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Hohman and Sackett

Offered: 5/16/75
Referred: Rules

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR SENATE BILL NO. 398 (State Affairs)
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 transportation corridors, and school construction
8 projects of the state; and providing for an effective
9 date."

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

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

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

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

26 (b) If the commissioner of public works determines that assumption
27 of responsibilities by a governmental subdivision under this section
28 is not practicable, he shall notify the governmental subdivision of his
29 finding and specify reasons for it. If the governmental subdivision

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

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

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

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

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

1 Sec. 35.15.090. USE OF APPROPRIATED FUNDS. Upon execution of an
2 agreement under sec. 80 of this chapter, state funds appropriated for a
3 public works project which is the subject of the agreement shall be
4 transferred to a special account in the state treasury. A governmental
5 subdivision administering the project under the agreement may draw on
6 the account for costs of the project, under fiscal control of the
7 department. If an agreement provides for joint or cooperative adminis-
8 tration of the project, payment of costs shall be made to the party
9 incurring the costs.

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

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

21 (b) Responsibility for maintenance of the project shall be
22 established in the original contract agreement. The department shall
23 participate in the final inspection of the project and approve of the
24 final documents on the project.

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

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

1 building, supervising and inspecting the public works project;

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

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

7 Sec. 19.10.280. LOCAL CONTROL OF STATE TRANSPORTATION CORRIDORS.

8 (a) A governmental subdivision, by resolution of its governing
9 body, may request the department to assume the department's responsi-
10 bilities relating to transportation corridors which are to be located
11 within the boundaries or operating area of the governmental subdivision.
12 After receipt of the request, the department shall provide by agreement
13 for assumption by the governmental subdivision of the department's
14 responsibilities relating to planning of transportation corridors,
15 unless the commissioner of highways determines that assumption of
16 responsibilities by the governmental subdivision is not practicable.
17 The parties may by mutual agreement provide for joint or cooperative
18 assumption of responsibilities by the department and the governmental
19 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) Provisions of this title governing planning of transportation
29 corridors by the department, and regulations adopted under the provi-

1 sions, govern the administration of projects assumed by a governmental
2 subdivision under this section, and for that purpose supersede any
3 conflicting provisions of ordinance or charter.

4 (d) The commissioner of highways may require terms or conditions
5 in an agreement under this section necessary to insure compliance with
6 the requirements of this section and otherwise considered to be in the
7 public interest. If necessary, the commissioner may require as a condi-
8 tion of an agreement under this section approval of the agreement by the
9 federal government.

10 (e) The provisions of this section apply only to the extent
11 permitted by federal laws and regulations.

12 Sec. 19.10.320. DEFINITIONS. In sec. 280 of this chapter "govern-
13 mental subdivision" means a general law or home rule city or organized
14 borough, including but not limited to a unified municipality organized
15 under AS 29.68.240 - 29.68.440, or a regional housing authority estab-
16 lished under AS 18.55.996.

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

18 Sec. 18.55.998. ADDITIONAL AUTHORITY. In addition to the author-
19 ity conferred under sec. 996 of this chapter, a housing authority may
20 enter into agreements with the state for public works and school con-
21 struction projects in accordance with the provisions of AS 35.15.080 -
22 35.15.120.

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

24 Sec. 14.14.200. POWERS AND DUTIES. An advisory school board shall
25 advise and assist the Board of Directors for the State-Operated Schools
26 through the local official administering the school, and shall do so in
27 the manner the board of directors prescribes by regulation. An advisory
28 school board may elect to direct the construction of a school over which
29 it has, or will have, advisory authority, subject to the same provisions

1 as made for governmental subdivisions to construct other public works
2 projects of the state under AS 35.15.080 - 35.15.120.

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

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

12 * Sec. 6. This Act takes effect immediately in accordance with AS 01.10.-
13 070(c).