

**ALASKA STATE LEGISLATURE
HOUSE EDUCATION STANDING COMMITTEE**

March 11, 2013

8:03 a.m.

MEMBERS PRESENT

Representative Lynn Gattis, Chair
Representative Gabrielle LeDoux
Representative Dan Saddler
Representative Peggy Wilson
Representative Harriet Drummond

MEMBERS ABSENT

Representative Lora Reinbold, Vice Chair
Representative Paul Seaton

COMMITTEE CALENDAR

HOUSE BILL NO. 133

"An Act relating to grants for school construction."

- HEARD & HELD

HOUSE BILL NO. 142

"An Act increasing the monthly stipend available for students attending a statewide boarding school operated by a school district; and providing for an effective date."

- BILL HEARING RESCHEDULED TO 3/13/13

PREVIOUS COMMITTEE ACTION

BILL: HB 133

SHORT TITLE: SCHOOL CONST. GRANTS/SMALL MUNICIPALITIES

SPONSOR(S): REPRESENTATIVE(S) EDGMON

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|----------|-----|---------------------------------|
| 02/20/13 | (H) | READ THE FIRST TIME - REFERRALS |
| 02/20/13 | (H) | EDC, FIN |
| 03/11/13 | (H) | EDC AT 8:00 AM CAPITOL 106 |

WITNESS REGISTER

REPRESENTATIVE BRYCE EDGMON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced HB 133 as the sponsor.

TIM CLARK, Staff
Representative Bryce Edgmon
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: On behalf of Representative Edgmon, presented the fiscal note to HB 133 and answered questions.

ELIZABETH NUDELMAN, Director
School Finance and Facilities Section
Department of Education and Early Development (EED)
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 133.

TOM BEGICH, Political Director
Citizens for the Educational Advancement of Alaska's Children (CEAAC)
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 133.

ACTION NARRATIVE

[8:03:44 AM](#)

CHAIR LYNN GATTIS called the House Education Standing Committee meeting to order at 8:03 a.m. Present at the call to order were Representatives LeDoux, P. Wilson, Drummond, and Gattis. Representative Saddler arrived as the meeting was in progress.

HB 133-SCHOOL CONST. GRANTS/SMALL MUNICIPALITIES

[8:04:07 AM](#)

CHAIR GATTIS announced that the first order of business would be HOUSE BILL NO. 133, "An Act relating to grants for school construction." She indicated that HB 142 was noticed but will not be heard.

[8:04:17 AM](#)

REPRESENTATIVE BRYCE EDGMON, Alaska State Legislature, sponsor, introduced HB 133. He said the bill adds small municipal school districts to the regional educational attendance area (REAA) school construction fund. This fund was created to comply with the court decision of Kasayulie v. State of Alaska, 3AN-97-3782

CI, (1999). The bill addresses five schools that are located in first class municipalities but do not have the financial strength to bond for school construction, and are not included in REAA organizations. In response to a request from the Bush Caucus, HB 133 was drafted to include the districts of Saint Mary's, Tanana, Kake, Klawock, and Hydaburg into the REAA school construction fund so that each would have the ability to receive funding in a timely manner. A small school is defined as having an average daily membership (ADM) of 300 or less, and in which the district's full value per ADM is not more than \$500,000.

[8:06:36 AM](#)

TIM CLARK, Staff to Representative Bryce Edgmon, Alaska State Legislature, sponsor, informed the committee the fiscal note to HB 133 reflects a change to the annual capitalization amount of the REAA fund based on the percentage that the five additional districts add in the formula used to capitalize the fund. This change totals about \$618,000 in a fund that is normally capitalized at \$34 million to \$35 million annually.

REPRESENTATIVE P. WILSON asked whether the affected school districts are now on the Department of Education and Early Development (EED) capital improvement project (CIP) school construction grant list (school construction list).

[The school construction list referred to was a document included in the committee packet entitled, "State of Alaska Department of Education and Early Development Capital Improvement Projects (FY2014) School Construction Grant Fund Final List, Issued 1/22/2013."]

MR. CLARK responded that the bill references the school construction list compiled each year by EED.

REPRESENTATIVE P. WILSON recalled that state and community funds are required for school construction.

MR. CLARK said there are several possible match funding amounts that could be required depending on certain factors, such as whether the school district is bonding for construction, or if a school is in a REAA, which always requires some kind of match funds.

REPRESENTATIVE P. WILSON asked for a step-by-step analysis: If there is not the ability to bond, what other contributions could a community make toward a school project.

