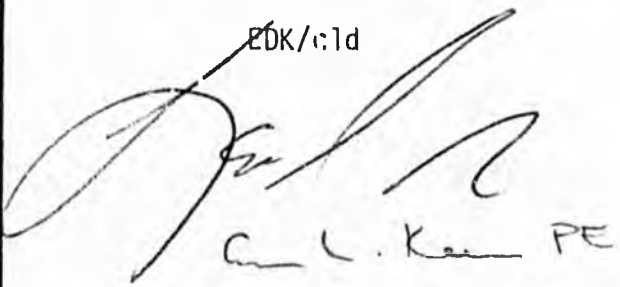
Any help you can give us to move this bill will be greatly appreciated by our community. Thank you for your consideration.

Very truly yours,



Earl D. Korynta, P.E.

EDK/cld



C. L. Ken PE

E. H. Riggs
Mark & Mary
Ken Bucko
L. L. Moore



Curtis K. Hall

Timothy Vig
Tommy K. O'Byrne
D. B.
Calvin K. Kujala
Tyrae J. Koelofs

going up



March 12, 1984

The Honorable Richard I. Eliason
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Eliason:


HB 211 would codify the current procedure whereby the State and local governments choose architects and engineers. It would preclude price bidding for their services.

A recent poll of architects and engineers indicated 91% supports this legislation.

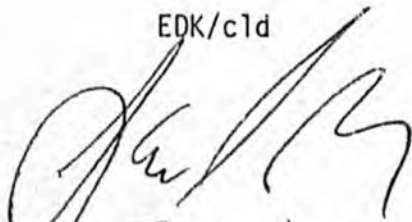
Unless there is a substantial show of support for this bill it will die in its current committee, Senate Labor and Commerce.

Any help you can give us to move this bill will be greatly appreciated by our community. Thank you for your consideration.

Very truly yours,


Earl D. Korynta, P.E.

EDK/cld


Gordon D. Unwin

Ed Riggs
Mark J. Martz
Ken Guetsch
L. A. Brown



Twetia Nuttall
Timothy Vig
Tommy M. O'Byrne
Bob Berg
Calvin Keshujima
Tyrae L. Roelofs

March 14, 1984

Senator Richard I. Eliason
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Eliason:

Please register my support of H.B. 211, the Mini-Brooks Bill. The Federal Brooks Bill governs the selection of Architects and Engineers on Federal Projects, and has resulted in a fair selection process for design professionals. Some points to consider about F.B. 211 and the Consultant selection process:

- o The Brooks Law has not dampened competition among professionals. It has heightened it. The competition, however, is based on quality of service, rather than price.
- o Unlike other professions, Engineers have never sought to limit their competition by a vigorous "birth control program", limiting the number of seats in our professional schools. On the contrary most engineers support improvements in Engineering education. This is especially true here in Fairbanks, where our local engineers vigorously support the expansion of the University School of Engineering.
- o Engineering fees are only a small portion of the construction cost of a capitol project, and a very small portion of the total life cycle cost. Yet, good engineering is of the single most important factor in reducing the cost of the project.
- o When Engineers work for a fixed fee, this fee is usually based on a Scope of Work that is developed with the Client during the preliminary stages of the project. The Client needs the Engineer's expertise to decide exactly what work the Engineer is to do for his fee. In order to "bid" engineering work, the Client would have to be able to define exactly what work he wants done before he selects an Engineer.
- o In the state of Maryland, the only state that requires bidding for State work, the administrative work for the State in developing precise Scopes of Work for Engineers to bid on has been a great burden to the State.
- o Most Engineers enjoy their fiduciary relationship with their clients. The Maryland system has reduced that relationship, in some cases, to an adversary relationship similar to the relationship of Construction


Letter: HB211

Page 2

Contractor and Owners. This leads to claims and law suits, further adding to the administrative burden of the clients engineers.

Please vote for H.B. 211, and ask your colleagues to vote for it.

Very truly yours,



ROBERT A. PERKINS, P.E.

RAP:mp

April 4, 1984

Senator Richard I. Eliason
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Eliason:

I am requesting that you give strong support to House Bill 211. This bill will clarify and provide the best process for public selection of Architects and Engineers. This bill needs your support to gain passage.

The bill is called the "Mini Brooks Bill" because it is patterned after the federal Brooks Bill. Twenty nine states have enacted very similar legislation. This bill will alleviate the current dispute with the federal Department of Justice regarding their suit that alleges non-competitive practices of Architectural/Engineer's with respect to selection for public projects based upon current state law.

