

Background on
Ketchikan Gateway Borough v. State, Case. No. 1KE-14-16CI

Prepared for the House Sustainable Education Task Force
by the Alaska Department of Law
December 26, 2014

Issues Presented in the Case: The limited question presented in this lawsuit is whether the required local contribution made by the Borough to its own school district should be treated as if it were state revenue. The Borough argued that the local contribution is state revenue and therefore violates the dedicated funds clause found in article IX, sec. 7. The Borough also argued that because the funds were dedicated, the local contribution also must be appropriated by the legislature and subject to line-item veto power by the Governor.

State's Position: The State argued that because the local contribution is simply the borough's share of the cost of educating its students and because the local contribution is funded with borough revenue, the local contribution is not a source of state revenue and is not subject to the dedicated funds provision or the appropriations clause.

Superior Court's Order Issued on November 21, 2014: The court's November order found that the local contribution violated the dedicated funds clause, but that it did not violate the appropriations clause.

Status: The case is still before the superior court because the Borough brought a motion for reconsideration. The Borough had requested the court to order the State to refund its previous contribution that it had made under protest, but the court found that was not required. The Borough is asking the court to reconsider that portion of the decision. Therefore, no final judgment has been issued, and the court's order could still change. Because the case is still pending before the superior court and there is no final decision, the Department of Law will not speculate on what is likely to occur, whether the case will be appealed, and any additional impacts.

Required Local Contribution Amount for FY'14: The required local contribution statewide for FY'14 totaled \$222,114,072. You can find the breakdown on the chart attached as Exhibit 1 to the State's opposition and cross-motion for summary judgment.

Attachments: State's Opposition and Cross-Motion for Summary Judgment; Court Order dated November 21, 2014.