MR. CLARK explained that under the present system REAAs, and the proposed districts added by HB 133, would contribute in the form of a match. In most cases, when a municipality bonds for a school, the municipality will apply for the state's debt reimbursement program which could be up to 60 percent or 70 percent of the bond. However, the grant amounts for projects on the EED capital improvement project (CIP) school construction grant list can differ significantly; for example, a non REEA district seeking a grant would be eligible for 80 percent funding with a 20 percent match, however, the grant match amounts for REAAs can be as little as 2 percent, or less if deemed necessary.

[8:14:32 AM](#)

REPRESENTATIVE P. WILSON referred to a list of school construction projects "automatically" funded by the state. She questioned how the bill will provide funds for school construction faster.

MR. CLARK surmised Representative Wilson was referring to the "Kasayulie schools," which are a related matter but apart from the proposed legislation. The Kasayulie consent decree and settlement agreement that followed the lawsuit had two major components, one of which was that the establishment of the REEA fund, which was set aside for rural school construction, would address the inequities between rural and urban school construction.

CHAIR GATTIS asked what HB 133 will accomplish beyond what is already available.

REPRESENTATIVE EDGMON clarified that HB 133 creates fairness for five small schools that do not have the ability to participate in a bonding process, and that do not qualify for the REEA school construction fund. In further response to Chair Gattis, he said the schools do not qualify for the REEA fund because of low property values.

REPRESENTATIVE P. WILSON asked why these schools may not appear on either of the two EED priority lists.

REPRESENTATIVE EDGMON explained the schools do appear on EED's "master list," but the subject is funding sources, not categorization in terms of need, or construction timelines.

REPRESENTATIVE P. WILSON questioned the need for HB 133.

MR. CLARK explained that not all of the five named schools are under construction and on a list. He said confusion may exist because many schools that are listed appear under different categories, such as those awaiting bonding or weighing bonding versus grant opportunities.

REPRESENTATIVE LEDOUX understood there are three ways to have a school constructed.

REPRESENTATIVE EDGMON deferred to EED for further clarity.

[8:22:32 AM](#)

ELIZABETH NUDELMAN, Director, School Finance and Facilities Section, EED, said the proposed legislation adds five districts to the school districts that can benefit from REAA funding, but makes no further change to existing programs. The five small school districts named in the bill are being added because they do not have the financial ability to bond for construction projects. She advised there are two means for school construction: to bond, or through the grant program on the school construction list. The REAAs and small municipalities enter through the grant program on the school construction list, and the projects are rated each year by the department. The REAA funding provides a consistent source of funding thus as the department rates projects there is a constant and predictable stream of funding. When REAA and small municipalities meet the criteria for construction, funding is available. As in the past, projects on the school construction list advance and schools that qualify to use REAA funding will do so when they are in funding position.

REPRESENTATIVE P. WILSON asked to have each list explained.

MS. NUDELMAN restated the intent of the bill. She explained the existing system is that if a district is capable of bonding for a project, the state will reimburse 70 percent for qualifying space and 60 percent for nonqualifying space. Otherwise, projects can apply to EED's school construction list and await funding. The REAA funding program simply sets aside a funding source to shorten the wait. In response to Representative Saddler, she said there are two school construction lists: one for major maintenance and one for school construction.

[8:27:17 AM](#)

REPRESENTATIVE LEDOUX surmised the REAA law provides a funding source so that a REAA school can receive funding even though funding may not be available for schools in Anchorage or Juneau, and the bill adds five small schools that do not meet the criteria to the REAA group.

REPRESENTATIVE P. WILSON asked how the bill creates an advantage for the five small districts.

MS. NUDELMAN stated the five small schools have no chance to obtain bonds, thus they will be placed on the school construction list, and when the project reaches funding position, there will be a predictable stream of funding. She pointed out the advantage is that REAA projects will keep moving and projects will be funded without years of delay.

8:30:18 AM

REPRESENTATIVE LEDOUX queried how an urban school district is treated when a project reaches the funding level on the CIT list.

MS. NUDELMAN explained both municipalities and REAAs are eligible to be on the grant list, and the department addresses each in order. If the funding level project is a non-REAA school, EED requests general fund (GF) money to fund the school. If a project at funding level is a REAA school, the funding is available from the REAA source.

8:31:34 AM

REPRESENTATIVE LEDOUX asked whether GF funding is usually available when a school district in an urban area is at funding level.

MS. NUDELMAN said the project at the top of the list is funded when resources are available.

REPRESENTATIVE LEDOUX observed the REAA schools and the proposed five districts are allowed to "jump to the top of the line."

MS. NUDELMAN expressed her belief that the schools will stay in order on the list. At the time of the REAA legislation, schools were waiting ten years for funding, so the intent of REAAs was to provide a funding stream.