The bill passed the House last session, and currently resides in the Senate Labor and Commerce Committee.

Thank you for your support. Any help you can give to move this bill will be greatly appreciated by me, the A/E community and the public.

Sincerely,



Thomas W. Livingston

TWL/srw

VERNON AKIN AND ASSOCIATES

CONSULTING ENGINEERS

P.O. BOX 1081

JUNEAU, ALASKA 99802

Phone (907) 586-6622

March 13, 1984

Dear Legislator and Friend:

The selection of professional services for architects and engineers, for many years, has been done based upon the qualifications of the professional instead of on the lowest price for design. In the past there have been trends to base the selection upon cost only, but it was found by sad experience that the system was not satisfactory. It takes on a small amount of analysis to see why the selection based primarily on cost does not produce satisfactory results. The owner is the party who suffers when the finished product does not perform as intended or desired. The work of a designer of a building cannot be made analogous to the work of a contractor, as many people have tried to do. Some people have asked why a designer can not bid a job the same as a contractor does. When a contractor bids a job, he has the plans and specifications prepared by a design team, so he knows exactly what the scope of the work is and what is required. On the other hand, when an owner wants a building designed and hires an architect or engineer, all the design team has for scope is a concept of the purpose for which the building is going to be used, the monies available, and possibly the breakdown of the approximate square feet desired for each function. Before and during design, the design team confers with the owner and at that time the true scope of the work is set. Many times the full extent of the scope of the work is not fully set until well into the design phase. So at the time of bidding of services there is no way that the true extent of the scope can be enumerated. If it were, then there would be a complete set of plans and specifications required for bidding the services, which is impractical. With a negotiated contract, it leaves the design team latitude to include cost and energy saving features into the design, as well as cost saving maintenance features.

The least expensive initial-cost building is not necessarily the most economical to operate and maintain. Life cycle costing has shown that the initial cost of a building is about 4 to 5 percent of the total cost of the building for the life of the building. So it is a fallacy to try to save a few dollars on the initial cost of a building if the operating and maintenance costs are going to be high. If the design of a building is going to be based upon cost only for the design, this eliminates the chance of getting a good design. All the owner is getting by accepting the low bidder is a minimum design. And a minimum design will result in a minimum quality building, without concern for any energy saving features, esthetic features, quality of materials, or effective operating and maintenance features that will prolong the life of the building and equipment.

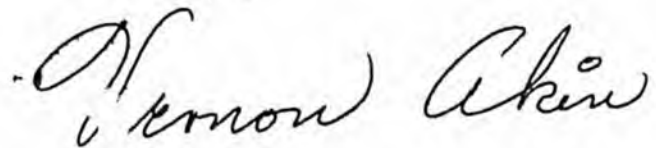
Some proponents of the bidding feature say that it will result in lower design costs. They are not evaluating correctly. Time costs money. The more time expended the more the cost. The only way lower design costs can be obtained is by spending less time on the design. But who suffers for this less time? It is not the design team, because their time is calculated and allotted at the time of the bidding. So it is the owner who gets exactly for what he is paying. There is no such thing as a "free lunch".

The proponents of the bidding arrangement say there is no competition. This is not correct. Under the present system, which has proven over the many decades to be the best method for the results desired, there is competition. The difference is that qualifications are the primary basis for selection--not cost for design. Under the present system used by the State of Alaska, the project is advertised for letters of interest. Any design team can put in their letter of interest. The applicants are then scored on a basis of 100 points related to the project. They are scored by the owner, which could consist of several agencies and departments of the state. From the scoring, the highest scoring team is interviewed first to see if there is an agreement on scope of the work, procedure, timing, and finally cost proposal. If there is no agreement, then negotiations are cancelled and the second highest scoring team is interviewed. This extends down the line of applicants until an agreement is reached. So the first team knows that their cost proposal must be acceptable to the owner or they are permanently out. There is no chance for competitive "price cutting" by the applicants. As stated previously, price cutting is to the detriment of the owner and not the designer.

Again, this bidding process on design work has been tried previously, and found that it was not successful. It resulted in poorly designed buildings lacking coordination in design, and the owner was the loser. There are all quality of designers from excellent to very poor, as in all fields of endeavor. If the selection is based upon qualifications, the owner will get the better designer. If the selection is based upon cost only, he will get the poor designer, because less time and coordination will be spent on the design. Details will be incomplete or totally missing which will cost more change orders and more time spent during construction. Remember that a design team in the selection process has reached an amicable agreement with the owner on cost to furnish the services the designer deems necessary for a satisfactory design, so the design team is working for the owner to see that the owner gets full value for his money. During construction the design team is the owner's representative, to protect the owner's interests. If the designer has to bid competitively for the job, the good design team who wants to put the extra time into the job to protect the owner's interests will not be the low bidder. So the owner is going to be the ultimate loser.

