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1 IN THE HOUSE

BY THE FREE CONFERENCE COMMITTEE

2 FREE CONFERENCE CS FOR SENATE CS FOR CS FOR HOUSE BILL NO. 681

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 shall include in grant contracts terms and
24 conditions requiring a regional school board and its contractors to
25 adhere to the provisions of AS 36.05.010 with respect to the payment of
26 wage rates on construction projects, and AS 36.10.010 with respect to
27 employment preference and may require different terms in grant contracts
28 for different projects to meet local conditions and unique requirements
29 and to assure compliance with the public facilities procurement policies

1 developed by the department under AS 35.10.160 - 35.10.200.

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 AS 14.08.161(g) is repealed and re-enacted to read:

3 (g) Title or sufficient interest determined acceptable by the
4 department to an approved site for a school building to be constructed,
5 repaired or improved by a regional school board shall be vested in the
6 state or in the respective regional school board.

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

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

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

21 (2) may provide by agreement for transfer to and assumption
22 by the municipality [OR REGIONAL EDUCATIONAL ATTENDANCE AREA] of the
23 department's responsibilities relating to the planning, design, and
24 construction of a [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.
27 [THE PARTIES MAY BY MUTUAL AGREEMENT PROVIDE FOR JOINT OR COOPERATIVE
28 ASSUMPTION OF RESPONSIBILITIES BY THE DEPARTMENT AND THE MUNICIPALITY OR
29 REGIONAL EDUCATIONAL ATTENDANCE AREA.]

1 (b) If the commissioner of transportation and public facilities
2 [PUBLIC WORKS] determines that assumption of responsibilities by a
3 municipality [OR REGIONAL EDUCATIONAL ATTENDANCE AREA] under (a)(2) of
4 this section is not practicable or not in the best interests of the
5 state, he shall notify the governing body of the municipality [OR AREA]
6 of his finding and specify reasons for it. If the governing body re-
7 quests reconsideration of the decision, he shall hold a hearing in the
8 municipality within 30 days following mailing of the request. Following
9 the hearing, he may affirm, modify or reverse his initial decision and
10 shall specify in writing the reasons.

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

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

1 (f) To carry out the purpose of this section, the commissioner of
2 transportation and public facilities [PUBLIC WORKS] shall adopt regula-
3 tions relating to the application for and the making and the conditions
4 of agreements and the local assumption of responsibilities for the
5 planning, design and construction of public works under this section.
6 He shall include in grant contracts terms and conditions requiring a
7 regional school board and its contractors to adhere to the provisions of
8 AS 36.05.010 with respect to the payment of wage rates on construction
9 projects, and AS 36.10.010 with respect to employment preference, and
10 may require different terms in agreements for different projects to meet
11 local conditions and unique requirements and to assure compliance with
12 the public facilities procurement policies developed by the department
13 under AS 35.10.160 - 35.10.200. If necessary, the commissioner may
14 require as a condition of an agreement approval of the agreement by the
15 federal government. Regulations adopted, amended or repealed by the
16 department under this section which relate to educational facilities
17 shall be developed in conjunction with the Alaska Association of School
18 Boards and the Alaska Association of School Administrators and reviewed
19 by those associations before final action on the regulations is taken by
20 the department.

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

22 Sec. 35.15.090. USE OF APPROPRIATED FUNDS. Upon assumption by a
23 municipality or regional educational attendance area of the department's
24 responsibilities under sec. 80(a)(1) of this chapter, or upon [UPON]
25 execution of an agreement under sec. 80(a)(2) of this chapter, state
26 funds appropriated for a public works project which is the subject of
27 the assumption or the agreement shall be transferred to a special ac-
28 count in the state treasury. A municipality or regional educational
29 attendance area administering the project under the assumption or agree-

1 ment may draw on the account for costs of the project, under fiscal
2 control of the department. If an agreement provides for joint or co-
3 operative administration of the project, payment of costs shall be made
4 to the party incurring the costs.

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

6 (a) Title acceptable to the department to a suitable project site
7 shall be vested in the state before work is begun on the site, except
8 that, if the project involves construction of an educational facility,
9 title or sufficient interest determined acceptable by the department to
10 an approved site for a school building shall be vested in the muni-
11 cipality, the regional educational attendance area or the state before
12 advertisement for bids or initiation of construction contract negotia-
13 tions.

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

15 (10) review plans for construction of new public elementary
16 and secondary schools and for additions to and major rehabilitation of
17 existing public elementary and secondary schools and, in accordance with
18 regulations adopted by the department, determine the extent of eligi-
19 bility for state aid of a school construction project begun after the
20 effective date of this Act; for purposes of this paragraph, a "plan"
21 includes educational specifications, schematic designs, and final con-
22 tract documents.

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

24 (e) The borough school board is responsible for the design cri-
25 teria of school buildings. To the maximum extent consistent with edu-
26 cation needs, a design of a school building shall provide for multiple
27 use of the building for community purposes. Subject to the approval of
28 the assembly, the school board shall select the appropriate professional
29 personnel to develop the designs. The school board shall submit pre-

1 liminary and subsequent designs for a school building to the assembly
2 for approval or disapproval; if the design is disapproved, a revised
3 design shall be prepared and presented to the assembly. A design or
4 revised design approved by the assembly shall be submitted by the board
5 to the department in accordance with AS 14.07.020(10).

