

Introduced: 2/2/81  
Referred: Community & Regional Affairs,  
Transportation and Finance

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1 IN THE SENATE

2 SENATE BILL NO. 129

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state aid for local capital pro-  
7 jects; establishing the capital projects foundation  
8 fund; and providing for an effective date."

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

10 \* Section 1. It is the purpose of AS 44.42.100 - 44.42.160 to create a  
11 program which can provide a source of money which will be equitably distrib-  
12 uted throughout the state to be used, alone or with money from other sources,  
13 to finance capital projects. It is the intent of the legislature that plan-  
14 ning for capital projects reflect local needs and priorities and that, when-  
15 ever possible, political subdivisions of the state have sole responsibility  
16 for the expenditure of state money provided through the program. Nothing in  
17 AS 44.42.100 - 44.42.160 is intended to restrict the legislative authority  
18 to appropriate money.

19 \* Sec. 2. AS 44.42.020(a) is amended by adding a new paragraph to read:  
20 (16) adopt regulations for management of the capital projects  
21 foundation fund established under AS 44.42.100 and administer that  
22 fund.

23 \* Sec. 3. AS 44.42 is amended by adding new sections to read:

24 ARTICLE 2. CAPITAL PROJECTS FOUNDATION ENTITLEMENTS.

25 Sec. 44.42.100. CAPITAL PROJECTS FOUNDATION FUND AND ENTITLEMENTS.

26 (a) A capital projects foundation fund is established in the department  
27 for the purpose of providing state assistance for improvement, main-  
28 tenance, and new construction costs of local capital projects. Within  
29 the limits of appropriations for the purpose, the department shall make

entitlements for capital projects to organized boroughs, to home rule municipalities, and to municipalities unified under AS 29.68.240 which have capital improvement plans.

(b) Within the limits of appropriations for the purpose, the department shall make and manage entitlements for capital projects for each regional educational attendance area organized under AS 14.08.031.

(c) The amount of appropriation authorized for the capital improvements foundation fund for each fiscal year is not less than \$400 times the state population as annually determined by the Department of Labor.

Sec. 44.42.110. ELIGIBLE FACILITIES. (a) An entitlement from the capital projects foundation fund may be used for improvement, maintenance, or construction costs of the following facilities:

- (1) libraries;
- (2) community detention facilities;
- (3) fire halls, including the purchase of fire vehicles;
- (4) community parks and recreational facilities;
- (5) water and sewer facilities;
- (6) health facilities;
- (7) community centers;
- (8) cultural facilities;
- (9) transportation facilities which do not duplicate state facilities and which are not inconsistent with the state transportation plan under AS 44.42.050 as determined by the department, including
  - (A) service roads;
  - (B) trails;
  - (C) harbors and docks for small boats;
  - (D) seaplane floats;
  - (E) public transit facilities, including the purchase

1 of transit vehicles;

2 (F) emergency and recreational airstrips for small  
3 aircraft.

4 (b) A facility is eligible for an entitlement under this section  
5 only if it is identified in a capital improvement plan formulated under  
6 AS 44.42.130.

7 (c) If a facility is located in or to be located in an organized  
8 borough, a home rule municipality, or a unified municipality, it is not  
9 eligible for an entitlement under this section unless the municipality

10 (1) has or will have title to the facility; and

11 (2) has, under AS 29, the powers necessary to operate the  
12 facility.

13 Sec. 44.42.120. REGIONAL COUNCILS. (a) A regional council shall  
14 be established for each regional educational attendance area. A  
15 regional council shall be composed of no more than 11 members as  
16 follows:

17 (1) at least one person from each first class city which is  
18 located within a regional educational attendance area or which is  
19 included in a regional educational attendance area's capital improve-  
20 ment plan under (b) of this section and who is an elected city official  
21 selected by the council;

22 (2) additional members appointed by the governor from persons  
23 nominated by the Department of Community and Regional Affairs who are  
24 from second class cities or unincorporated communities within the  
25 regional educational attendance area; the members from a second class  
26 city shall be elected city officials.

27 (b) A general law first class city which is outside of an  
28 organized borough and outside of a regional educational attendance area  
29 shall be represented on the regional council and included in the capital

1 improvement plan of a regional educational attendance area which borders  
2 the city.

3 Sec. 44.42.130. CAPITAL IMPROVEMENT PLANS. (a) With assistance  
4 from the department, each regional council established under AS 44.42.-  
5 120 shall formulate a capital improvement plan. A capital improvement  
6 plan shall be a five-year plan updated annually, and shall

7 (1) identify all capital projects needed in the regional  
8 educational attendance area;

9 (2) assign a priority to each capital project identified;

10 (3) include cost estimates for each capital project identi-  
11 fied;

12 (4) include a list of needed capital projects which are not  
13 eligible for an entitlement from the capital improvement foundation  
14 fund;

15 (5) identify possibilities for capital projects involving  
16 facilities having more than one use;

17 (6) consider the feasibility of waste heat utilization and  
18 other energy-saving measures for capital projects;

19 (7) provide for site acquisition for capital projects; and

20 (8) provide for public access and utilities for capital  
21 projects.

22 (b) A capital improvement plan and revisions to a plan for a  
23 regional educational attendance area shall be adopted by the regional  
24 council after a public hearing. After adoption, the plan or the re-  
25 visions shall be submitted to the department.

26 (c) To qualify to receive an entitlement from the capital pro-  
27 jects foundation fund an organized borough, home rule municipality, or  
28 unified municipality shall formulate and annually update a capital  
29 improvement plan which covers at least a five-year period. A capital

1 improvement plan and revisions to a plan for an organized borough, home  
2 rule municipality, or unified municipality shall be submitted to the  
3 council or assembly. After approval by the council or assembly follow-  
4 ing a public hearing on the plan, the plan shall be submitted to the  
5 department.

