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Offered: 4/5/79  
Referred: Finance

1 IN THE HOUSE

BY THE COMMUNITY AND  
REGIONAL AFFAIRS COMMITTEE

2 SENATE CS FOR HOUSE BILL NO. 185

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing state aid to municipalities for the  
7 construction and development of cultural facilities."

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

9 \* Section 1. AS 43.18 is amended by adding a new section to read:

10 ARTICLE 5. CULTURAL FACILITIES.

11 Sec. 43.18.500. CULTURAL FACILITY CONSTRUCTION AND DEVELOPMENT  
12 GRANTS. (a) There is established within the Department of Commerce and  
13 Economic Development a cultural facilities development fund for the pur-  
14 pose of providing state assistance in the construction and development  
15 of cultural facilities within those municipalities which actively pro-  
16 vide support to the arts. Within the limits of direct appropriations  
17 for the purpose or through the appropriation of the proceeds of a  
18 general obligation bond issue, the department shall make grants to  
19 municipalities for construction and development of cultural facilities.

20 (b) Grants for only one site may be awarded to a municipality  
21 under this section.

22 (c) Application for a grant shall be made in the form required by  
23 the commissioner.

24 (d) No application for a grant may be considered for approval by  
25 the commissioner and no funds paid by him under this section unless

26 (1) the project is endorsed by resolution of the governing  
27 body of the sponsoring municipality on its own behalf or on behalf of  
28 the officially recognized arts planning organization of the municipal-  
29 ity;

1 (2) the commissioner is satisfied that the sponsoring munici-  
2 pality

3 (A) has the authority under AS 29.41 or AS 29.48 to  
4 provide and maintain a cultural facility;

5 (B) is able to provide the local share of total project  
6 costs; and

7 (C) will be financially able to maintain and operate the  
8 facility upon completion;

9 (3) the municipality provides all information which the  
10 department may require by regulation to enable the commissioner to  
11 verify estimates of total project costs;

12 (4) the complete application has been submitted

13 (A) to the state assessor for his determination and  
14 verification that the fair market value of any real property  
15 claimed as a credit under (f)(4) of this section is accurate; and

16 (B) to the Department of Transportation and Public  
17 Facilities, for review in accordance with the provisions of  
18 AS 35.10.190;

19 (C) to the Advisory Council on Cultural Facilities (AS  
20 44.33.400 - 44.33.410) for its review; and

21 (5) after providing voters with a description of the funding  
22 sources for construction of a proposed facility and a summary of the  
23 estimated annual maintenance, operating and occupancy costs of the  
24 cultural facility, the municipality has secured the approval of the  
25 residents for construction of the facility; the approval of the  
26 residents may be given by

27 (A) authorization of a general obligation bond to pro-  
28 vide the contribution of the municipality to the project;

29 (B) voter approval of the dedication of the proceeds of

1 a general tax increase to provide the contribution of the municipi-  
2 pality to the project; or

3 (C) an affirmative vote of the majority of the voters  
4 casting votes on a proposition at a regular or special election  
5 called for the purpose.

6 (e) The grant to a municipality shall be disbursed in accordance  
7 with the terms of an agreement between the commissioner, on behalf of  
8 the state, and the governing body of the municipality receiving the  
9 grant. The agreement may include any provision agreed upon by the  
10 parties, but shall include in substance the following provisions:

11 (1) the municipality shall secure, retain and protect title  
12 to the site or location on which the facility is to be constructed or  
13 developed; for purposes of this paragraph it is sufficient that title is  
14 obtained in fee or by lease by the terms of which the municipality  
15 enjoys exclusive use of the land and any improvements for the estimated  
16 project life of the facility or the period of maturity of any state  
17 general obligation bond a portion of the proceeds of which are used to  
18 provide financial assistance for the construction or development of the  
19 facility;

20 (2) the municipality agrees to provide the local contribution  
21 to total project cost required by (f) of this section, and to return to  
22 the state any excess contribution by the state as required by (h) of  
23 this section;

24 (3) the municipality agrees to proceed with and complete the  
25 proposed project expeditiously in accordance with plans originally  
26 submitted;

27 (4) the municipality will not materially alter or modify  
28 plans for the facility or undertake construction in a manner which  
29 materially departs from the approved design and plan for construction or

1 development of the facility without first securing the written recommen-  
2 dation of the officially recognized arts planning organization of the  
3 municipality;

