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Gardiner et al

Offered: 6/10/78
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 681 am S

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to schools; and providing for an
7 effective date."

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

9 * Section 1. AS 14.08.101 is amended by adding a new paragraph to read:

10 (9) by resolution adopted by a majority of all the members of
11 the board and provided to the commissioner of the department, assume
12 ownership of all land and buildings used in relation to the schools in
13 the regional educational attendance area.

14 * Sec. 2. AS 14.08.151 is amended to read:

15 Sec. 14.08.151. LAND AND BUILDINGS. (a) Except as provided in
16 (b) of this section and sec. 161(g) of this chapter, the [THE] ownership
17 of land and buildings used in relation to regional educational atten-
18 dance area schools shall remain vested in the state, and use permits
19 shall be given to the regional school boards.

20 * Sec. 3. AS 14.08.151 is amended by adding a new subsection to read:

21 (b) A regional school board may, by resolution, request, and the
22 commissioner of the department having responsibility shall convey, title
23 to land and buildings used in relation to regional educational atten-
24 dance area schools. If the state holds less than fee title to the land,
25 the commissioner of the department having responsibility shall convey
26 the entire interest of the state in the land to the regional school
27 board.

28 * Sec. 4. AS 14.08.161(d) and (e) are amended to read:

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

1 portation and Public Facilities [PUBLIC WORKS] for a grant of all or
2 part of the funds allocated for their school construction, repair, and
3 improvement projects. When a regional school board applies for a grant
4 of funds, the department shall [THE DEPARTMENT OF PUBLIC WORKS MAY]
5 grant funds to a regional school board for a school construction, re-
6 pair, or improvement project, and, if the request is for all funds
7 allocated, shall provide for the assumption by the regional school board
8 of all of the department's responsibilities relating to the planning,
9 design and construction of an educational facility. Thereafter, the
10 board shall

11 (1) select the appropriate professional personnel to develop
12 the designs;

13 (2) approve or disapprove the appropriate designs or revised
14 designs; and

15 (3) undertake construction, repair or improvement of the
16 educational facility.

17 (e) To carry out the purpose of this section, the Department of
18 Transportation and Public Facilities [PUBLIC WORKS] shall adopt regu-
19 lations relating to the application for and the making and the manner of
20 administration [CONDITIONS] of grants wherein the responsibility for
21 school construction, repair and improvement is assumed [AND THE ASSUMP-
22 TION OF RESPONSIBILITIES] by regional school boards under (d) of this
23 section. The department may require different terms in grant contracts
24 for different projects to meet local conditions and unique requirements
25 and to assure compliance with the public facilities procurement policies
26 developed by the department under AS 35.10.160 - 35.10.200.

27 * Sec. 5. AS 14.08.161(g) is repealed and re-enacted to read:

28 (g) Title or sufficient interest determined acceptable by the
29 department to an approved site for a school building to be constructed,

1 repaired or improved by a regional school board shall be vested in the
2 state or in the respective regional school board.

3 * Sec. 6. AS 35.15.080(a) - (c) are amended to read:

4 (a) A municipality or, if the public work is an educational facil-
5 ity, a regional educational attendance area established under AS 14.08
6 may, by resolution of its governing body, request the assumption of
7 all of the department's responsibilities relating to the planning and
8 construction of a public works project of the state which is to be
9 located within the boundaries or operating area of the municipality or
10 regional educational attendance area and which would otherwise be con-
11 structed in the manner provided in sec. 10 of this chapter. After
12 receipt of the request, the department

13 (1) shall provide for the assumption by the municipality or
14 regional educational attendance area of all of the department's respon-
15 sibilities relating to the planning, design and construction of an
16 educational facility;

17 (2) may provide by agreement for transfer to and assumption
18 by the municipality [OR REGIONAL EDUCATIONAL ATTENDANCE AREA] of the
19 department's responsibilities relating to the planning, design, and
20 construction of a [THE] public works project, unless the commissioner
21 determines that assumption of responsibilities by the municipality [OR
22 AREA] is not practicable or not in the best interests of the state.
23 [THE PARTIES MAY BY MUTUAL AGREEMENT PROVIDE FOR JOINT OR COOPERATIVE
24 ASSUMPTION OF RESPONSIBILITIES BY THE DEPARTMENT AND THE MUNICIPALITY OR
25 REGIONAL EDUCATIONAL ATTENDANCE AREA.]

