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1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 398

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing local assumption of state projects
7 for public works construction, school construction,
8 repair and improvement, and planning of public trans-
9 portation corridors; and providing for an effective
10 date."

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

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

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

14 A municipality or a regional educational attendance area established
15 under AS 14.08 may, by resolution of its governing body, request the
16 assumption of the department's responsibilities relating to the planning
17 and construction of a public works project of the state which is to be
18 located within the boundaries or operating area of the municipality or
19 regional educational attendance area and which would otherwise be con-
20 structed in the manner provided in sec. 10 of this chapter. After
21 receipt of the request, the department may provide by agreement for
22 assumption by the municipality or regional educational attendance area
23 of the department's responsibilities relating to the planning, design,
24 and construction of the public works project, unless the commissioner
25 determines that assumption of responsibilities by the municipality or
26 area is not practicable or not in the best interests of the state. The
27 parties may by mutual agreement provide for joint or cooperative assump-
28 tion of responsibilities by the department and the municipality or
29 regional educational attendance area.

1 (b) If the commissioner of public works determines that assumption
2 of responsibilities by a municipality or regional educational attendance
3 area under this section is not practicable or not in the best interests
4 of the state, he shall notify the governing body of the municipality or
5 area of his finding and specify reasons for it. If the governing body
6 requests reconsideration of the decision, he shall hold a hearing in the
7 municipality within 30 days following mailing of the request. Follow-
8 ing the hearing he may affirm, modify or reverse his initial decision
9 and shall specify in writing the reasons.

10 (c) If two or more municipalities or regional educational
11 attendance areas request assumption of responsibilities for a project
12 and meet the standard of practicability set out in this section, the
13 commissioner shall determine which municipality or regional educational
14 attendance area is best able to direct planning, design, and construc-
15 tion of the project and enter into an agreement with that subdivision
16 or area, or provide for joint or cooperative administration, as the
17 parties may agree or the commissioner may determine. Decisions of the
18 commissioner under this subsection are final.

19 (d) Provisions of this title governing planning, design, and con-
20 struction of public works by the department, and regulations adopted
21 under the provisions, govern the administration of projects assumed by
22 a municipality or regional educational attendance area under this sec-
23 tion. For that purpose the provisions supersede any conflicting pro-
24 visions of ordinance or charter of a municipality.

25 (e) An organized borough may plan and construct public works
26 under this section and make an agreement with the department for that
27 purpose irrespective of restrictions of other provisions of law on the
28 acquisition and exercise of borough powers. Borough exercise of the
29 power conferred under this subsection does not preclude exercise by a

1 city of the borough of the same power within the city.

2 (f) The commissioner of public works shall promulgate regulations
3 as required by AS 35.10.160 - 35.10.200 and may require terms or condi-
4 tions in an agreement under this section necessary to insure compli-
5 ance with the requirements of this section and otherwise considered to
6 be in the public interest. If necessary, the commissioner may require
7 as a condition of an agreement under this section approval of the agree-
8 ment by the federal government.

9 Sec. 35.15.090. USE OF APPROPRIATED FUNDS. Upon execution of an
10 agreement under sec. 80 of this chapter, state funds appropriated for
11 a public works project which is the subject of the agreement shall be
12 transferred to a special account in the state treasury. A municipality
13 or regional educational attendance area administering the project under
14 the agreement may draw on the account for costs of the project, under
15 fiscal control of the department. If an agreement provides for joint
16 or cooperative administration of the project, payment of costs shall be
17 made to the party incurring the costs.

18 Sec. 35.15.100. RESPONSIBILITY OF DEPARTMENT. When a municipality
19 or regional educational attendance area has assumed responsibility for
20 a public works project in accordance with secs. 80 - 120 of this chapter,
21 the department is relieved of responsibility to the extent it is assumed
22 by the municipality or regional educational attendance area. The de-
23 partment may provide technical assistance on the responsibility assumed
24 if requested to do so by the municipality or area and shall be reasonably
25 compensated for that assistance from the account established under sec.
26 90 of this chapter.

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

1 (b) Responsibility for maintenance of the project shall be estab-
2 lished in the original contract agreement. The department shall parti-
3 cipate in the final inspection of the project and approve of the final
4 documents on the project.

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

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

11 (2) "governing body" means in the case of a municipality, its
12 assembly or council, and, in the case of a regional educational
13 attendance area, its regional school board;

14 (3) "municipality" means a general law or home rule city or
15 organized borough, including but not limited to a unified municipality
16 organized under AS 29.68.240 - 29.68.440.

