

HOUSE CS FOR CS FOR SENATE BILL NO. 72(FIN) am H

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 3/11/08

Offered: 3/5/08

Sponsor(s): SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the community revenue sharing program; repealing certain
2 programs providing state payments to municipalities and other entities; and providing
3 for an effective date."

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

5 * **Section 1.** AS 18.70.075(a) is amended to read:

6 (a) A fire officer of a municipal fire department or a fire department registered
7 with the state fire marshal [UNDER AS 29.60.130], while providing fire protection
8 or other emergency services, has the authority to

9 (1) control and direct activities at the scene of a fire or emergency;

10 (2) order a person to leave a building or place in the vicinity of a fire or
11 emergency, for the purpose of protecting the person from injury;

12 (3) blockade a public highway, street, or private right-of-way
13 temporarily while at the scene of a fire or emergency;

14 (4) trespass upon property at or near the scene of a fire or emergency at

1 any time of the day or night;

2 (5) enter a building, including a private dwelling, or premises where a
3 fire is in progress, or where there is reasonable cause to believe a fire is in progress, to
4 extinguish the fire;

5 (6) enter a building, including a private dwelling, or premises near the
6 scene of a fire for the purpose of protecting the building or premises or for the purpose
7 of extinguishing the fire that is in progress in another building or premises;

8 (7) upon 24-hour notice to the owner or occupant, conduct a prefire
9 planning survey in all buildings, structures, or other places within the municipality or
10 the registered fire department's district, except the interior of a private dwelling, where
11 combustible material is or may become dangerous as a fire menace to the building;

12 (8) direct the removal or destruction of a fence, house, motor vehicle,
13 or other thing judged necessary to prevent the further spread of a fire.

14 * **Sec. 2.** AS 29.20.640(b) is amended to read:

15 (b) Compliance with the provisions of this section is a prerequisite to receipt
16 of community revenue sharing under AS 29.60.850 - 29.60.879 [MUNICIPAL
17 TAX RESOURCE EQUALIZATION ASSISTANCE UNDER AS 29.60.010 -
18 29.60.080 AND PRIORITY REVENUE SHARING FOR MUNICIPAL SERVICES
19 UNDER AS 29.60.100 - 29.60.180]. If a municipality does not comply with this
20 section, the department shall withhold the allocations until the required reports are
21 filed.

22 * **Sec. 3.** AS 29.45.020 is amended to read:

23 **Sec. 29.45.020. Taxpayer notice.** (a) If a municipality levies and collects
24 property taxes, the governing body shall provide the following notice:

25 "NOTICE TO TAXPAYER

26 For the current fiscal year the (city)(borough) has been allocated the
27 following amount of state aid for school and municipal purposes under
28 the applicable financial assistance Acts:

29 PUBLIC SCHOOL FUNDING

30 PROGRAM (AS 14.17)

\$

31 STATE AID FOR RETIREMENT

1	OF SCHOOL CONSTRUCTION	
2	DEBT (AS 14.11.100)	\$
3	<u>COMMUNITY REVENUE SHARING</u>	
4	<u>PROGRAM (AS 29.60.850 - 29.60.879)</u>	<u>\$</u>
5	[MUNICIPAL TAX RESOURCE	
6	EQUALIZATION	
7	(AS 29.60.010 - 29.60.080)	\$
8	PRIORITY REVENUE SHARING	
9	FOR MUNICIPAL SERVICES	
10	(AS 29.60.100 - 29.60.180)	\$
11	REVENUE SHARING FOR	
12	SAFE COMMUNITIES	
13	(AS 29.60.350 - 29.60.375)	\$]
14	TOTAL AID	\$

The millage equivalent of this state aid, based on the dollar value of a mill in the municipality during the current assessment year and for the preceding assessment year, is:

