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1 IN THE SENATE

BY THE COMMUNITY AND REGIONAL
AFFAIRS COMMITTEE

2 CS FOR SENATE BILL NO. 398

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 his
28 finding and specify reasons for it. If the governmental subdivision
29 requests reconsideration of the decision, he shall hold a hearing in the

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

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

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

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

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

29 Sec. 35.15.090. USE OF APPROPRIATED FUNDS. Upon execution of an

1 agreement under sec. 80 of this chapter, state funds appropriated for a
2 public works project which is the subject of the agreement shall be
3 transferred to a special account in the state treasury. A governmental
4 subdivision administering the project under the agreement may draw on
5 the account for costs of the project, under fiscal control of the
6 department. If an agreement provides for joint or cooperative adminis-
7 tration of the project, payment of costs shall be made to the party
8 incurring the costs.

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

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

20 (b) At the request of the commissioner, a construction project
21 shall be turned over to the state when it is substantially completed,
22 but the governmental subdivision remains responsible after turnover for
23 project completion and processing of any contract claims.

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

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

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

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

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

20 (b) If the commissioner of highways determines that assumption of
21 responsibilities by a governmental subdivision under this section is not
22 practicable, he shall notify the governmental subdivision of his finding
23 and specify reasons for it. If the governmental subdivision requests
24 reconsideration of the decision, he shall hold a hearing in the munici-
25 pality within 30 days following mailing of the request. Following the
26 hearing he may affirm, modify or reverse his initial decision and shall
27 specify in writing the reasons.

28 (c) If two or more governmental subdivisions request assumption of
29 responsibilities for a highway project under this section and meet the

1 standard of practicability set out in this section, the commissioner of
2 highways shall determine which governmental subdivision is best able to
3 direct construction of the project and shall enter into an agreement
4 with that subdivision, or provide for joint or cooperative administra-
5 tion, as the parties may agree or the commissioner may determine.
6 Decisions of the commissioner under this subsection are final.

7 (d) Provisions of this title governing construction of highways by
8 the department, and regulations adopted under the provisions, govern the
9 administration of projects assumed by a governmental subdivision under
10 this section, and for that purpose supersede any conflicting provisions
11 of ordinance or charter.

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

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

24 Sec. 19.10.290. USE OF APPROPRIATED FUNDS. Upon execution of an
25 agreement under sec. 280 of this chapter, state funds appropriated for a
26 highway construction project which is the subject of the agreement shall
27 be transferred to a special account in the state treasury. A govern-
28 mental subdivision administering the project under the agreement may
29 draw on the account for costs of the project, under fiscal control of

1 the department. If an agreement provides for joint or cooperative
2 administration of the project, payment of costs shall be made to the
3 party incurring the costs.

4 Sec. 19.10.300. RESPONSIBILITY OF DEPARTMENT. When a governmental
5 subdivision has assumed responsibility for a highway construction pro-
6 ject in accordance with secs. 280 - 320 of this chapter, the department
7 is relieved of responsibility to the extent it is assumed by the govern-
8 mental subdivision. The department may provide technical assistance on
9 the responsibility assumed if requested to do so by the governmental
10 subdivision and shall be reasonably compensated for that assistance from
11 the account established under sec. 290 of this chapter.

12 Sec. 19.10.310. COMPLETION OF PROJECT. A highway construction
13 project directed by a governmental subdivision under secs. 280 - 320 of
14 this chapter shall be, at the request of the commissioner, turned over
15 to the state when it is substantially completed, but the governmental
16 subdivision remains responsible after turnover for project completion
17 and processing of any contract claims.

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

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

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

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

27 Sec. 18.55.998. ADDITIONAL AUTHORITY. In addition to the author-
28 ity conferred under sec. 996 of this chapter, a housing authority may
29 enter into agreements with the state for public works, school, and high-

1 way construction projects in accordance with the provisions of AS 35.15.-
2 080 - 35.15.120 and AS 19.10.280 - 19.10.320.

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

4 Sec. 14.14.200. POWERS AND DUTIES. An advisory school board shall
5 advise and assist the Board of Directors for the State-Operated Schools
6 through the local official administering the school, and shall do so in
7 the manner the board of directors prescribes by regulation. An advisory
8 school board may elect to direct the construction of a school over which
9 it has, or will have, advisory authority, subject to the same provisions
10 as made for governmental subdivisions to construct other public works
11 projects of the state under AS 35.15.080 - 35.15.120.

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

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

21 * Sec. 6. This Act takes effect immediately in accordance with AS 01.10.-
22 070(c).
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