17 * Sec. 2. AS 14.08.101(7) is amended to read:

18 (7) recommend to the commissioner a school construction and
19 rehabilitation program based on an evaluation of the condition of exist-
20 ing school facilities and a determination of the requirements for new
21 school construction, rehabilitation or other upgrading of school
22 facilities, and provide for the construction and rehabilitation or other
23 upgrading of school facilities when grants are made to it by the Depart-
24 ment of Public Works under sec. 161 of this chapter; and

25 * Sec. 3. AS 14.08 is amended by adding a new section to read:

26 Sec. 14.08.161. SCHOOL CONSTRUCTION, REPAIR, AND IMPROVEMENT. (a)
27 For purposes of this section, there is a committee composed of the
28 commissioners of education, public works, community and regional affairs
29 and administration, and the director of the division of policy develop-

1 ment and planning, or their respective designees.

2 (b) If funds have been requested by the Department of Education for
3 the construction, repair, or improvement of schools the committee shall

4 (1) based on requests for funding of projects made by the
5 regional school boards to the Department of Education, select necessary
6 projects for the construction, repair, or improvement of schools;

7 (2) review and approve or modify priorities recommended by
8 the Department of Education for necessary school construction, repair,
9 or improvement projects selected by the committee;

10 (3) review and approve or modify the proposed allocation of
11 funds recommended by the Department of Education as necessary to accomp-
12 lish each project selected;

13 (4) recommend to the governor an appropriation of funds for
14 the designated projects on the basis of its determination of funds
15 necessary for each project and the priorities established by it among
16 the projects and include a report of the project requests made by the
17 regional school boards; and

18 (5) submit to the legislature within the first 10 days of
19 session a report of the project requests made by the regional school
20 boards.

21 (c) In establishing its recommended priorities among projects
22 requested by the regional school boards, for review by the committee
23 under (b)(2) of this section, the Department of Education shall evaluate,
24 among others, the following factors:

25 (1) priorities assigned by the regional school boards to the
26 projects requested by them;

27 (2) emergency requirements;

28 (3) number of unhoused students;

29 (4) new local elementary or secondary programs;

1 (5) existing community and school facilities and their con-
2 dition;

3 (6) economic and social stability of the community; and

4 (7) public facilities procurement policies developed by the
5 Department of Public Works under AS 35.10.160 - 35.10.200.

6 (d) School construction, repair, and improvement projects shall be
7 carried out by the Department of Public Works unless funds for a project
8 are granted to a regional school board under (e) of this section.

9 (e) Regional school boards may apply to the Department of Public
10 Works for a grant of all or part of the funds allocated for their school
11 construction, repair, and improvement projects. The Department of Public
12 Works may grant funds to a regional school board for a school construc-
13 tion, repair, or improvement project.

14 (f) The Department of Public Works may adopt regulations relating
15 to the application for and the making and the conditions of grants. The
16 department may require different terms in grant contracts for different
17 projects to meet local conditions and unique requirements and to assure
18 compliance with the public facilities procurement policies developed by
19 the department under AS 35.10.160 - 35.10.200.

20 (g) Ownership of supplies and equipment purchased with funds appro-
21 priated for school construction, repair, or improvement vests in the
22 regional school board receiving them.

23 (h) Nothing in this Act is intended to change the effect of sec.
24 151 of this chapter, governing ownership of land and buildings used in
25 relation to regional educational attendance area schools.

26 * Sec. 4. AS 19.10 is amended by adding a new section to read:

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

28 (a) A municipality, by resolution of its governing body, may request of
29 the department the assumption of the department's responsibilities relat-

1 ing to planning of transportation corridors which are to be located
2 within the boundaries or operating area of the municipality. After re-
3 ceipt of the request, the department shall provide by agreement for
4 assumption by the municipality of the department's responsibilities
5 relating to planning of transportation corridors, unless the commissioner
6 of highways determines that assumption of responsibilities by the munic-
7 ipality is not practicable or not in the best interests of the state. The
8 parties may by mutual agreement provide for joint or cooperative assump-
9 tion of responsibilities by the department and the municipality.

10 (b) If the commissioner of highways determines that assumption of
11 responsibilities by a municipality under this section is not practicable
12 or not in the best interests of the state, he shall notify the munic-
13 ipality of his finding and specify reasons for it. If the municipality
14 requests reconsideration of the decision, he shall hold a hearing in the
15 municipality within 30 days following mailing of the request. Following
16 the hearing he may affirm, modify or reverse his initial decision and
17 shall specify in writing the reasons.

18 (c) Provisions of this title governing planning of transportation
19 corridors by the department, and regulations adopted under the provi-
20 sions, govern the administration of projects assumed by a municipality
21 under this section, and for that purpose supersede any conflicting pro-
22 visions of ordinance or charter.

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

29 (e) The provisions of this section apply only to the extent per-

1 mitted by federal laws and regulations.

2 (f) In this section "municipality" means a general law or home rule
3 city or organized borough, including but not limited to a unified muni-
4 cipality organized under AS 29.68.240 - 29.68.440.

5 * Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-
6 070(c).