House bill 211 has passed the House committees and is now being held in the Senate Labor and Commerce committee. Some municipal governments oppose this bill because they are under the mistaken impression that they are going to get more for their design money. They are going to get less, both in quality of design and quality of finished building, and they will have a monument consisting of the finished building for the lifetime of the building to remind them of their decision. House bill 211 is patterned after the federal Brooks Act of 1972 which requires selection of architects and engineers "on demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices". As of last year 21 states have adopted this policy with similar legislation. I strongly recommend that you do your utmost to get this HB 211 out of committee and vote favorably for its passage. We need this legislation in Alaska to insure that we will not be saddled with buildings of minimum design and maximum operating and maintenance costs.

Cordially,

A handwritten signature in cursive script that reads "Vernon Akin". The signature is written in dark ink and is positioned above the printed name.

Vernon Akin

DOWL Engineers

4040 "B" Street Anchorage, Alaska 99503
Telephone (907) 562-2000

March 12, 1984

Senator Richard L. Eliason
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator,

I'm writing to request your support for HB 211. This bill would codify the current procedure whereby architects and engineers are chosen by the State and local governments. It would preclude price bidding for those services.

The architectural and engineering community has been working on this bill for three years. The bill has passed the House and currently resides in the Senate Labor and Commerce Committee. It will likely remain in this committee until there is a substantial show of support for the bill by the rest of the Senate.

During a recent poll of 371 architects and engineers and land surveyors, more than 90% indicated they supported this bill.

The Federal government and twenty-nine other states have enacted similar legislation.

For further information on this legislation, please refer to the material we have provided to your office.

Thank you for your consideration. Any help you can give to move this bill will be greatly appreciated by our community.

Sincerely,



James E. Riley

JER:pok



DOWL Engineers

4040 "B" Street Anchorage, Alaska 99503
Telephone (907) 562-2000

March 12, 1984

Senator Richard L. Eliason
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

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For further information on this legislation, please refer to the material we have provided to your office.

Thank you for your consideration. Any help you can give to move this bill will be greatly appreciated by our community.

Sincerely,



Robert L. McGill

RLM:pok



DOWL Engineers

4040 "B" Street Anchorage, Alaska 99503
Telephone (907) 562-2000

March 12, 1984

Senator Richard L. Eliason
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator,

I would like to request your support for HB 211. This bill would codify the current procedure whereby the State and local governments choose engineers and architects. It would preclude price bidding for their services.

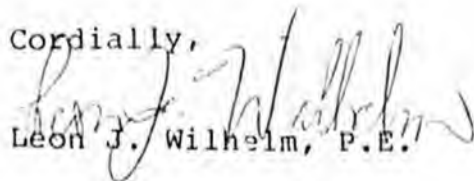
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The Federal government and twenty-nine other states have enacted similar legislation.

Any help you can give us to move this bill will be greatly appreciated by our community. Thank you for your consideration. For further information on this legislation, please refer to the material we have provided to your office.

Cordially,


Leon J. Wilhelm, P.E.

LJW:pok



Edwin B. Crittenden, FAIA
Principal



CCC Architects & Planners
431 W. Seventh Avenue, Suite 100
Anchorage, Alaska 99501
(907)272-3567

March 9, 1984

Senator Richard I. Eliason
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Eliason,

I'm writing to urge your support for HB 211. This bill would codify the current procedure whereby architects and engineers are chosen by the State and local governments. It would use qualifications rather than price as the prime criteria.

YOUR The architectural and engineering community has been working on this bill for three years. It is similar to that of the Federal government and 29 other states. The bill has passed the House and currently resides in the Senate Labor and Commerce Committee. Your support for this bill is necessary to bring it out of committee.

For further information on this legislation, please refer to the material previously provided to your office.

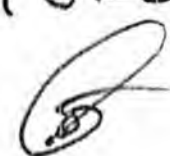
Your support and assistance in passage of this bill will be greatly appreciated.

Sincerely,



Edwin B. Crittenden, FAIA

EBC/nnl

I WORKED FOR THE FEDERAL LEGISLATION
(BROOK'S BILL) AND BELIEVE HB. 211
IS IN THE BEST INTEREST OF
THE STATE & PUBLIC. 