[8:34:00 AM](#)

REPRESENTATIVE DRUMMOND directed attention to the document in the committee packet entitled, "State of Alaska Department of Education and Early Development Capital Improvement Projects (FY2014) School Construction Grant Fund Final List, Issued 1/22/2013." She asked how schools on the school construction list are ranked, and whether projects for the five small districts affected by the bill are already on the list.

MS. NUDELMAN said the projects are compared to the criteria set out in statute and by regulation. Districts apply in September and based on criteria on items such as un-housed students and life, health, and safety issues, projects are awarded points. Each year at the end of the process, the projects most in need are placed at top of the list. The five small municipalities in question may have projects on the school construction list, but additional projects are submitted each year, after a local planning process of six to ten years.

REPRESENTATIVE SADDLER restated the two ways to fund school construction.

MS. NUDELMAN pointed out that EED differentiates between the debt program and the grant program. The 70:30 debt program - in which municipalities bond for projects - is not part of the grant process which puts projects on the major maintenance or school construction lists. The REAAs are a component on the school construction list, and are not under a separate process. In further response to Representative Saddler, she said each year districts apply to the grant program for projects, the projects are ranked, and through the governor's budget or the legislature, funds are appropriated.

[8:39:47 AM](#)

REPRESENTATIVE LEDOUX observed that if the small schools aren't prioritized to the top of the school construction list, the bill would be ineffective even if there is a funding source.

MS. NUDELMAN reminded the committee that large school districts bond for school construction and utilize the debt reimbursement program afterward. The grant program may take longer to receive funding, but it is the funding source that serves the REAAs and small municipalities. It is important for this list to "keep moving," so smaller schools are built, and HB 133 will provide that movement. In further response to Representative LeDoux,

she said the school construction list is generally comprised of REAA schools and smaller municipal schools.

MR. CLARK, in response to Representative LeDoux, said the advantage is that the REAA fund creates a consistent, reliable, funding stream for REAA eligible schools; all the other schools on the grant list are awaiting legislative action and an appropriation from the GF.

[8:45:02 AM](#)

REPRESENTATIVE P. WILSON asked if the funds referred to in 2010 and 2013 are the same fund.

MS. NUDELMAN answered there is one fund; the REAA legislation was passed in 2010, but the first deposit from the fund was in 2013.

REPRESENTATIVE P. WILSON expressed her understanding that there is \$35 million in the fund, and the REAA schools on the list are guaranteed to receive funding.

MR. CLARK explained that the REAA fund is capitalized on an annual basis at about \$35 million with a ceiling of \$70 million. The formula currently deposits about \$35 million per year into the fund. However, the majority of the schools high on the list are REAA eligible, thus it is conceivable that the REAA fund could be exploited.

MS. NUDELMAN advised EED's intention is to stay in list order, and when a REAA project is ready for funding it will be funded through this mechanism. If the next project is non-eligible for REAA funding, the department will request GF, and continue down the order of the list.

REPRESENTATIVE P. WILSON asked whether the \$35 million is currently available.

MS. NUDELMAN confirmed that the annual appropriation of \$35 million is available for use. The funding process begins when the department reviews projects on the school construction list and when a district is eligible, REAA funding is used. Returning attention to the school construction list, she indicated that Galena is currently number nine, but Galena is not eligible for REAA funding, so EED will request an appropriation, fund the project with GF, and then address project number ten, which is the Bering Strait School District.

In further response to Representative P. Wilson, she said the first project on the school construction list would be funded; in fact, the first four on the school construction list are REAA schools, and the fifth, Saint Mary's, is one of the five districts that would become eligible for REAA funding by the passage of the bill. The reason Saint Mary's wants to be part of REAA funding is because each year \$35 million will be set aside and eventually there will be funding for its project.

[8:54:32 AM](#)

REPRESENTATIVE P. WILSON, after being made aware that Saint Mary's was on the school construction list, asked why the bill is necessary.

MR. CLARK explained that although Saint Mary's is on the school construction list, it is not currently eligible for REAA funding.

CHAIR GATTIS said she had intended for Representative Edgmon to explain the funding sources that are available to small towns and the difficulties that prevent small municipalities from bonding for school construction.

REPRESENTATIVE P. WILSON asked whether the five communities identified by the bill are the only ones in the state that would qualify in that way.

MR. CLARK said these five communities are identified because they lack a tax base to bond for construction.

REPRESENTATIVE LEDOUX gave the example of if projects one through four on the school construction list were funded through REAA funding and Saint Mary's project was denied GF funding, project six would be funded again by REAA funding.

MS. NUDELMAN explained EED would advocate for GF for Saint Mary's and maintain the order of the school construction list. In further response to Representative LeDoux, she said historically the department has successfully funded the school construction list in order.