	MILLAGE EQUIVALENT	
	PREVIOUS YEAR	THIS YEAR
18		
19		
20	PUBLIC SCHOOL FUNDING	
21	PROGRAM ASSISTANCEMILLSMILLS
22	STATE AID FOR RETIREMENT OF	
23	SCHOOL CONSTRUCTION DEBTMILLSMILLS
24	<u>COMMUNITY REVENUE</u>	
25	<u>SHARING PROGRAM</u> <u>MILLS</u> <u>MILLS</u>
26	[MUNICIPAL TAX RESOURCE	
27	EQUALIZATIONMILLSMILLS
28	PRIORITY REVENUE SHARING	
29	FOR MUNICIPAL SERVICESMILLSMILLS
30	REVENUE SHARING FOR	
31	SAFE COMMUNITIESMILLSMILLS]

TOTAL MILLAGE EQUIVALENTMILLSMILLS"

Notice shall be provided by

(1) furnishing a copy of the notice with tax statements mailed for the fiscal year for which aid is received; or

(2) publishing in a newspaper of general circulation in the municipality a copy of the notice once each week for a period of three successive weeks, with publication to occur not later than 45 days after the final adoption of the municipality's budget.

(b) Compliance with the provisions of this section is a prerequisite to receipt of community revenue sharing under AS 29.60.850 - 29.60.879 [MUNICIPAL TAX RESOURCE EQUALIZATION UNDER AS 29.60.010 - 29.60.080 AND PRIORITY REVENUE SHARING FOR MUNICIPAL SERVICES UNDER AS 29.60.100 - 29.60.180]. The department shall withhold annual allocations under those sections until municipal officials demonstrate that the requirements of this section have been met.

* **Sec. 4.** AS 29.45.660(b) is amended to read:

(b) Compliance with the provisions of this section is a prerequisite to receipt of community revenue sharing under AS 29.60.850 - 29.60.879 [MUNICIPAL TAX RESOURCE EQUALIZATION UNDER AS 29.60.010 - 29.60.080 AND PRIORITY REVENUE SHARING FOR MUNICIPAL SERVICES UNDER AS 29.60.100 - 29.60.180]. The department shall withhold annual allocations under those sections until municipal officials demonstrate that the requirements of this section have been met.

* **Sec. 5.** AS 29.60.810 is amended to read:

Sec. 29.60.810. Grant applications. A municipality that owns a harbor facility may submit to the Department of Transportation and Public Facilities an application for a municipal harbor facility grant to be used for construction, expansion, major repair, or major maintenance of a harbor facility. The application must include information about the project requested by the department. For a proposed project to be eligible for a grant, the municipality must provide evidence acceptable to the department that the

1 (1) proposed project is a capital improvement project and not part of a
2 preventive maintenance program or regular custodial care program;

3 (2) municipality will provide 50 percent of the total project cost as
4 matching funds for the state grant and that money received by the municipality from
5 the state will not be used for the matching funds except money received under

6 (A) **AS 29.60.850 - 29.60.879 (community revenue sharing**
7 **program)** [AS 29.60.010 - 29.60.080 (MUNICIPAL TAX RESOURCE
8 EQUALIZATION)];

9 (B) AS 29.60.350 - 29.60.375 (SAFE COMMUNITIES
10 PROGRAM)]; and

11 **(B)** [(C)] AS 29.60.450, AS 43.75.130, and 43.75.137 (shared
12 fisheries business taxes);

13 (3) municipality has secured and will maintain adequate property loss
14 insurance for the replacement cost of the harbor facility or has an adequate program of
15 insurance;

16 (4) municipality has a preventive maintenance plan for the harbor
17 facility and will be adequately adhering to the preventive maintenance plan after
18 completion of the proposed project.

19 * **Sec. 6.** AS 29.60 is amended by adding new sections to read:

20 **Article 11. Community Revenue Sharing Program.**

21 **Sec. 29.60.850. Community revenue sharing fund.** (a) The community
22 revenue sharing fund is established in the general fund for the purpose of making
23 community revenue sharing payments to municipalities, reserves, and communities for
24 any public purpose. The fund consists of appropriations. Income earned on money in
25 the fund may be appropriated to the fund. Money in the fund does not lapse.

