

SPONSOR STATEMENT FOR SB 125

"An Act relating to protests of state contract awards, to claims on state contracts, to the arbitration of certain state construction contract claims, and to hearings and appeals under the State Procurement Code; making conforming amendments in the State Procurement Code; and providing for an effective date."

Construction claims occur when parties to a contract disagree as to whether a specific element of a project is within the scope of work defined by the contract. A dispute resolution process is defined in the Alaska Procurement Code.

There is, however, a perception among construction contractors that this dispute resolution process is no longer expeditious or fair. The purpose of [SB125](#) is to reform the claims process in order to restore confidence in it on the part of the private sector.

Presently, a procurement officer initially evaluates a claim and issues a ruling on its perceived merits. If the contractor who brought the claim isn't satisfied, he or she may appeal to the procurement officer's supervisor.

A contractor may then appeal the supervisor's decision to a hearing officer. Trouble is, there is no opportunity for independent review at any level of appeal. In addition, the roster of hearing officers is maintained solely by the state.

Delays are common: justice delayed is justice denied. The appeal process becomes expensive – which particularly affects small contractors, considering claims of less than \$250,000 are often not pursued.

Specific provisions of SB 125 are as follows:

- Permits a contractor to seek arbitration if a procurement officer's written decision isn't issued by its due date.
- Provides that parties may agree to binding arbitration on all appeals.
- Tightens timelines, and eliminates redundant requirements.
- Holds hearing officers and arbitrators to their required deadlines; those who fail to be timely are disqualified for one year.
- Entitles contractors to recover some claim costs.
- Spells out in regulation specific qualifications for hearing officers and arbitrators.