26 (b) If the commissioner of transportation and public facilities
27 [PUBLIC WORKS] determines that assumption of responsibilities by a
28 municipality [OR REGIONAL EDUCATIONAL ATTENDANCE AREA] under (a)(2) of
29 this section is not practicable or not in the best interests of the

1 state, he shall notify the governing body of the municipality [OR AREA]
2 of his finding and specify reasons for it. If the governing body re-
3 quests reconsideration of the decision, he shall hold a hearing in the
4 municipality within 30 days following mailing of the request. Following
5 the hearing, he may affirm, modify or reverse his initial decision and
6 shall specify in writing the reasons.

7 (c) A municipality may request joint assumption of responsibili-
8 ties with the department relating to the planning, design and construc-
9 tion of a public works project. A regional educational attendance area
10 may request joint assumption of responsibilities with the department
11 relating to the planning, design and construction of an educational
12 facility. Two or more municipalities or regional educational attendance
13 areas may by mutual agreement provide for cooperative assumption of
14 responsibilities relating to the planning and construction of a public
15 works project. If two or more municipalities or regional educational
16 attendance areas request assumption of responsibilities for a project
17 and meet the standard of practicability set out in (a)(2) of this sec-
18 tion, the commissioner shall determine which municipality or regional
19 educational attendance area is best able to direct planning, design, and
20 construction of the project and enter into an agreement with that muni-
21 cipality [SUBDIVISION] or regional educational attendance area, or
22 provide for joint or cooperative administration, as the parties may
23 agree or the commissioner may determine. Decisions of the commissioner
24 under this subsection are final.

25 * Sec. 7. AS 35.15.080(f) is amended to read:

26 (f) To carry out the purpose of this section, the commissioner of
27 transportation and public facilities [PUBLIC WORKS] shall adopt regula-
28 tions relating to the application for and the making and the conditions
29 of agreements and the local assumption of responsibilities for the

1 planning, design and construction of public works under this section.
2 He may require different terms in agreements for different projects to
3 meet local conditions and unique requirements and to assure compliance
4 with the public facilities procurement policies developed by the depart-
5 ment under AS 35.10.160 - 35.10.200. If necessary, the commissioner may
6 require as a condition of an agreement approval of the agreement by the
7 federal government. Regulations adopted, amended or repealed by the
8 department under this section which relate to educational facilities
9 shall be developed in conjunction with the Alaska Association of School
10 Boards and the Alaska Association of School Administrators and reviewed
11 by those associations before final action on the regulations is taken by
12 the department.

13 * Sec. 8. AS 35.15.090 is amended to read:

14 Sec. 35.15.090. USE OF APPROPRIATED FUNDS. Upon assumption by a
15 municipality or regional educational attendance area of the department's
16 responsibilities under sec. 80(a)(1) of this chapter, or upon [UPON]
17 execution of an agreement under sec. 80(a)(2) of this chapter, state
18 funds appropriated for a public works project which is the subject of
19 the assumption or the agreement shall be transferred to a special ac-
20 count in the state treasury. A municipality or regional educational
21 attendance area administering the project under the assumption or agree-
22 ment may draw on the account for costs of the project, under fiscal
23 control of the department. If an agreement provides for joint or co-
24 operative administration of the project, payment of costs shall be made
25 to the party incurring the costs.

26 * Sec. 9. AS 35.15.110(a) is amended to read:

27 (a) Title acceptable to the department to a suitable project site
28 shall be vested in the state before work is begun on the site, except
29 that, if the project involves construction of an educational facility,

1 title or sufficient interest determined acceptable by the department to
2 an approved site for a school building shall be vested in the muni-
3 cipality, the regional educational attendance area or the state before
4 advertisement for bids or initiation of construction contract negotia-
5 tions.

6 * Sec. 10. AS 14.07.020 is amended by adding a new paragraph to read:

7 (10) review plans for construction of new public elementary
8 and secondary schools and for additions to and major rehabilitation of
9 existing public elementary and secondary schools and, in accordance with
10 regulations adopted by the department, determine the extent of eligi-
11 bility for state aid of a school construction project begun after the
12 effective date of this Act; for purposes of this paragraph, a "plan"
13 includes educational specifications, schematic designs, and final con-
14 tract documents.