26 (b) Each fiscal year, the legislature may appropriate to the community revenue
27 sharing fund an amount equal to 20 percent of the money received by the state during
28 the previous calendar year under AS 43.55.011(g). The amount may not exceed

29 (1) \$60,000,000; or

30 (2) the amount that, when added to the fund balance on June 30 of the
31 previous fiscal year, equals \$180,000,000.

1 (c) The balance in the community revenue sharing fund shall be determined on
 2 June 30 of each year. If the fund balance is at least \$60,000,000, without further
 3 appropriation, the department shall distribute one-third of that amount as community
 4 revenue sharing payments for the immediately following fiscal year. Otherwise, no
 5 payments may be made.

6 (d) Notwithstanding the guidelines in (b) of this section, the legislature may
 7 appropriate any amount to the community revenue sharing fund. Nothing in this
 8 section creates a dedicated fund.

9 **Sec. 29.60.855. Basic community revenue sharing payments.** (a) The
 10 department shall calculate the basic amount used for determining the basic community
 11 revenue sharing payment for a fiscal year by applying the following formula: the
 12 amount available for payments for that fiscal year under AS 29.60.850(c), minus
 13 60,000,000, divided by 60,000,000, plus one, multiplied by 384,000. However, if the
 14 amount calculated is less than \$220,000, the basic amount for that fiscal year is
 15 \$220,000.

16 (b) Except as provided in (c) of this section, the basic community revenue
 17 sharing payment for a fiscal year equals, for each

18 (1) unified municipality, the sum of the amounts calculated under (2)
 19 and (3) of this subsection, rounded to the nearest \$1,000;

20 (2) borough, the basic amount, rounded to the nearest \$1,000;

21 (3) city and eligible reserve, one-fourth of the basic amount, rounded
 22 to the nearest \$100;

23 (4) eligible community in the unorganized borough, one-twelfth of the
 24 basic amount, rounded to the nearest \$100;

25 (5) eligible community in a unified municipality or borough, one-
 26 nineteenth of the basic amount, rounded to the nearest \$100.

27 (c) The basic revenue sharing payment amount for a succeeding municipality
 28 formed when two or more municipalities merge, consolidate, or unify after January 1,
 29 2002, equals the sum of the amounts each of the former municipalities would receive
 30 under (b) of this section calculated as if the merger, consolidation, or unification had
 31 not occurred.

1 **Sec. 29.60.860. Per capita payment increases.** (a) Subject to (b) of this
 2 section, if the amount available for distribution under AS 29.60.850(c) exceeds the
 3 amount needed to fully fund all the basic community revenue sharing payments, the
 4 balance shall be distributed on a per capita basis to municipalities, to reserves, and to
 5 communities in the unorganized borough.

6 (b) The per capita amount distributed to each community in the unorganized
 7 borough may not, when added to the basic community revenue sharing payment for
 8 that community, exceed the basic amount calculated under AS 29.60.855(b)(3). If the
 9 per capita distribution for a community exceeds the basic amount calculated under
 10 AS 29.60.855(b)(3), the excess amount shall be distributed on a per capita basis to
 11 other communities in the unorganized borough.

12 (c) For purposes of this section, the population of a municipality, reserve, or
 13 community shall be determined by using the numbers of permanent fund dividend
 14 recipients or other population data that the department determines is reliable. For
 15 purposes of determining the population of a borough, the population of each city in the
 16 borough shall be deducted from the total borough population.

17 **Sec. 29.60.865. Eligibility requirements for reserves and communities.** (a)
 18 The department, with advice from the Department of Law, shall determine whether
 19 there is in each community or reserve an incorporated nonprofit entity or a Native
 20 village council that will agree to receive and spend the community revenue sharing
 21 payment. If there is more than one qualified entity in a reserve or community in the
 22 unorganized borough, the department shall pay the money to the entity that the
 23 department finds most qualified to receive and spend the money on behalf of the
 24 reserve or community. The department may not make a community revenue sharing
 25 payment to a Native village council unless the council waives immunity from suit for
 26 claims arising out of activities of the council related to the payment. A waiver of
 27 immunity from suit under this section must be on a form provided by the Department
 28 of Law. If there is no qualified incorporated nonprofit entity or Native village council
 29 in a reserve or community that is willing to receive the community revenue sharing
 30 payment and use the payment on behalf of that reserve or community, the payment for
 31 that reserve or community may not be paid. Neither this section nor any action taken

1 under it enlarges or diminishes the governmental authority or jurisdiction of a Native
2 village council.