4 (5) the municipality agrees to assume responsibility for the  
5 maintenance and operation of the facility, directly or by delegation of  
6 responsibility to an entity organized by ordinance of the municipality  
7 or to a nonprofit corporation dedicated to the arts and recognized by  
8 the municipality; the feasibility of the discharge of this obligation  
9 shall be demonstrated to the satisfaction of the commissioner before the  
10 payment of any state funds; and

11 (6) the parties agree that if property constructed or deve-  
12 loped with financial assistance provided under this section is designed  
13 or used for purposes other than for principal use as a cultural facil-  
14 ity, the state may require the municipality to reimburse the state for  
15 that portion of the total project cost which the state's investment in  
16 the project bears to the total of investment from all sources made in  
17 the project.

18 (f) A municipality receiving a grant under this section shall  
19 contribute to the total cost of the project. The amount of the munici-  
20 pality's contribution is determined by the application of the formula

21 (average per capita full and true value of all  
22 property in the municipality/average per capita  
23 full and true value of all property in the  
24 state) x contribution percentage

25 to the estimated total project cost as determined by the commissioner at  
26 the time of approval of a grant application. For purposes of this  
27 subsection

28 (1) the contribution percentage for

29 (A) a municipality having a population of 5,000 or less

1 is 10 per cent of the total project cost;

2 (B) a municipality having a population of 5,001 to  
3 10,000 is 20 per cent of the total project cost; and

4 (C) a municipality having a population of more than  
5 10,000 is 30 per cent of the total project cost;

6 (2) if an application is submitted for a municipality for  
7 which no average per capita full and true property value determination  
8 has been made, the commissioner shall request the state assessor to  
9 compute the average per capita full and true property value of that  
10 municipality and report it to him;

11 (3) the actual contribution rate of the municipality may not  
12 exceed the contribution percentage established in (1) of this subsec-  
13 tion;

14 (4) there shall be allowed as a credit against the municipal-  
15 ity's contribution computed under this subsection,

16 (A) for a project involving construction of a new faci-  
17 lity, the fair market value of land acquired by the municipality as  
18 the site or location for the facility;

19 (B) for a project involving development of an existing  
20 structure or facility, the fair market value of the land and im-  
21 provements which are acquired by the municipality and committed for  
22 use as a cultural facility;

23 (5) the grant awarded by the state may not exceed the esti-  
24 mated total project cost as determined by the commissioner under (d)(3)  
25 of this section less the contribution by the municipality determined in  
26 accordance with this subsection.

27 (g) If funds appropriated or provided by bond issue for grants  
28 under this section are not adequate to satisfy amounts required by  
29 approved grant applications, funds shall be allocated by the commis-

1 sioner on the basis of priority recommended by the Advisory Council on  
2 Cultural Facilities.

3 (h) If, upon completion of the facility, it appears that actual  
4 total project costs varied substantially from estimated total project  
5 costs determined by the commissioner under (d)(3) of this section and if  
6 the actual contribution of the state exceeds the percentage of total  
7 project costs payable by the state determined under (f)(5) of this  
8 section, the commissioner shall require the municipality to pay an  
9 amount to the state sufficient to reduce the state contribution to the  
10 percentage of state contribution required by (f)(5) of this section. If  
11 the actual total project costs exceed estimates, the commissioner may  
12 not provide additional financial assistance to the municipality.

13 (i) The commissioner shall

14 (1) provide an annual report to the legislature with respect  
15 to grants made under this section;

16 (2) adopt regulations to carry out the provisions of this  
17 section, including, but not limited to, regulations describing informa-  
18 tion about the proposed facility to be provided by the municipality  
19 which submits an application for a grant under this section.

20 (j) In this section,

21 (1) "commissioner" means the commissioner of commerce and  
22 economic development;

23 (2) "construction" means site preparation, erection of a  
24 structure, and acquisition and installation of fixtures and necessary  
25 fixed equipment, but does not include completion of feasibility studies,  
26 site acquisition or facility design;

27 (3) "cultural facility" means a structure or complex the  
28 principal purpose of which is to serve the visual and performing arts,  
29 including but not limited to a theatre, concert hall or gallery, or to

1 serve as the repository of the historical or contemporary heritage of  
2 the community and its people, and which also may be used for compatible  
3 activities, including but not limited to, activities relating to educa-  
4 tion, community meetings, tourism, and visitor information.