REPRESENTATIVE LEDOUX suggested that the intent of HB 133 is advantageous from the perspective of EED, but was unsure of how the five communities benefit.

MS. NUDELMAN informed the committee that when the REAA legislation was researched, it was found that the school construction list moved very slowly and many schools were waiting for legislative appropriations. She restated that REAA funding and HB 133 provide an avenue of a known stream of funding to ensure that projects submitted by REAAs and small municipalities are funded.

REPRESENTATIVE LEDOUX failed to see how the bill improves the timing of funding for small communities.

[9:00:51 AM](#)

MR. CLARK observed that in some years, without REAA funds, there would be no school construction funded by the legislature with GF. By establishing a REAA fund, it is evident that REAA-eligible schools benefit and the uncertainty of GF funding is removed. Furthermore, with the passage of HB 133, the possibility of long delays for Saint Mary's project is diminished.

REPRESENTATIVE SADDLER pointed out that a small municipal school district is defined as "300 ADM." He asked why districts are based on ADM instead of real property value "if the issue is how much money they have to bond for locally."

MR. CLARK said it is difficult to draw a line to establish eligibility for benefits. The 300 ADM figure was selected to ensure that school districts that have a clear bonding authority would not be eligible for the REAA fund. The five districts identified by the bill are marginalized primarily by their inability to bond. In further response to Representative Saddler, he said the formula is full value divided by ADM, and raising the property value would expand eligibility to larger boroughs such as the City of Wrangell, which has the taxable base to bond without great hardship to the community.

REPRESENTATIVE SADDLER asked why 300 ADM was chosen instead of real property value.

MR. CLARK responded there is precedent in statute for determining match requirements under the school construction grant program that uses full value for ADM, thus ADM was used for the first part of the formula. The second part uses ADM to accurately identify schools that do not have bonding capability.

[9:07:08 AM](#)

MS. NUDELMAN expressed her understanding that the sponsor's analysis was based on identifying small schools that did not have the capacity to fund construction in the same manner as a school that could obtain bonds. The assessed value and ADM were the means used to categorize the small schools.

MR. CLARK offered that using 300 ADM was used to identify schools that were most in need of consistent funding in order to comply with the court decision.

REPRESENTATIVE SADDLER asked whether real property value and pupil count are both factors.

MR. CLARK opined ultimately eligibility resides with the real property value of a municipality or borough.

REPRESENTATIVE SADDLER suggested it is more appropriate to base the eligibility for small municipal districts on real property value.

MR. CLARK said ADM is necessary to help identify the smaller school districts with the most need.

[9:10:09 AM](#)

TOM BEGICH, Political Director, Citizens for the Educational Advancement of Alaska's Children (CEAAC), informed the committee CEAAC represents 21 school districts in Alaska, including 12 of the 19 REAAs. He advised that the bill is a top priority of CEAAC as it is an extension of the Kasayulie v. State of Alaska, 3AN-97-3782 CI, (1999) consent decree. Mr. Begich recalled the lawsuit was filed because, in general, funding for schools in Alaska had been directed toward urban schools and rural schools remained unfunded. In 1997, the courts ruled that the system of funding education, and school construction in particular, was arbitrary. This began a 13-year process to settle the lawsuit in an equitable way and to create a funding stream. In 2010, legislation was passed that set up the REAA mechanism. However, although Saint Mary's was a party to the lawsuit, it was excluded from the REAA mechanism for political reasons. The REAA funding was scheduled to begin in 2013, and the lawsuit was settled. As part of the settlement, a number of schools will be funded in the future, and the REAA fund is to be regular and not arbitrary. He stressed that it is important for EED to fund projects in the order of the school construction list. In addition, it is appropriate to add schools that were omitted as

a political solution, and because this is a guaranteed funding stream. In fact, the fund has \$35 million from last year and an additional \$35 million will be placed there this budget year. That funding will allow an opportunity for the funding of the Saint Mary's school in its position as fifth on the school construction list. He returned attention to the funding formula, saying this difficult decision was made in order to not extend REAA eligibility to districts with the capacity to bond and thereby shoulder the financial burden.

[9:16:52 AM](#)

[Testimony was indecipherable due to technical difficulties.]

The committee took an at-ease from 9:16 a.m. to 9:17 a.m.

[Testimony was suspended due to technical difficulties.]

[9:20:40 AM](#)

The committee took an at-ease from 9:20 a.m. to 9:24 a.m.

[9:24:55 AM](#)

CHAIR GATTIS announced that HB 133 would be held.

[9:25:14 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Education Standing Committee meeting was adjourned at 9:25 a.m.