3 (b) The department may make a community revenue sharing payment on
4 behalf of a community in a borough or unified municipality only to the municipality
5 for payment by the municipality to an incorporated nonprofit entity or Native village
6 council that has been approved by the assembly and meets the requirements of (a) of
7 this section. The department shall have written evidence of the assembly approval. If
8 there is more than one qualified entity in a community in a borough or unified
9 municipality, one of the entities may receive the entire payment, or the payment may
10 be shared between two or more of the qualified entities, as determined by the
11 assembly.

12 (c) A community in a borough or unified municipality is eligible for a
13 community revenue sharing payment only if at least three of the following services are
14 generally available to all residents of the community and each of the three services, in
15 any combination, are provided by one or more qualifying incorporated nonprofit
16 entities or a Native village council or are substantially paid for by the residents of the
17 community through taxes, charges, or assessments levied or authorized by the borough
18 or unified municipality:

- 19 (1) fire protection;
- 20 (2) emergency medical;
- 21 (3) water and sewer;
- 22 (4) solid waste management;
- 23 (5) public road or ice road maintenance;
- 24 (6) public health;
- 25 (7) search and rescue.

26 **Sec. 29.60.879. Definitions.** In AS 29.60.850 - 29.60.879,

27 (1) "community" means a place in the unorganized borough, in a
28 borough, or in a unified municipality that is not incorporated as a municipality, that is
29 not a reserve, and in which 25 or more individuals reside as a social unit;

30 (2) "reserve" means a place that is organized under federal law as an
31 Indian reserve that existed before enactment of 43 U.S.C. 1618(a) and is continued in

1 existence under that subsection.

2 * **Sec. 7.** AS 37.06.010(g) is amended to read:

3 (g) For purposes of this section, in calculating the population of a borough, the
4 population of each city in the borough is excluded. The determination of population
5 shall be based **on the latest figures of the United States Bureau of the Census or**
6 **other population data that** [UPON DATA USED BY] the Department of
7 Commerce, Community, and Economic Development **determines is reliable**
8 [UNDER AS 29.60.020].

9 * **Sec. 8.** AS 37.06.020(b) is amended to read:

10 (b) The unincorporated community capital project matching grant fund is
11 established in the department and consists of appropriations to the fund.
12 Appropriations to the fund do not lapse except as provided in (h) of this section. The
13 money in the fund is held by the department in custody under this subsection for each
14 unincorporated community eligible for an allocation under this subsection. The
15 department shall establish an individual grant account within the fund for each
16 unincorporated community that was entitled to receive state aid under **AS 29.60.855**
17 [AS 29.60.140] during the preceding fiscal year. As provided in this subsection, each
18 fiscal year, the department shall allocate, to the individual grant accounts,
19 appropriations to the fund. An unincorporated community is eligible for an allocation
20 in a fiscal year if the community was eligible to receive state aid under **AS 29.60.855**
21 [AS 29.60.140] during the preceding fiscal year. The department shall credit interest
22 earned on money in an individual grant account to that account. Except as provided in
23 (c) of this section, the amount allocated under this subsection to an individual grant
24 account in a fiscal year is determined by dividing the total amount appropriated to the
25 fund during that fiscal year by the number of unincorporated communities eligible for
26 an allocation during that fiscal year.

