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(Rules)

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1 IN THE SENATE

2 HCS CS

SENATE BILL NO. 398

(ST. AFF) am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing local assumption of public works,
7 highways, and school construction projects of the state;
8 and providing for an effective date."

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

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

11 Sec. 35.15.080. LOCAL CONTROL OF STATE PUBLIC WORKS PROJECTS. (a)

12 A governmental subdivision, by resolution of its governing body, may
13 request the department to assume the department's responsibilities of
14 planning and construction of a public works project of the state which
15 is to be located within the boundaries or operating area of the govern-
16 mental subdivision and which would otherwise be constructed in the
17 manner provided in sec. 10 of this chapter. After receipt of the
18 request, the department shall provide by agreement for assumption by the
19 governmental subdivision of the department's responsibilities relating
20 to the planning and construction of the public works project, unless the
21 commissioner determines that assumption of responsibilities by the
22 governmental subdivision is not practicable. The parties may by mutual
23 agreement provide for joint or cooperative assumption of responsibili-
24 ties by the department and the governmental subdivision.

25 (b) If the commissioner of public works determines that assumption
26 of responsibilities by a governmental subdivision under this section
27 is not practicable, he shall notify the governmental subdivision of
28 his finding and specify reasons for it. Decisions of the commissioner
29 under this subsection may be appealed under AS 44.62.560 - 44.62.570.

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1 (c) If two or more governmental subdivisions request assumption
2 of responsibilities for a project and meet the standard of practicability
3 set out in this section, the commissioner shall determine which govern-
4 mental subdivision is best able to direct planning and construction of
5 the project and enter into an agreement with that subdivision, or pro-
6 vide for joint or cooperative administration, as the parties may agree
7 or the commissioner may determine. Decisions of the commissioner under
8 this subsection are final.

9 (d) Provisions of this title governing planning and construction
10 of public works by the department, and regulations adopted under the
11 provisions, govern the administration of projects assumed by a govern-
12 mental subdivision under this section, and for that purpose supersede
13 any conflicting provisions of ordinance or charter.

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

20 (f) The commissioner of public works may require terms or condi-
21 tions in an agreement under this section necessary to insure compliance
22 with the requirements of this section and otherwise considered to be in
23 the public interest. If necessary, the commissioner may require as a
24 condition of an agreement under this section approval of the agreement
25 by the federal government.

26
27 Sec. 35.15.090. USE OF APPROPRIATED FUNDS. Upon execution of an
28 agreement under sec. 80 of this chapter, state funds appropriated for
29 a public works project which is the subject of the agreement shall be
transferred to a special account in the state treasury. A governmental

1 subdivision administering the project under the agreement may draw on
2 the account for costs of the project, under fiscal control of the
3 department. If an agreement provides for joint or cooperative adminis-
4 tration of the project, payment of costs shall be made to the party
5 incurring the costs.

6 Sec. 35.15.100. RESPONSIBILITY OF DEPARTMENT. When a governmental
7 subdivision has assumed responsibility for a public works project in
8 accordance with secs. 80 - 120 of this chapter, the department is re-
9 lieved of responsibility to the extent it is assumed by the governmental
10 subdivision. The department may provide technical assistance on the
11 responsibility assumed if requested to do so by the governmental subdivi-
12 sion and shall be reasonably compensated for that assistance from the
13 account established under sec. 90 of this chapter.

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

17 (b) A construction project shall be turned over to the state when
18 it is substantially completed, but the governmental subdivision remains
19 responsible after turnover for project completion and processing of any
20 contract claims.

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

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

27 (2) "governmental subdivision" means a general law or home
28 rule city or organized borough, including but not limited to a unified
29 municipality organized under AS 29.68.240 - 29.68.440, or a regional

1 housing authority established under AS 18.55.996.

2 * Sec. 2. AS 19.10 is amended by adding new sections to read:

3 Sec. 19.10.280. LOCAL CONTROL OF STATE HIGHWAY CONSTRUCTION
4 PROJECTS. (a) A governmental subdivision, by resolution of its govern-
5 ing body, may request the department to assume the department's responsi-
6 bilities relating to construction of the portion of a highway which is
7 to be located within the boundaries or operating area of the govern-
8 mental subdivision and which would otherwise be constructed in the
9 manner provided in sec. 170 of this chapter. After receipt of the
10 request, the department shall provide by agreement for assumption by the
11 governmental subdivision of the department's responsibilities relating
12 to construction, unless the commissioner of highways determines that
13 assumption of responsibilities by the governmental subdivision is not
14 practicable. The parties may by mutual agreement provide for joint or
15 cooperative assumption of responsibilities by the department and the
16 governmental subdivision.

17 (b) If the commissioner of highways determines that assumption of
18 responsibilities by a governmental subdivision under this section is not
19 practicable, he shall notify the governmental subdivision of his finding
20 and specify reasons for it. Decisions of the commissioner under this
21 subsection may be appealed under AS 44.62.560 - 44.62.570.