5 (4) "department" means the Department of Commerce and Eco-  
6 nomic Development;

7 (5) "development" means the acquisition and preservation, re-  
8 modeling or redevelopment of an existing structure or facility, together  
9 with the acquisition and installation of fixtures and necessary fixed  
10 equipment, for use as a cultural facility;

11 (6) "municipality" means a home rule or general law city or  
12 borough, and includes municipalities unified under AS 29.68.240 -  
13 29.68.440.

14 (7) "total project costs" means, in addition to costs directly  
15 related to the project, the total of all costs of financing and carrying  
16 out the project including, but not limited to

17 (A) the costs of all necessary studies (except feasibil-  
18 ity studies), surveys, plans and specifications, architectural,  
19 engineering or other special services, acquisition of real pro-  
20 perty, site preparation and development, purchase, construction,  
21 reconstruction and improvement of real property and the acquisition  
22 of machinery and equipment necessary in connection with the  
23 project;

24 (B) an allocable portion of the administrative and  
25 operating expenses of the municipality;

26 (C) the cost of financing the project, including  
27 interest on bonds issued to finance the project; and

28 (D) the cost of other items, including indemnity and  
29 surety bonds and premiums on insurance, legal fees, fees and

1 expenses of trustees, depositaries, financial advisors, and costs  
2 of paying agents for the bonds issued.

3 \* Sec. 2. AS 44.19.930 is amended by adding a new paragraph to read:  
4 (5) to recommend to the governor a list of persons for con-  
5 sideration for appointment to the Advisory Council on Cultural Faci-  
6 lities, in accordance with AS 44.33.400.

7 \* Sec. 3. AS 44.33 is amended by adding new sections to read:

8 ARTICLE 9. ADVISORY COUNCIL ON CULTURAL FACILITIES.

9 Sec. 44.33.400. ADVISORY COUNCIL ON CULTURAL FACILITIES ESTAB-  
10 LISHED. (a) There is in the Department of Commerce and Economic De-  
11 velopment the Advisory Council on Cultural Facilities.

12 (b) The council consists of five members, appointed by the gover-  
13 nor from a list of candidates provided to him for that purpose by the  
14 State Council on the Arts. The members of the council are appointed for  
15 overlapping three-year terms, with two of the members first appointed  
16 serving three years, two of the members serving two years, and one  
17 member serving a term of one year.

18 (c) The council shall select a chairman and vice-chairman from its  
19 membership.

20 Sec. 44.33.405. TRAVEL EXPENSES AND PER DIEM. Members of the  
21 Advisory Council on Cultural Facilities are not entitled to receive  
22 compensation for their services, but they shall receive per diem and  
23 travel expenses allowed by law for members of boards and commissions for  
24 attendance at a maximum of four meetings per year.

25 Sec. 44.33.410. DUTIES. The Advisory Council on Cultural Facili-  
26 ties shall

27 (1) by regulation, establish criteria for ranking applica-  
28 tions for grants to municipalities for the purpose of construction or  
29 development of cultural facilities under AS 43.18.500; the regulations

1 shall provide for the assignment of priority among applications trans-  
2 mitted by the commissioner; the criteria for ranking applications shall  
3 include facility need and suitability, public support for construction  
4 or development and maintenance of a facility, availability of land,  
5 management capacity, alternatives to completion of the facility pro-  
6 posed, redevelopment or rehabilitation of a structure qualifying as an  
7 historic property or a building of historic value which is part of an  
8 historic district, and cost;

9 (2) by application of the criteria adopted under (1) of this  
10 section, advise the commissioner regarding the approval of requests for  
11 financial assistance in the construction of cultural facilities sub-  
12 mitted in accordance with AS 43.18.500;

13 (3) at the request of a municipality, provide assistance in  
14 the preparation of an assessment of needs and review proposals and plans  
15 for construction or development of a cultural facility, for which finan-  
16 cial assistance is requested under AS 43.18.500; and

17 (4) submit an annual report to the commissioner and the  
18 legislature summarizing its activities and expenses.

19 \* Sec. 4. AS 44.33.020 is amended by adding a new paragraph to read:

20 (22) administer the program of state assistance for the con-  
21 struction and development of cultural facilities in accordance with  
22 AS 43.18.500.

23 \* Sec. 5. AS 29.48.030(14) is amended to read:

24 (14) libraries, visual or performing arts centers, or museums;

25 \* Sec. 6. AS 44.42.055(b)(3) is amended by adding a new subparagraph to  
26 read:

27 (J) cultural facilities;  
28  
29