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1 IN THE SENATE

BY THE FREE CONFERENCE COMMITTEE

2 FREE CONFERENCE CS FOR 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, if the public work is an educational facility, a
15 regional educational attendance area established under AS 14.08 may, by
16 resolution of its governing body, request the assumption of the depart-
17 ment's responsibilities relating to the planning and construction of a
18 public works project of the state which is to be located within the
19 boundaries or operating area of the municipality or regional educational
20 attendance area and which would otherwise be constructed in the manner
21 provided in sec. 10 of this chapter. After receipt of the request, the
22 department may provide by agreement for assumption by the municipality
23 or regional educational attendance area of the department's responsibili-
24 ties relating to the planning, design, and construction of the public
25 works project, unless the commissioner determines that assumption of
26 responsibilities by the municipality or area is not practicable or not
27 in the best interests of the state. The parties may by mutual agreement
28 provide for joint or cooperative assumption of responsibilities by the
29 department and the municipality or 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) To carry out the purpose of this section, the commissioner of
3 public works shall adopt regulations relating to the application for and
4 the making and the conditions of agreements and the local assumption of
5 responsibilities under this section. He may require different terms in
6 agreements for different projects to meet local conditions and unique
7 requirements and to assure compliance with the public facilities procure-
8 ment policies developed by the department under AS 35.10.160 - 35.10.200.
9 If necessary, the commissioner may require as a condition of an agree-
10 ment approval of the agreement by the federal government.

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

20 Sec. 35.15.100. RESPONSIBILITY OF DEPARTMENT. When a municipality
21 or regional educational attendance area has assumed responsibility for
22 a public works project in accordance with secs. 80 - 120 of this chapter,
23 the department is relieved of responsibility to the extent it is assumed
24 by the municipality or regional educational attendance area. The de-
25 partment may provide technical assistance on the responsibility assumed
26 if requested to do so by the municipality or area and shall be reasonably
27 compensated for that assistance from the account established under sec.
28 90 of this chapter.

29 Sec. 35.15.110. TITLE TO SITE AND COMPLETION OF PROJECT. (a)

1 Title acceptable to the department to a suitable project site shall be
2 vested in the state before work is begun on the site.

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

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

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

13 (2) "governing body" means in the case of a municipality, its
14 assembly or council, and, in the case of a regional educational atten-
15 dance area, its regional school board;

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

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

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

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

28 Sec. 14.08.161. SCHOOL CONSTRUCTION, REPAIR, AND IMPROVEMENT.

29 (a) The department shall

1 (1) based on requests for funding of projects made by the
2 regional school boards to the Department of Education under sec. 101(7)
3 of this chapter, select necessary projects for the construction, repair,
4 or improvement of schools;

5 (2) recommend to the governor an appropriation of funds for
6 the designated projects on the basis of its determination of funds
7 necessary for each project and the priorities established by it among
8 the projects and include a report of the project requests made by the
9 regional school boards; and

10 (3) submit to the legislature within the first 10 days of
11 session a report of the project requests made by the regional school
12 boards.

13 (b) In establishing its recommended priorities among projects
14 requested by the regional school boards, the Department of Education
15 shall evaluate, among others, the following factors:

16 (1) priorities assigned by the regional school boards to the
17 projects requested by them;

18 (2) emergency requirements;

19 (3) number of unhoused students;

20 (4) new local elementary or secondary programs;

21 (5) existing community and school facilities and their con-
22 dition;

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

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

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

29 (d) Regional school boards may apply to the Department of Public

1 Works for a grant of all or part of the funds allocated for their school
2 construction, repair, and improvement projects. The Department of
3 Public Works may grant funds to a regional school board for a school
4 construction, repair, or improvement project.

5 (e) To carry out the purpose of this section, the Department of
6 Public Works shall adopt regulations relating to the application for and
7 the making and the conditions of grants and the assumption of responsi-
8 bilities by regional school boards under this section. The department
9 may require different terms in grant contracts for different projects to
10 meet local conditions and unique requirements and to assure compliance
11 with the public facilities procurement policies developed by the depart-
12 ment under AS 35.10.160 - 35.10.200.

13 (f) Ownership of supplies and equipment purchased with funds
14 appropriated for school construction, repair, or improvement vests in
15 the regional school board receiving them.

16 (g) Nothing in this section is intended to change the effect of
17 sec. 151 of this chapter governing ownership of land and buildings used
18 in relation to regional educational attendance area schools.

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

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

21 (a) A municipality, by resolution of its governing body, may request of
22 the department the assumption of the department's responsibilities
23 relating to planning of transportation corridors which are to be located
24 within the boundaries or operating area of the municipality. After re-
25 ceipt of the request, the department shall provide by agreement for
26 assumption by the municipality of the department's responsibilities
27 relating to planning of transportation corridors, unless the commis-
28 sioner of highways determines that assumption of responsibilities by the
29 municipality is not practicable or not in the best interests of the

1 state. The parties may by mutual agreement provide for joint or co-
2 operative assumption of responsibilities by the department and the
3 municipality.

4 (b) If the commissioner of highways determines that assumption of
5 responsibilities by a municipality under this section is not practicable
6 or not in the best interests of the state, he shall notify the munici-
7 pality of his finding and specify reasons for it. If the municipality
8 requests reconsideration of the decision, he shall hold a hearing in the
9 municipality within 30 days following mailing of the request. Following
10 the hearing he may affirm, modify or reverse his initial decision and
11 shall specify in writing the reasons.

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

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

23 (e) The provisions of this section apply only to the extent per-
24 mitted by federal laws and regulations.

25 (f) In this section "municipality" means a general law or home
26 rule city or organized borough, including but not limited to a unified
27 municipality organized under AS 29.68.240 - 29.68.440.

28 * Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-

29 070(c).