



# LAWS OF ALASKA

1978

Source

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Chapter No.

147

## AN ACT

Relating to schools; and providing for an effective date.

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

\* Section 1. AS 14.08.101 is amended by adding a new paragraph to read:

(9) by resolution adopted by a majority of all the members of the board and provided to the commissioner of the department, assume ownership of all land and buildings used in relation to the schools in the regional educational attendance area.

\* Sec. 2. AS 14.08.151 is amended to read:

Sec. 14.08.151. LAND AND BUILDINGS. (a) Except as provided in (b) of this section and sec. 161(g) of this chapter, the ownership of land and buildings used in relation to regional educational attendance area schools shall remain vested in the state, and use permits shall be given to the regional school boards.

\* Sec. 3. AS 14.08.151 is amended by adding a new subsection to read:

(b) A regional school board may, by resolution, request, and the commissioner of the department having responsibility shall convey, title to land and buildings used in relation to regional educational attendance area schools. If the state holds less than fee title to the land, the commissioner of the department having responsibility shall convey the entire interest of the state in the land to the regional school board.

\* Sec. 4. AS 14.08.161(d) and (e) are amended to read:

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(d) Regional school boards may apply to the Department of Transportation and Public Facilities for a grant of all or part of the funds allocated for their school construction, repair, and improvement projects. When a regional school board applies for a grant of funds, the department shall grant funds to a regional school board for a school construction, repair, or improvement project, and, if the request is for all funds allocated, shall provide for the assumption by the regional school board of all of the department's responsibilities relating to the planning, design and construction of an educational facility. Thereafter, the board shall

(1) select the appropriate professional personnel to develop the designs;

(2) approve or disapprove the appropriate designs or revised designs; and

(3) undertake construction, repair or improvement of the educational facility.

(e) To carry out the purpose of this section, the Department of Transportation and Public Facilities shall adopt regulations relating to the application for and the making and the manner of administration of grants wherein the responsibility for school construction, repair and improvement is assumed by regional school boards under (d) of this section. The department shall include in grant contracts terms and conditions requiring a regional school board and its contractors to adhere to the provisions of AS 36.05.010 with respect to the payment of wage rates on construction projects, and AS 36.10.010 with respect to employment preference and 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.

\* Sec. 5. AS 14.08.161(g) is repealed and re-enacted to read:

(g) Title or sufficient interest determined acceptable by the department to an approved site for a school building to be constructed, repaired or improved by a regional school board shall be vested in the state or in the respective regional school board.

\* Sec. 6. AS 35.15.080(a) - (c) are amended to read:

(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 all 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

(1) shall provide for the assumption by the

municipality or regional educational attendance area of all of the department's responsibilities relating to the planning, design and construction of an educational facility;

(2) may provide by agreement for transfer to and assumption by the municipality of the department's responsibilities relating to the planning, design, and construction of a public works project, unless the commissioner determines that assumption of responsibilities by the municipality is not practicable or not in the best interests of the state.

(b) If the commissioner of transportation and public facilities determines that assumption of responsibilities by a municipality under (a)(2) of this section is not practicable or not in the best interests of the state, he shall notify the governing body of the municipality 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) A municipality may request joint assumption of responsibilities with the department relating to the planning, design and construction of a public works project. A regional educational attendance area may request joint assumption of responsibilities with the department relating to the planning, design and construction of an educational facility. Two or more municipalities or regional educational attendance areas may by mutual agreement provide for cooperative assumption of responsibilities relating to the planning and construction of a public works project. 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 (a)(2) of 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 municipality or regional educational attendance 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.

\* Sec. 7. AS 35.15.080(f) is amended to read:

(f) To carry out the purpose of this section, the commissioner of transportation and public facilities shall adopt regulations relating to the application for and the making and the conditions of agreements and the local assumption of responsibilities for the planning, design and construction of public works under this section. He shall include in grant contracts terms and conditions requiring a regional school board and its contractors to adhere to the provisions of AS 36.05.010 with respect to the payment of wage rates on construction projects, and AS 36.10.010 with respect to employment preference, and 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

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necessary, the commissioner may require as a condition of an agreement approval of the agreement by the federal government. Regulations adopted, amended or repealed by the department under this section which relate to educational facilities shall be developed in conjunction with the Alaska Association of School Boards and the Alaska Association of School Administrators and reviewed by those associations before final action on the regulations is taken by the department.

- \* Sec. 8. AS 35.15.090 is amended to read:

Sec. 35.15.090. USE OF APPROPRIATED FUNDS. Upon assumption by a municipality or regional educational attendance area of the department's responsibilities under sec. 80(a)(1) of this chapter, or upon execution of an agreement under sec. 80(a)(2) of this chapter, state funds appropriated for a public works project which is the subject of the assumption or 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 assumption or agreement may draw on the account for costs of the project, under fiscal control of the department. If an agreement provides for joint or co-operative administration of the project, payment of costs shall be made to the party incurring the costs.