CCC Architects and Planners

March 9, 1984

Senator Paul A. Fischer
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Fischer,

I'm writing to urge your support for HB 211. This bill would codify the procedure for the selection of architects and engineers by the State and local governments. It would use qualifications rather than price alone as the prime criteria for selection.

The architectural and engineering community has been working on this bill for three years. The bill has passed the House and currently resides in the Senate Labor and Commerce Committee. Your support for this bill is necessary to bring it out of committee.

The Federal government and twenty-nine other states have enacted similar legislation.

For further information on this legislation, please refer to the material previously provided to your office.

Your support and assistance in passage of this bill will be greatly appreciated.

Sincerely,

Kenneth D. Cannon, AIA

cc: Senator Richard I. Eliason

KDC/nnl

March 5, 1984
P.O. Box 1112
Fairbanks, Alaska 99707

Dear Legislator:

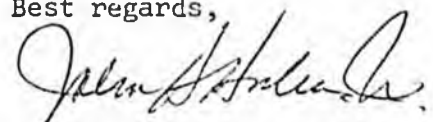
As a member of the Professional Engineering community I strongly urge you to oppose House Bill No. 211.

The cost of professional services must be considered by any client (including the State of Alaska) together with an engineering firms portfolio of current experience and qualifications as an integral part of the selection process. Information on both pricing and qualifications is required in order to make an objective decision. Any request for proposal process based solely on one or the other of these components would be invalid. Engineering fees need to be considered only on an hourly basis (including overhead charges), without a predetermined limit on hours guaranteed, together with a complete list of cost reimbursable expenses.

I cannot align myself professionally with legislation in restraint of free competition whether that legislation protects the old established close at hand engineering business with high overheads, or the distant engineering business with longer than needed lists of qualifications and high travel/room and board expenses.

Business, not government, must take the initiative to remain competitive on the free market. Please vote to allow reasonable flexibility in selection of engineering services. Vote against HB 211.

Best regards,



John H. Huber Jr., P.E.

DOWL Engineers

4040 "B" Street Anchorage, Alaska 99503
Telephone (907) 562-2000

March 9, 1984

Senator Richard L. Eliason
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator,

I would like to request your support for HB 211, which would codify the current procedure whereby the State and local governments choose engineers and architects. It would preclude price bidding for these services.

The engineering and architectural community has been working on this bill for three years. The bill has passed the House and currently resides in the Senate Labor and Commerce Committee. Unless there is a substantial show of support for this bill by the rest of the Senate, it will die in its current committee.

In a recent poll of 371 engineers, architects and land surveyors, more than 90% indicated they support this bill.

Similar legislation has been enacted by the Federal government and twenty-nine other states.

Any help you can give to move this bill will be greatly appreciated by our community. Thank you for your consideration. For further information on this legislation, please refer to the material we have provided to your office.

Respectfully,

DOWL ENGINEERS


John E. Paulson, P.E.
Partner

JEP:rb



DOWL Engineers

4040 "B" Street Anchorage, Alaska 99503
Telephone (907) 562-2000

March 8, 1984

Senator Richard L. Eliason
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator,

I would like to request your support for HB 211. This bill would codify the current procedure whereby the State and local governments choose engineers and architects. It would preclude price bidding for their services.


The engineering and architectural community has been working on this bill for three years. The bill has passed the House and currently resides in the Senate Labor and Commerce Committee. Unless there is a substantial show of support for this bill by the rest of the Senate, it will die in its current committee.

During a recent poll of 371 engineers and architects and land surveyors, more than 90% indicated they supported this bill.

The Federal government and twenty-nine other states have enacted similar legislation.

Any help you can give us to move this bill will be greatly appreciated by our community. Thank you for your consideration. For further information on this legislation, please refer to the material we have provided to your office.

Cordially,


Kenneth B. Walch, P.E.
Partner

KBW:pok



March 9, 1984

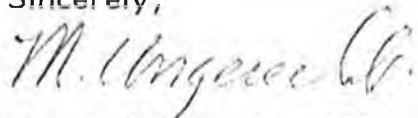
Senator Richard I. Eliason
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Eliason,

This letter is written to express my concern for HB 211 currently stalled in the Senate Labor and Commerce Committee. I strongly support HB 211 as do a substantial majority of the constituent members of the architectural and engineering community. Your show of support for this bill could be of great help in moving it out of committee.

Thank you for your consideration of HB 211.

Sincerely,

A handwritten signature in cursive script, appearing to read "M. Ungerecht".

Marvin Ungerecht, AIA

MU/nnl