15 * Sec. 11. AS 14.14.060(e) is amended to read:

16 (e) The borough school board is responsible for the design cri-
17 teria of school buildings. To the maximum extent consistent with edu-
18 cation needs, a design of a school building shall provide for multiple
19 use of the building for community purposes. Subject to the approval of
20 the assembly, the school board shall select the appropriate professional
21 personnel to develop the designs. The school board shall submit pre-
22 liminary and subsequent designs for a school building to the assembly
23 for approval or disapproval; if the design is disapproved, a revised
24 design shall be prepared and presented to the assembly. A design or
25 revised design approved by the assembly shall be submitted by the board
26 to the department in accordance with AS 14.07.020(10).

27 * Sec. 12. AS 43.18.100(a) is repealed and re-enacted to read:

28 (a) During each fiscal year, the state shall allocate to an or-
29 ganized borough or a city which is a school district, the following

1 sums :

2 (1) payments made by the borough or city during the fiscal
3 year two years earlier for the retirement of principal and interest on
4 outstanding bonds, notes or other indebtedness incurred before July 1,
5 1977 to pay costs of school construction;

6 (2) 80 per cent of

7 (A) payments made by the borough or city during the
8 fiscal year two years earlier for the retirement of principal and
9 interest on outstanding bonds, notes or other indebtedness incurred
10 after June 30, 1977 and before July 1, 1978 to pay costs of school
11 construction;

12 (B) cash payments made after June 30, 1976 and before
13 July 1, 1978 by the borough or city during the fiscal year two
14 years earlier to pay costs of school construction;

15 (3) 80 per cent of

16 (A) payments made by the borough or city during the
17 fiscal year two years earlier for the retirement of principal and
18 interest on outstanding bonds, notes or other indebtedness incurred
19 after June 30, 1978 to pay costs of school construction projects
20 approved under AS 14.07.020(10);

21 (B) cash payments made after June 30, 1978 by the bor-
22 ough or city during the fiscal year two years earlier to pay costs
23 of school construction projects approved under AS 14.07.020(10).

24 * Sec. 13. AS 43.18 is amended by adding new sections to read:

25 Sec. 43.18.105. PUBLIC SCHOOL FACILITIES CONSTRUCTION ADVANCE
26 ACCOUNT. The public school facilities construction advance account is
27 established. The account consists of appropriations for distribution
28 under secs. 105 - 135 of this chapter to boroughs and cities which are
29 school districts to assist in paying the costs of public school facil-

1 ities projects approved under AS 14.07.020(10) for which construction is
2 commenced after June 30, 1978 and for which no bonding, notes, or other
3 indebtedness was incurred before July 1, 1978.

4 Sec. 43.18.110. ELIGIBILITY. Eligibility of a proposed construc-
5 tion project for funding assistance under secs. 105 - 135 of this chap-
6 ter shall be determined by the department based on standards and cri-
7 teria established by regulation. The standards and criteria to be
8 considered in determining eligibility include the following:

- 9 (1) emergency requirements;
- 10 (2) number of unhoused students;
- 11 (3) new elementary or secondary programs;
- 12 (4) existing community and school facilities and their condi-
13 tion; and
- 14 (5) economic and social stability of the community.

15 Sec. 43.18.115. STATE AID. (a) The amount of state aid payable
16 in advance under secs. 105 - 135 of this chapter is the amount by which
17 the cost of construction of the approved school construction project
18 would cause the debt-to-valuation ratio of the municipality to exceed 12
19 per cent.

20 (b) A payment under (a) of this section is limited to an amount
21 which, when combined with estimated payments to the school district for
22 the retirement of the principal and interest on bonds, notes or other
23 indebtedness or reimbursement of cash payments for a school construction
24 project for which payment is made under sec. 100(a)(1) or (2) of this
25 chapter or for an approved school construction project for which payment
26 is made under sec. 100(a)(3) of this chapter, does not exceed 80 per
27 cent of the cost of the school construction project.