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

7 (a) During each fiscal year, the state shall allocate to an or-
8 ganized borough or a city which is a school district, the following
9 sums:

10 (1) payments made by the borough or city during the fiscal
11 year two years earlier for the retirement of principal and interest on
12 outstanding bonds, notes or other indebtedness incurred before July 1,
13 1977 to pay costs of school construction;

14 (2) 80 per cent of

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

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

23 (3) 80 per cent of

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

29 (B) cash payments made after June 30, 1978 by the bor-

1 ough or city during the fiscal year two years earlier to pay costs
2 of school construction projects approved under AS 14.07.020(10).

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

4 Sec. 43.18.105. PUBLIC SCHOOL FACILITIES CONSTRUCTION ADVANCE
5 ACCOUNT. The public school facilities construction advance account is
6 established. The account consists of appropriations for distribution
7 under secs. 105 - 135 of this chapter to boroughs and cities which are
8 school districts to assist in paying the costs of public school facil-
9 ities projects approved under AS 14.07.020(10) for which construction is
10 commenced after June 30, 1978 and for which no bonding, notes, or other
11 indebtedness was incurred before July 1, 1978.

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

- 17 (1) emergency requirements;
- 18 (2) number of unhoused students;
- 19 (3) new elementary or secondary programs;
- 20 (4) existing community and school facilities and their condi-
21 tion; and
- 22 (5) economic and social stability of the community.

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

28 (b) A payment under (a) of this section is limited to an amount
29 which, when combined with estimated payments to the school district for

1 the retirement of the principal and interest on bonds, notes or other
2 indebtedness or reimbursement of cash payments for a school construction
3 project for which payment is made under sec. 100(a)(1) or (2) of this
4 chapter or for an approved school construction project for which payment
5 is made under sec. 100(a)(3) of this chapter, does not exceed 80 per
6 cent of the cost of the school construction project.

7 (c) For purposes of this section,

8 (1) "debt" means the principal amount of the direct and
9 general obligation indebtedness of the municipality for which all tax-
10 able property is subject to taxation to pay the bond, note or other
11 evidence of the debt, determined and reported in accordance with AS
12 14.17.140(c);

13 (2) "valuation" means the full and true value of the real and
14 personal property of the municipality determined in accordance with AS
15 14.17.140(a).

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

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

22 (c) Based on his review of applications and his determination of
23 project eligibility, the commissioner shall recommend to the governor an
24 appropriation of funds for state aid for those projects under secs.
25 105 - 135 of this chapter.

26 Sec. 43.18.125. CONDITIONS OF STATE AID. (a) Funds distributed
27 to a borough or city which is a school district during a school year
28 under secs. 105 - 135 of this chapter shall be received, held, and
29 expended by the district in accordance with the applicable provisions of

1 law and of regulations adopted by the department. Funds provided under
2 secs. 105 - 135 of this chapter, but which are not required for the
3 project for which they were granted or which are in excess of that
4 borough's or city which is a district's entitlement for aid under sec.
5 115 of this chapter shall be returned to the department and deposited in
6 the general fund.

7 (b) Each borough or city which is a school district shall maintain
8 financial records of the receipt and disbursement of state funds re-
9 ceived under secs. 105 - 135 of this chapter and money provided toward
10 local effort. The records shall be in the form prescribed by the de-
11 partment and are subject to audit by it at any time.

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

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

19 Sec. 43.18.130. CONSTRUCTION AND IMPLEMENTATION. (a) Sections
20 105 - 135 of this chapter may not be construed so as to create a debt to
21 the state.

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

29 Sec. 43.18.135. DEFINITIONS. In secs. 100 - 135 of this chapter,

1 unless the context requires otherwise,

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

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

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

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

9 (c) To determine the debt-to-valuation ratio to be applied to the
10 determination of state aid for school construction under AS 43.18.105 -
11 43.18.135, the Department of Community and Regional Affairs, in consul-
12 tation with the responsible financial officer of each municipality which
13 is a school district, shall annually determine the debt of the munici-
14 pality and report the determination to the mayor of the municipality and
15 the commissioner of the Department of Education. The determination
16 shall be made by October 1 of each year and shall report the outstanding
17 debt as of July 1 each year.

18 * Sec. 15. AS 36.10.010 is amended to read:

19 Sec. 36.10.010. EMPLOYMENT PREFERENCE. In the performance of
20 contracts let by the state, [OR] a political subdivision of the state,
21 or a regional school board with respect to an educational facility under
22 AS 14.08.161 for construction, repair, preliminary surveys, engineering
23 studies, consulting, maintenance work or any other retention of services
24 necessary to complete any given project, 95 per cent residents shall be
25 employed where they are available and qualified. If 10 or fewer persons
26 are employed under the contract, then 90 per cent residents shall be
27 employed where they are available and qualified. In all cases of public
28 works projects, preference shall be given to residents. In an area
29 which has been designated as an area impacted by an economic disaster,

1 residents of that area shall be given employment preference as provided
2 in AS 44.33.290, followed by other residents of the state.

3 * Sec. 16. AS 36.95.010(3) is amended to read:

4 (3) "public construction" or "public works" means the on-site
5 field surveying, erection, rehabilitation, alteration, extension or
6 repair, including painting or redecorating buildings, highways or other
7 improvements to real property under contract for the state, [OR] a
8 political subdivision of the state, or a regional school board with
9 respect to an educational facility under AS 14.08.161;

10 * Sec. 17. AS 43.18.100(f) is repealed.

11 * Sec. 18. 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. 19. This Act takes effect July 1, 1978.