



LAWS OF ALASKA

1976

Source

Chapter No.

FCCS HCSCSSB 398

57

AN ACT

Authorizing local assumption of state projects for public works construction, school construction, repair and improvement, and planning of public transportation corridors; and providing for an effective date.

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

* Section 1. AS 35.15 is amended by adding new sections to read:

Sec. 35.15.080. LOCAL CONTROL OF STATE PUBLIC WORKS PROJECTS. (a) A municipality or, if the public work is an educational facility, a regional educational attendance area established under AS 14.08 may, by resolution of its governing body, request the assumption of the department's responsibilities relating to the planning and construction of a public works project of the state which is to be located within the boundaries or operating area of the municipality or regional educational attendance area and which would otherwise be constructed in the manner provided in sec. 10 of this chapter. After receipt of the request, the department may provide by agreement for assumption by the municipality or regional educational attendance area of the department's responsibilities relating to the planning, design, and construction of the public works project, unless the commissioner determines that assumption of responsibilities by the municipality or area is not practicable or not in the best interests of the state. The parties may by mutual agreement provide for joint or cooperative assumption of responsibilities by the department and the municipality or regional educational attendance area.

(b) If the commissioner of public works determines that assumption of responsibilities by a municipality or regional educational attendance area under this section is not practicable or not in the best interests of the state, he shall notify the governing body of the municipality or area of his finding and specify reasons for it. If the governing body requests reconsideration of the decision, he

shall hold a hearing in the municipality within 30 days following mailing of the request. Following the hearing he may affirm, modify or reverse his initial decision and shall specify in writing the reasons.

(c) If two or more municipalities or regional educational attendance areas request assumption of responsibilities for a project and meet the standard of practicability set out in this section, the commissioner shall determine which municipality or regional educational attendance area is best able to direct planning, design, and construction of the project and enter into an agreement with that subdivision or area, or provide for joint or cooperative administration, as the parties may agree or the commissioner may determine. Decisions of the commissioner under this subsection are final.

(d) Provisions of this title governing planning, design, and construction of public works by the department, and regulations adopted under the provisions, govern the administration of projects assumed by a municipality or regional educational attendance area under this section. For that purpose the provisions supersede any conflicting provisions of ordinance or charter of a municipality.

(e) An organized borough may plan and construct public works under this section and make an agreement with the department for that purpose irrespective of restrictions of other provisions of law on the acquisition and exercise of borough powers. Borough exercise of the power conferred under this subsection does not preclude exercise by a city of the borough of the same power within the city.

(f) To carry out the purpose of this section, the commissioner of public works shall adopt regulations relating to the application for and the making and the conditions of agreements and the local assumption of responsibilities under this section. He may require different terms in agreements for different projects to meet local conditions and unique requirements and to assure compliance with the public facilities procurement policies developed by the department under AS 35.10.160 - 35.10.200. If necessary, the commissioner may require as a condition of an agreement approval of the agreement by the federal government.

Sec. 35.15.090. USE OF APPROPRIATED FUNDS. Upon execution of an agreement under sec. 80 of this chapter, state funds appropriated for a public works project which is the subject of the agreement shall be transferred to a special account in the state treasury. A municipality or regional educational attendance area administering the project under the agreement may draw on the account for costs of the project, under fiscal control of the department. If an agreement provides for joint or cooperative administration of the project, payment of costs shall be made to the party incurring the costs.

Sec. 35.15.100. RESPONSIBILITY OF DEPARTMENT. When a municipality or regional educational attendance area has assumed responsibility for a public works project in accordance with secs. 80 - 120 of this chapter, the department is relieved of responsibility to the extent it is assumed by the municipality or regional educational attendance area.

The department may provide technical assistance on the responsibility assumed if requested to do so by the municipality or area and shall be reasonably compensated for that assistance from the account established under sec. 90 of this chapter.

Sec. 35.15.110. TITLE TO SITE AND COMPLETION OF PROJECT. (a) Title acceptable to the department to a suitable project site shall be vested in the state before work is begun on the site.

(b) Responsibility for maintenance of the project shall be established in the original contract agreement. The department shall participate in the final inspection of the project and approve of the final documents on the project.

Sec. 35.15.120. DEFINITIONS. In secs. 80 - 120 of this chapter

(1) "construction" or any derivative of the term "construct" means, in addition to the meaning given in AS 35.25.020, selecting and acquiring a project site and necessary rights-of-way and easements on behalf of the state, providing for and connecting to utilities, and building, supervising and inspecting the public works project;

(2) "governing body" means in the case of a municipality, its assembly or council, and, in the case of a regional educational attendance area, its regional school board;

(3) "municipality" means a general law or home rule city or organized borough, including but not limited to a unified municipality organized under AS 29.68.240 - 29.68.-440.