- \* Sec. 9. AS 35.15.110(a) is amended to read:

(a) Title acceptable to the department to a suitable project site shall be vested in the state before work is begun on the site, except that, if the project involves construction of an educational facility, title or sufficient interest determined acceptable by the department to an approved site for a school building shall be vested in the municipality, the regional educational attendance area or the state before advertisement for bids or initiation of construction contract negotiations.

- \* Sec. 10. AS 14.07.020 is amended by adding a new paragraph to read:

(10) review plans for construction of new public elementary and secondary schools and for additions to and major rehabilitation of existing public elementary and secondary schools and, in accordance with regulations adopted by the department, determine the extent of eligibility for state aid of a school construction project begun after the effective date of this Act; for purposes of this paragraph, a "plan" includes educational specifications, schematic designs, and final contract documents.

- \* Sec. 11. AS 14.14.060(e) is amended to read:

(e) The borough school board is responsible for the design criteria of school buildings. To the maximum extent consistent with education needs, a design of a school building shall provide for multiple use of the building for community purposes. Subject to the approval of the assembly, the school board shall select the appropriate professional personnel to develop the designs. The school board shall submit preliminary and subsequent designs for a school building to the assembly for approval or disapproval;

if the design is disapproved, a revised design shall be prepared and presented to the assembly. A design or revised design approved by the assembly shall be submitted by the board to the department in accordance with AS 14.07.020(10).

\* Sec. 12. AS 43.18.100(a) is repealed and re-enacted to read:

(a) During each fiscal year, the state shall allocate to an organized borough or a city which is a school district, the following sums:

(1) payments made by the borough or city during the fiscal year two years earlier for the retirement of principal and interest on outstanding bonds, notes or other indebtedness incurred before July 1, 1977 to pay costs of school construction;

(2) 80 per cent of

(A) payments made by the borough or city during the fiscal year two years earlier for the retirement of principal and interest on outstanding bonds, notes or other indebtedness incurred after June 30, 1977 and before July 1, 1978 to pay costs of school construction;

(B) cash payments made after June 30, 1976 and before July 1, 1978 by the borough or city during the fiscal year two years earlier to pay costs of school construction;

(3) 80 per cent of

(A) payments made by the borough or city during the fiscal year two years earlier for the retirement of principal and interest on outstanding bonds, notes or other indebtedness incurred after June 30, 1978 to pay costs of school construction projects approved under AS 14.07.020(10);

(B) cash payments made after June 30, 1978 by the borough or city during the fiscal year two years earlier to pay costs of school construction projects approved under AS 14.07.020(10).

\* Sec. 13. AS 43.18 is amended by adding new sections to read:

Sec. 43.18.105. PUBLIC SCHOOL FACILITIES CONSTRUCTION ADVANCE ACCOUNT. The public school facilities construction advance account is established. The account consists of appropriations for distribution under secs. 105 - 135 of this chapter to boroughs and cities which are school districts to assist in paying the costs of public school facilities projects approved under AS 14.07.020(10) for which construction is commenced after June 30, 1978 and for which no bonding, notes, or other indebtedness was incurred before July 1, 1978.

Sec. 43.18.110. ELIGIBILITY. Eligibility of a proposed construction project for funding assistance under secs. 105 - 135 of this chapter shall be determined by the

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department based on standards and criteria established by regulation. The standards and criteria to be considered in determining eligibility include the following:

- (1) emergency requirements;
- (2) number of unhoused students;
- (3) new elementary or secondary programs;
- (4) existing community and school facilities and their condition; and
- (5) economic and social stability of the community.

Sec. 43.18.115. STATE AID. (a) The amount of state aid payable in advance under secs. 105 - 135 of this chapter is the amount by which the cost of construction of the approved school construction project would cause the debt-to-valuation ratio of the municipality to exceed 12 per cent.

(b) A payment under (a) of this section is limited to an amount which, when combined with estimated payments to the school district for the retirement of the principal and interest on bonds, notes or other indebtedness or reimbursement of cash payments for a school construction project for which payment is made under sec. 100(a)(1) or (2) of this chapter or for an approved school construction project for which payment is made under sec. 100(a)(3) of this chapter, does not exceed 80 per cent of the cost of the school construction project.

(c) For purposes of this section,

(1) "debt" means the principal amount of the direct and general obligation indebtedness of the municipality for which all taxable property is subject to taxation to pay the bond, note or other evidence of the debt, determined and reported in accordance with AS 14.17.140(c);

(2) "valuation" means the full and true value of the real and personal property of the municipality determined in accordance with AS 14.17.140(a).