6 Sec. 44.42.140. ALLOCATION AND DISTRIBUTION OF ENTITLEMENTS. (a)  
7 Entitlements from the capital projects foundation fund shall be distri-  
8 buted annually by the department to each organized borough, home rule  
9 municipality, and unified municipality which becomes eligible by sub-  
10 mitting a capital improvement plan as required by AS 44.42.130(c). An  
11 organized borough may agree that a city in the borough receive and use  
12 money from an annual entitlement for the borough which is for a facility  
13 located in the city, if the city has, under AS 29, the powers necessary  
14 to operate and hold title to that type of facility.

15 (b) Entitlements from the capital projects foundation fund shall  
16 be distributed annually to accounts established by the department for  
17 each regional educational attendance area which becomes eligible by  
18 submitting a capital improvement plan as required by AS 44.42.130(a)  
19 and (b). A city in a regional educational attendance area may elect to  
20 receive and use money from an annual entitlement to the regional educa-  
21 tional attendance area which is for a facility located in the city, if  
22 the city has, under AS 29, the powers necessary to operate and hold  
23 title to that type of facility.

24 (c) Annual entitlements from the capital projects foundation fund  
25 shall be computed as follows:

26 (1) seven-tenths of the amount available for distribution  
27 shall be divided by the total population of all eligible organized  
28 boroughs, home rule municipalities, unified municipalities, and regional  
29 educational attendance areas;

1 (2) three-tenths of the amount available for distribution  
2 shall be divided by the total area of all eligible organized boroughs,  
3 home rule municipalities, unified municipalities, and regional educa-  
4 tional attendance areas;

5 (3) the entitlement for each eligible organized borough,  
6 home rule municipality, unified municipality, and regional educational  
7 attendance area is its population times the amount computed under (1)  
8 of this subsection and its area times the amount computed under (2) of  
9 this subsection.

10 Sec. 44.42.150. USE OF ENTITLEMENTS. (a) An entitlement from  
11 the capital projects foundation fund distributed to an organized  
12 borough, home rule municipality, or unified municipality may be used  
13 only for projects identified in a capital improvement plan submitted to  
14 the department. Each recipient shall determine which project or pro-  
15 jects to finance with the entitlement received each year.

16 (b) A facility for which an entitlement from the capital projects  
17 foundation fund is received which is located in an organized borough  
18 but outside of a city shall be owned, operated, and maintained by the  
19 borough. A facility for which an entitlement from the capital projects  
20 foundation fund is received which is located in a city within an  
21 organized borough shall be owned, maintained and operated

22 (1) by the borough, if the borough has, under AS 29, the  
23 powers necessary to operate and hold title to that type of facility;

24 (2) by the city, if the city has, under AS 29, the powers  
25 necessary to operate and hold title to that type of facility; or

26 (3) by either the borough or city as they may agree, if both  
27 the city and the borough have the powers to operate and hold title to  
28 that type of facility.

29 (c) An entitlement from the capital projects foundation fund for

1 a project in a first or second class city which is part of the capital  
2 improvement plan of a regional educational attendance area may be  
3 distributed to the city upon the request of the council or with the  
4 concurrence of the council if the city will

5 (1) secure, retain, and protect title to the site of an  
6 existing facility or to the site on which a new facility is to be  
7 constructed; for purposes of this paragraph it is sufficient that title  
8 is obtained in fee or by a lease which provides that the city enjoys  
9 exclusive use of the site and any improvements for the estimated life  
10 of the facility;

11 (2) assume responsibility for the operation of the facility  
12 to be financed with the entitlement, and demonstrates the feasibility  
13 of the discharge of this obligation to the satisfaction of the commis-  
14 sioner before the payment of the entitlement.

15 (d) If it appears that the cost of a capital project financed by  
16 an entitlement from the capital projects foundation fund to an organized  
17 borough, home rule municipality, or unified municipality will vary  
18 substantially from the cost estimated at the time the entitlement was  
19 made for the capital project, the recipient is responsible for obtain-  
20 ing the additional money needed to complete the project. If a capital  
21 project financed by an entitlement from the capital projects foundation  
22 fund to an organized borough, home rule municipality, or unified muni-  
23 cipality costs less to complete than estimated at the time the entitle-  
24 ment was made, the recipient may use the excess entitlement for other  
25 capital projects in its capital improvement plan.

26 (e) Each regional council shall annually determine which projects  
27 in its capital improvement plan to finance with entitlements from the  
28 capital projects foundation fund to a regional educational attendance  
29 area. The department is responsible for the design and construction of

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the projects selected by a regional council under this subsection and shall carry out the projects in accordance with AS 35 unless a city elects to receive and use money from an entitlement in accordance with AS 44.42.140(b).

(f) An entitlement from the capital projects foundation fund may be used to match state or federal grants for projects identified in a capital improvement plan.

Sec. 44.42.160. DEFINITIONS. In AS 44.42.100 - 44.42.160

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(1) "improvement" means renovations and additions to an existing facility which allow for better service than the facility provided in its original condition;

(2) "improvement, maintenance, or construction costs" include, in addition to costs directly related to the project, the total of all costs of financing and carrying out the project; these include, but are not limited to, the costs of surveys, plans and specifications, architectural, engineering or other special services, acquisition of real property, site preparation and development, purchase, construction, reconstruction and improvement of real property;

(3) "maintenance" means restoration and repair needed to keep a facility as close as possible to its original condition;

(4) "population" means the population, as annually determined by the Department of Labor using the latest figures of the United States Bureau of the Census.

\* Sec. 4. This Act takes effect July 1, 1981.