27 * **Sec. 9.** AS 37.06.030 is amended to read:

28 **Sec. 37.06.030. Local share requirements.** (a) For each draw made by a
29 municipality under AS 37.06.010, the municipality shall contribute a local share to the
30 cost of the capital project for which the draw is made. The amount of the local share
31 equals the local share percentage as calculated under (1) of this subsection, divided by

1 the state share percentage as calculated under (2) of this subsection, multiplied by the
2 amount of the draw. For purposes of this subsection,

3 (1) the local share percentage is

4 (A) 30 percent for a municipality with a population of 5,000 or
5 more;

6 (B) for a municipality with a population of 1,000 - 4,999, the
7 greater of

8 (i) 15 percent; or

9 (ii) the percentage obtained by dividing the amount that
10 would be received by the municipality from a property tax levy of
11 1/1000th of a mill **for each** [PER] \$1,000 of grant funds received by
12 the sum of that first amount plus the amount of the grant or draw, but
13 not more than 30 percent;

14 (C) for a municipality with a population of under 1,000, the
15 greater of

16 (i) five percent; or

17 (ii) the percentage obtained by dividing the amount that
18 would be received by the municipality from a property tax levy of
19 1/1000th of a mill **for each** [PER] \$1,000 of grant funds received by
20 the sum of that first amount plus the amount of the grant or draw, but
21 not more than 30 percent;

22 (2) the state share percentage equals one minus the local share
23 percentage;

24 (3) the local share to be contributed by a municipality may be satisfied
25 with (A) federal, municipal, or local money; (B) labor, materials, or equipment used
26 directly in the construction of the project, or land, including land transferred by the
27 state to the municipality; the department shall determine the value of a contribution
28 under this subparagraph; (C) money from another nonstate source; (D) money
29 received by the municipality under **AS 29.60.850 - 29.60.879** [AS 29.60.010 -
30 29.60.375]; (E) state taxes refunded or reimbursed to the municipality whose use for
31 the purposes of this subsection is not prohibited; (F) allocations of state aid for the

1 costs of school construction debt under AS 14.11.100; and (G) money obtained from
 2 the sale or lease of land or other assets transferred by the state to the municipality;
 3 except as provided in this paragraph, the local share may not be satisfied with money
 4 from, or with the portion of an asset that was obtained with money from, an
 5 appropriation, allocation, entitlement, grant, or other payment from the state.

6 (b) For each draw made by an entity or council under AS 37.06.020, the
 7 incorporated entity or Native village council that makes the draw shall contribute a
 8 local share of the cost of the capital project for which the draw is made. The amount of
 9 the local share equals the local share percentage as calculated under (1) of this
 10 subsection, divided by the state share percentage as calculated under (2) of this
 11 subsection, multiplied by the amount of the draw. For purposes of this subsection,

12 (1) the local share percentage is five percent;

13 (2) the state share percentage equals one minus the local share
 14 percentage;

15 (3) the local share may be satisfied from (A) federal or local money;
 16 (B) labor, materials, or equipment used directly in the construction of the project, or
 17 land, including land transferred by the state; the department shall determine the value
 18 of a contribution under this subparagraph; (C) money from another nonstate source;
 19 (D) money received by the unincorporated community under **AS 29.60.850 -**
 20 **29.60.879** [AS 29.60.010 - 29.60.375]; or (E) money obtained from the sale or lease of
 21 land or other assets transferred by the state; except as provided in this paragraph, the
 22 local share may not be satisfied with money from, or with the portion of an asset that
 23 was obtained with money from, an appropriation, allocation, entitlement, grant, or
 24 other payment from the state.

25 (c) For purposes of (a) of this section, in calculating the population of a
 26 borough the population of each city in the borough is excluded. The determination of
 27 population shall be based **on the latest figures of the United States Bureau of the**
 28 **Census or other population data that** [UPON DATA USED BY] the Department of
 29 Commerce, Community, and Economic Development **determines is reliable**
 30 [UNDER AS 29.60.020].