Sec. 43.18.120. APPLICATION FOR AID. (a) The commissioner shall prescribe the necessary forms and procedures to be used in applying for construction cost assistance under secs. 105 - 135 of this chapter.

(b) A borough or city which is a school district seeking construction cost aid shall apply to the department by October 15 of the prior fiscal year.

(c) Based on his review of applications and his determination of project eligibility, the commissioner shall recommend to the governor an appropriation of funds for state aid for those projects under secs. 105 - 135 of this chapter.

Sec. 43.18.125. CONDITIONS OF STATE AID. (a) Funds distributed to a borough or city which is a school district

during a school year under secs. 105 - 135 of this chapter shall be received, held, and expended by the district in accordance with the applicable provisions of law and of regulations adopted by the department. Funds provided under secs. 105 - 135 of this chapter, but which are not required for the project for which they were granted or which are in excess of that borough's or city which is a district's entitlement for aid under sec. 115 of this chapter shall be returned to the department and deposited in the general fund.

(b) Each borough or city which is a school district shall maintain financial records of the receipt and disbursement of state funds received under secs. 105 - 135 of this chapter and money provided toward local effort. The records shall be in the form prescribed by the department and are subject to audit by it at any time.

(c) Upon completion of the construction project, the chief school administrator of the district shall report the total cost of the project and means of financing it to the commissioner.

(d) Boroughs and cities that are school districts shall secure and maintain in full force and effect adequate property loss insurance for the replacement cost of all facilities constructed after July 1, 1978 and for which state funds are available under this chapter.

Sec. 43.18.130. CONSTRUCTION AND IMPLEMENTATION. (a) Sections 105 - 135 of this chapter may not be construed so as to create a debt to the state.

(b) Funds to carry out the provisions of secs. 105 - 135 of this chapter may be appropriated annually by the legislature into the public school facilities construction advance account. If amounts in the account are insufficient to meet the allocations authorized by the commissioner under secs. 105 - 135 of this chapter, such funds as are available shall be distributed pro rata among each borough and city which is a school district based upon its computed entitlement.

Sec. 43.18.135. DEFINITIONS. In secs. 100 - 135 of this chapter, unless the context requires otherwise,

(1) "approved school construction project" means the plan for a new school or an addition to or major rehabilitation of an existing school to the extent to which approved by the commissioner in accordance with AS 14.07.-020(10);

(2) "commissioner" means the commissioner of education;

(3) "department" means the Department of Education.

\* Sec. 14. AS 14.17.140 is amended by adding a new subsection to read:

(c) To determine the debt-to-valuation ratio to be applied to the determination of state aid for school

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construction under AS 43.18.105 - 43.18.135, the Department of Community and Regional Affairs, in consultation with the responsible financial officer of each municipality which is a school district, shall annually determine the debt of the municipality and report the determination to the mayor of the municipality and the commissioner of the Department of Education. The determination shall be made by October 1 of each year and shall report the outstanding debt as of July 1 each year.

- \* Sec. 15. AS 36.10.010 is amended to read:

Sec. 36.10.010. EMPLOYMENT PREFERENCE. In the performance of contracts let by the state, a political subdivision of the state, or a regional school board with respect to an educational facility under AS 14.08.161 for construction, repair, preliminary surveys, engineering studies, consulting, maintenance work or any other retention of services necessary to complete any given project, 95 per cent residents shall be employed where they are available and qualified. If 10 or fewer persons are employed under the contract, then 90 per cent residents shall be employed where they are available and qualified. In all cases of public works projects, preference shall be given to residents. In an area which has been designated as an area impacted by an economic disaster, residents of that area shall be given employment preference as provided in AS 44.33.290, followed by other residents of the state.

- \* Sec. 16. AS 36.95.010(3) is amended to read:

(3) "public construction" or "public works" means the on-site field surveying, erection, rehabilitation, alteration, extension or repair, including painting or re-decorating buildings, highways or other improvements to real property under contract for the state, [OR] a political subdivision of the state, or a regional school board with respect to an educational facility under AS 14.08.161;

- \* Sec. 17. AS 43.18.100(f) is repealed.

\* Sec. 18. The commissioner of the Department of Education may make payments of amounts appropriated for advance funding of school construction in accordance with AS 43.18.105 - 43.18.135 for approved school construction projects during a one-year period following the effective date of this Act without regard to prior application by a city or borough school district for aid under AS 43.18.120(b) added by sec. 13 of this Act.

- \* Sec. 19. This Act takes effect July 1, 1978.