

SENATE BILL NO. 182

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY SENATOR COGHILL

Introduced: 2/12/18

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to protests and remedies under the State Procurement Code; and**
2 **amending Rule 609, Alaska Rules of Appellate Procedure."**

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

4 *** Section 1.** AS 36.30.575 is repealed and reenacted to read:

5 **Sec. 36.30.575. Stay of award.** If a protest is filed, the award may not be made
6 until the protest is completely resolved, including, if applicable, a final decision by the
7 superior court of a judicial appeal under AS 36.30.685 and a decision by the supreme
8 court if the superior court decision is appealed to the supreme court.

9 *** Sec. 2.** AS 36.30.585(c) is amended to read:

10 (c) **If** [NOTWITHSTANDING (a) AND (b) OF THIS SECTION, IF] a protest
11 is sustained in whole or part, the protester's damages are **not** limited to reasonable bid
12 or proposal preparation costs **and the protester may be awarded the protester's**
13 **actual damages based on the legal grounds on which the protest was brought.**

14 *** Sec. 3.** AS 36.30.685 is amended to read:

1 **Sec. 36.30.685. Judicial appeal.** (a) A final decision of the commissioner of
 2 administration or the commissioner of transportation and public facilities under
 3 AS 36.30.635(a) [AS 36.30.610, 36.30.635(a)], 36.30.650, or, for a contract claim,
 4 AS 36.30.680 [36.30.680] may be appealed to the superior court in accordance with
 5 the Alaska Rules of Appellate Procedure.

6 (b) A final decision of the commissioner of administration or the
 7 commissioner of transportation and public facilities under AS 36.30.610 or
 8 36.30.630(b), or under AS 36.30.680 for a protest filed under AS 36.30.560,
 9 [AS 36.30.630(b)] may be appealed to the superior court for a trial de novo. For the
 10 purposes of this subsection,

11 (1) a dismissal under AS 36.30.610(a) is a final decision; and

12 (2) a decision under AS 36.30.610(b) is a final decision.

13 * **Sec. 4.** AS 36.30.600 is repealed.

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

16 INDIRECT COURT RULE AMENDMENT. AS 36.30.685(b), as amended by sec. 3
 17 of this Act, has the effect of amending Rule 609, Alaska Rules of Appellate Procedure, by
 18 allowing an appeal of a final decision under AS 36.30.610 or 36.30.680 for a protest filed
 19 under AS 36.30.560 to proceed as a trial de novo. For the purposes of this section,

20 (1) a dismissal under AS 36.30.610(a) is a final decision; and

21 (2) a decision under AS 36.30.610(b) is a final decision.

22 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
 23 read:

24 APPLICABILITY. This Act applies to a procurement under AS 36.30 for which the
 25 procuring agency solicits bids or proposals on or after the effective date of this Act. In this
 26 section, "agency" and "procurement" have the meanings given in AS 36.30.990.

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

29 CONDITIONAL EFFECT. AS 36.30.685(b), as amended by sec. 3 of this Act, takes
 30 effect only if sec. 5 of this Act receives the two-thirds majority vote of each house required by
 31 art. IV, sec. 15, Constitution of the State of Alaska.