31 * **Sec. 10.** AS 41.15.180(d) is amended to read:

1 (d) From the percentage of the unorganized borough national forest receipts
 2 fund allocated to public roads under (b) of this section, the commissioner shall pay to
 3 each

4 (1) home rule city, first class city, or second class city that exercises
 5 road powers, that is located within the unorganized borough and within a national
 6 forest or within 20 miles of a national forest, a share of the income from the roads
 7 allocation of the fund; a home rule city, first class city, or second class city's share
 8 shall be calculated as the proportion of the number of road miles within municipal
 9 boundaries over which the community exercises road powers plus the number of state
 10 road miles maintained by the municipality under agreement with the state compared to
 11 the total number of road miles maintained by state or local governments in the
 12 unorganized borough and within the national forest or within 20 miles of the national
 13 forest;

14 (2) municipality organized under federal law as an Indian reserve that
 15 existed before the enactment of 43 U.S.C. 1618(a) and is continued in existence under
 16 that subsection and that has formed a community development corporation under **(n)**
 17 **of this section** [AS 29.60.365], that exercises road powers and that is located within
 18 the unorganized borough and within the national forest or within 20 miles of the
 19 national forest a share of the income from the roads allocation of the fund; the share
 20 due a municipality organized under federal law that exercises road powers shall be
 21 calculated as the proportion of the number of road miles within municipal boundaries
 22 over which the community exercises road powers plus the number of state road miles
 23 maintained by the municipality under agreement with the state compared to the total
 24 number of road miles maintained by state or local governments in the unorganized
 25 borough and within the national forest or within 20 miles of the national forest;
 26 however, the commissioner may pay income from national forest receipts under this
 27 paragraph only after the corporation has delivered a written waiver of sovereign
 28 immunity from legal action by the state to recover all or a portion of the money
 29 distributed under this section.

30 * **Sec. 11.** AS 41.15.180 is amended by adding a new subsection to read:

31 (n) To qualify to receive money under (d)(2) of this section, a municipality

1 organized under federal law as an Indian reserve shall form a community development
 2 corporation with authority to determine how the money will be used. The charter must
 3 require that the governing board of the corporation shall be elected at an annual
 4 election open to all residents of the municipality organized under federal law who are
 5 registered and qualified to vote in state elections. The department may distribute
 6 money for the municipality organized under federal law only to a corporation
 7 organized in accordance with this subsection and only after the corporation has
 8 delivered a written waiver of sovereign immunity from legal action by the state to
 9 recover all or a portion of the money distributed under (d)(2) of this section.

10 * **Sec. 12.** AS 42.45.110(b) is amended to read:

11 (b) An eligible electric utility is entitled to receive power cost equalization

12 (1) for sales of power to local community facilities, calculated in the
 13 aggregate for each community served by the electric utility, for actual consumption of
 14 not more than 70 kilowatt-hours a [PER] month for each resident of the community;
 15 the number of community residents shall be determined **annually by the latest**
 16 **figures of the United States Bureau of the Census or other population data that**
 17 **the Department of Commerce, Community, and Economic Development**
 18 **determines is reliable** [UNDER AS 29.60.020]; and

19 (2) for actual consumption of not more than 500 kilowatt-hours a
 20 [PER] month sold to each residential customer.

21 * **Sec. 13.** AS 44.88.610(a)(1) is amended to read:

22 (1) "community" means a city as defined in AS 29.71.800 or **a place**
 23 **in the unorganized borough that is not incorporated as a city and in which 25 or**
 24 **more individuals reside as a social unit** [AN UNINCORPORATED COMMUNITY
 25 AS DEFINED IN AS 29.60.140]; and

26 * **Sec. 14.** AS 29.10.200(59), 29.10.200(60); AS 29.60.010, 29.60.020, 29.60.030,
 27 29.60.040, 29.60.050, 29.60.060, 29.60.070, 29.60.080, 29.60.100, 29.60.110, 29.60.120,
 28 29.60.130, 29.60.140, 29.60.150, 29.60.160, 29.60.170, 29.60.180, 29.60.280, 29.60.290,
 29 29.60.300, 29.60.310, 29.60.350, 29.60.360, 29.60.365, 29.60.370, 29.60.372, 29.60.373, and
 30 29.60.375 are repealed.

31 * **Sec. 15.** This Act takes effect immediately under AS 01.10.070(c).