* Sec. 2. AS 14.08.101(7) is amended to read:

(7) recommend to the commissioner a school construction and rehabilitation program based on an evaluation of the condition of existing school facilities and a determination of the requirements for new school construction, rehabilitation or other upgrading of school facilities, and provide for the construction and rehabilitation or other upgrading of school facilities when grants are made to it by the Department of Public Works under sec. 161 of this chapter; and

* Sec. 3. AS 14.08 is amended by adding a new section to read:

Sec. 14.08.161. SCHOOL CONSTRUCTION, REPAIR, AND IMPROVEMENT. (a) The department shall

(1) based on requests for funding of projects made by the regional school boards to the Department of Education under sec. 101(7) of this chapter, select necessary projects for the construction, repair, or improvement of schools;

(2) recommend to the governor an appropriation of funds for the designated projects on the basis of its

determination of funds necessary for each project and the priorities established by it among the projects and include a report of the project requests made by the regional school boards; and

(3) submit to the legislature within the first 10 days of session a report of the project requests made by the regional school boards.

(b) In establishing its recommended priorities among projects requested by the regional school boards, the Department of Education shall evaluate, among others, the following factors:

(1) priorities assigned by the regional school boards to the projects requested by them;

(2) emergency requirements;

(3) number of unhoused students;

(4) new local elementary or secondary programs;

(5) existing community and school facilities and their condition;

(6) economic and social stability of the community; and

(7) public facilities procurement policies developed by the Department of Public Works under AS 35.10.160 - 35.10.200.

(c) School construction, repair, and improvement projects shall be carried out by the Department of Public Works unless funds for a project are granted to a regional school board under (d) of this section.

(d) Regional school boards may apply to the Department of Public Works for a grant of all or part of the funds allocated for their school construction, repair, and improvement projects. The Department of Public Works may grant funds to a regional school board for a school construction, repair, or improvement project.

(e) To carry out the purpose of this section, the Department of Public Works shall adopt regulations relating to the application for and the making and the conditions of grants and the assumption of responsibilities by regional school boards under this section. The department may require different terms in grant contracts for different projects to meet local conditions and unique requirements and to assure compliance with the public facilities procurement policies developed by the department under AS 35.10.-160 - 35.10.200.

(f) Ownership of supplies and equipment purchased with funds appropriated for school construction, repair, or improvement vests in the regional school board receiving them.

(g) Nothing in this section is intended to change the effect of sec. 151 of this chapter governing ownership of

land and buildings used in relation to regional educational attendance area schools.

* Sec. 4. AS 19.10 is amended by adding a new section to read:

Sec. 19.10.280. LOCAL CONTROL OF STATE TRANSPORTATION CORRIDORS. (a) A municipality, by resolution of its governing body, may request of the department the assumption of the department's responsibilities relating to planning of transportation corridors which are to be located within the boundaries or operating area of the municipality. After receipt of the request, the department shall provide by agreement for assumption by the municipality of the department's responsibilities relating to planning of transportation corridors, unless the commissioner of highways determines that assumption of responsibilities by the municipality is not practicable or not in the best interests of the state. The parties may by mutual agreement provide for joint or cooperative assumption of responsibilities by the department and the municipality.

(b) If the commissioner of highways determines that assumption of responsibilities by a municipality under this section is not practicable or not in the best interests of the state, he shall notify the municipality of his finding and specify reasons for it. If the municipality requests reconsideration of the decision, he shall hold a hearing in the municipality within 30 days following mailing of the request. Following the hearing he may affirm, modify or reverse his initial decision and shall specify in writing the reasons.

(c) Provisions of this title governing planning of transportation corridors by the department, and regulations adopted under the provisions, govern the administration of projects assumed by a municipality under this section, and for that purpose supersede any conflicting provisions of ordinance or charter.

(d) The commissioner of highways may require terms or conditions in an agreement under this section necessary to insure compliance with the requirements of this section and otherwise considered to be in the public interest. If necessary, the commissioner may require as a condition of an agreement under this section approval of the agreement by the federal government.

(e) The provisions of this section apply only to the extent permitted by federal laws and regulations.

(f) In this section "municipality" means a general law or home rule city or organized borough, including but not limited to a unified municipality organized under AS 29.68.-240 - 29.68.440.

* Sec. 5. This Act takes effect immediately in accordance with AS 01.10.070(c).