

Original sponsor: Croft, Ferguson,  
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) 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 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.

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

27 (b) If the commissioner of public works determines that assumption  
28 of responsibilities by a governmental subdivision under this section  
29 is not practicable or not in the best interests of the state, he shall

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

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

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

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

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

1 a condition of an agreement under this section approval of the agreement  
2 by the federal government.

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

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

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

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

27 Sec. 35.15.120. DEFINITIONS. In secs. 80 - 120 of this chapter  
28 (1) "construction" or any derivative of the term "construct"  
29 means, in addition to the meaning given in AS 35.25.020, selecting and

1 acquiring a project site and necessary rights-of-way and easements on  
2 behalf of the state, providing for and connecting to utilities, and  
3 building, supervising and inspecting the public works project;

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

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

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

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

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

1 (c) Provisions of this title governing planning of transportation  
2 corridors by the department, and regulations adopted under the provi-  
3 sions, govern the administration of projects assumed by a governmental  
4 subdivision under this section, and for that purpose supersede any  
5 conflicting provisions of ordinance or charter.

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

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

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

18 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.10-  
19 070(c)