22 (c) If two or more governmental subdivisions request assumption of
23 responsibilities for a highway project under this section and meet the
24 standard of practicability set out in this section, the commissioner of
25 highways shall determine which governmental subdivision is best able to
26 direct construction of the project and shall enter into an agreement
27 with that subdivision, or provide for joint or cooperative administra-
28 tion, as the parties may agree or the commissioner may determine.
29 Decisions of the commissioner under this subsection are final.

1 (d) Provisions of this title governing construction of highways by
2 the department, and regulations adopted under the provisions, govern the
3 administration of projects assumed by a governmental subdivision under
4 this section, and for that purpose supersede any conflicting provisions
5 of ordinance or charter.

6 (e) An organized borough may construct highways under this section
7 and make an agreement with the department for that purpose irrespective
8 of restrictions of other provisions of law on the acquisition and exer-
9 cise of borough powers. Borough exercise of the power conferred under
10 this subsection does not preclude exercise by a city of the borough of
11 the same power within the city.

12 (f) The commissioner of highways may require terms or conditions
13 in an agreement under this section necessary to insure compliance with
14 the requirements of this section and otherwise considered to be in the
15 public interest. If necessary, the commissioner may require as a condi-
16 tion of an agreement under this section approval of the agreement by the
17 federal government.

18 Sec. 19.10.290. USE OF APPROPRIATED FUNDS. Upon execution of an
19 agreement under sec. 280 of this chapter, state funds appropriated for a
20 highway construction project which is the subject of the agreement shall
21 be transferred to a special account in the state treasury. A govern-
22 mental subdivision administering the project under the agreement may
23 draw on the account for costs of the project, under fiscal control of
24 the department. If an agreement provides for joint or cooperative
25 administration of the project, payment of costs shall be made to the
26 party incurring the costs.

27 Sec. 19.10.300. RESPONSIBILITY OF DEPARTMENT. When a governmental
28 subdivision has assumed responsibility for a highway construction pro-
29 ject in accordance with secs. 280 - 320 of this chapter, the department

1 is relieved of responsibility to the extent it is assumed by the govern-
2 mental subdivision. The department may provide technical assistance on
3 the responsibility assumed if requested to do so by the governmental
4 subdivision and shall be reasonably compensated for that assistance from
5 the account established under sec. 290 of this chapter.

6 Sec. 19.10.310. COMPLETION OF PROJECT. A highway construction
7 project directed by a governmental subdivision under secs. 280 320 of
8 this chapter shall be turned over to the state when it is substantially
9 completed, but the governmental subdivision remains responsible after
10 turnover for project completion and processing of any contract claims.

11 Sec. 19.10.320. DEFINITIONS. In secs. 280 - 320 of this chapter

12 (1) "construction" or any derivative of the term "construct"
13 means, in addition to the meaning given in AS 19.05.130(2), building,
14 supervising and inspecting the highway construction project;

15 (2) "governmental subdivision" means a general law or home
16 rule city or organized borough, including but not limited to a unified
17 municipality organized under AS 29.68.240 - 29.68.440, or a regional
18 housing authority established under AS 18.55.996.

19 * Sec. 3. AS 18.55 is amended by adding a new section to read:

20 Sec. 18.55.998. ADDITIONAL AUTHORITY. In addition to the author-
21 ity conferred under sec. 996 of this chapter, a housing authority may
22 enter into agreements with the state for public works, school, and high-
23 way construction projects in accordance with the provisions of AS 35.15.
24 080 - 35.15.120 and AS 19.10.280 - 19.10.320.

25 * Sec. 4. AS 14.14.200 is amended to read:

26 Sec. 14.14.200. POWERS AND DUTIES. An advisory school board shall
27 advise and assist the Board of Directors for the State-Operated Schools
28 through the local official administering the school, and shall do so in
29 the manner the board of directors prescribes by regulation. An advisory

1 school board may elect to direct the construction of a school over which
2 it has, or will have, advisory authority, subject to the same provisions
3 as made for governmental subdivisions to construct other public works
4 projects of the state under AS 35.15.080 - 35.15.120.

5 * Sec. 5. Chapter 46, sec. 33; SLA 1970 is amended to read:

6 Sec. 33. The ownership of land and buildings used in relation to
7 state-operated schools remains vested in the state, and use permits
8 shall be given to the Alaska State-Operated School System. Construction
9 required by the Alaska State-Operated School System shall be performed
10 by the Department of Public Works unless construction by an advisory
11 school board is elected as provided in AS 14.14.200 or is elected by
12 a second class city within the unorganized borough in accordance with
13 the provisions of AS 35.15.080 - 35.15.120.

14 * Sec. 6. This Act takes effect immediately in accordance with AS 01.10.-
15 070(c).

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