28 (c) For purposes of this section,

- 29 (1) "debt" means the principal amount of the direct and

1 general obligation indebtedness of the municipality for which all tax-
2 able property is subject to taxation to pay the bond, note or other
3 evidence of the debt, determined and reported in accordance with AS
4 14.17.140(c);

5 (2) "valuation" means the full and true value of the real and
6 personal property of the municipality determined in accordance with AS
7 14.17.140(a).

8 Sec. 43.18.120. APPLICATION FOR AID. (a) The commissioner shall
9 prescribe the necessary forms and procedures to be used in applying for
10 construction cost assistance under secs. 105 - 135 of this chapter.

11 (b) A borough or city which is a school district seeking con-
12 struction cost aid shall apply to the department by October 15 of the
13 prior fiscal year.

14 (c) Based on his review of applications and his determination of
15 project eligibility, the commissioner shall recommend to the governor an
16 appropriation of funds for state aid for those projects under secs.
17 105 - 135 of this chapter.

18 Sec. 43.18.125. CONDITIONS OF STATE AID. (a) Funds distributed
19 to a borough or city which is a school district during a school year
20 under secs. 105 - 135 of this chapter shall be received, held, and
21 expended by the district in accordance with the applicable provisions of
22 law and of regulations adopted by the department. Funds provided under
23 secs. 105 - 135 of this chapter, but which are not required for the
24 project for which they were granted or which are in excess of that
25 borough's or city which is a district's entitlement for aid under sec.
26 115 of this chapter shall be returned to the department and deposited in
27 the general fund.

28 (b) Each borough or city which is a school district shall maintain
29 financial records of the receipt and disbursement of state funds re-

1 ceived under secs. 105 - 135 of this chapter and money provided toward
2 local effort. The records shall be in the form prescribed by the de-
3 partment and are subject to audit by it at any time.

4 (c) Upon completion of the construction project, the chief school
5 administrator of the district shall report the total cost of the project
6 and means of financing it to the commissioner.

7 (d) Boroughs and cities that are school districts shall secure and
8 maintain in full force and effect adequate property loss insurance for
9 the replacement cost of all facilities constructed after July 1, 1978
10 and for which state funds are available under this chapter.

11 Sec. 43.18.130. CONSTRUCTION AND IMPLEMENTATION. (a) Sections
12 105 - 135 of this chapter may not be construed so as to create a debt to
13 the state.

14 (b) Funds to carry out the provisions of secs. 105 - 135 of this
15 chapter may be appropriated annually by the legislature into the public
16 school facilities construction advance account. If amounts in the
17 account are insufficient to meet the allocations authorized by the
18 commissioner under secs. 105 - 135 of this chapter, such funds as are
19 available shall be distributed pro rata among each borough and city
20 which is a school district based upon its computed entitlement.

21 Sec. 43.18.135. DEFINITIONS. In secs. 100 - 135 of this chapter,
22 unless the context requires otherwise,

23 (1) "approved school construction project" means the plan for
24 a new school or an addition to or major rehabilitation of an existing
25 school to the extent to which approved by the commissioner in accordance
26 with AS 14.07.020(10);

27 (2) "commissioner" means the commissioner of education;

28 (3) "department" means the Department of Education.

29 * Sec. 14. AS 14.17.140 is amended by adding a new subsection to read:

1 (c) To determine the debt-to-valuation ratio to be applied to the
2 determination of state aid for school construction under AS 43.18.105 -
3 43.18.135, the Department of Community and Regional Affairs, in consul-
4 tation with the responsible financial officer of each municipality which
5 is a school district, shall annually determine the debt of the munici-
6 pality and report the determination to the mayor of the municipality and
7 the commissioner of the Department of Education. The determination
8 shall be made by October 1 of each year and shall report the outstanding
9 debt as of July 1 each year.

10 * Sec. 15. AS 43.18.100(f) is repealed.

11 * Sec. 16. The commissioner of the Department of Education may make pay-
12 ments of amounts appropriated for advance funding of school construction in
13 accordance with AS 43.18.105 - 43.18.135 for approved school construction
14 projects during a one-year period following the effective date of this Act
15 without regard to prior application by a city or borough school district for
16 aid under AS 43.18.120(b) added by sec. 13 of this Act.

17 * Sec. 17. This Act takes effect July 1, 1978.
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