

Introduced: 2/8/84
Referred: Community & Regional
Affairs, Judiciary and Finance

1 IN THE HOUSE

BY MCBRIDE

2

HOUSE BILL NO. 590

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to state aid for Indian tribes
7 located on certain federally established Indian
8 reserves; and providing for an effective date."

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

10 * Section 1. INTENT. It is the intent of the legislature that the
11 Metlakatla Indian Community qualify to receive state assistance commensu-
12 rate with the services provided by the Metlakatla Indian Community to the
13 residents of the Annette Island Reserve. Neither this Act nor any action
14 taken under it should be construed to expand or diminish the authority or
15 jurisdiction of any Native village council.

16 * Sec. 2. AS 29.88.010(c) is amended to read:

17 (c) For purposes of this section, locally generated revenue

18 (1) includes

19 (A) the actual revenue derived from the levy and
20 collection of local taxes in the taxing unit for local government
21 services during the preceding fiscal year of the taxing unit;

22 (B) motor vehicle payments received by the municipal-
23 ity during the preceding fiscal year under AS 28.10.431;

24 (C) revenue from fees, rentals, leases, penalties,
25 licenses or permits received during the preceding fiscal year by
26 the local government [MUNICIPALITY] for a function or service
27 over which it has control, including revenues derived from parks
28 and recreation services, mass transit, offstreet parking, and
29 garbage and solid waste disposal services;

1 (D) special assessments received during the preceding
2 fiscal year; and

3 (E) payments received by a local government [MUNIC-
4 IPALITY] from a utility that [WHICH] are in place of taxes levied
5 and collected by the local government [MUNICIPALITY];

6 (2) excludes

7 (A) revenue derived from the levy and collection of
8 local [MUNICIPAL] taxes and appropriated for the operating ex-
9 penses and debt service of utilities;

10 (B) revenue from interest earned on investments and
11 from the sale and lease of land or equipment; and

12 (C) all other revenue from whatever service derived.

13 * Sec. 3. AS 29.88.020(a) is amended to read:

14 (a) The department may require a local government [MUNICIPALITY]
15 to return a certification, signed by the appropriate local official
16 that [MUNICIPAL TREASURER OR MANAGER AND THE MAYOR, WHICH] provides an
17 estimate of the locally generated revenue received by the local gov-
18 ernment [MUNICIPALITY] during the preceding fiscal year.

19 * Sec. 4. AS 29.88.020(b) is amended to read:

20 (b) By October 15 of each year, the department shall make an
21 initial determination of the millage rate equivalent of each taxing
22 unit to be used for computing and distributing equalization entitle-
23 ments for the current fiscal year under this chapter. The department
24 shall base the initial determination on the estimates in the certi-
25 fication returned [BY A MUNICIPALITY] under (a) of this section.

26 * Sec. 5. AS 29.88.020(c) is amended to read:

27 (c) As early as possible, but not later than December 15 of each
28 year, the department shall make a final determination of the millage
29 rate equivalent of each taxing unit to use to compute and distribute

1 equalization entitlements under this chapter. The department shall
2 base the determination on audits, financial statements and other
3 financial reports prepared and submitted by the local government [A
4 MUNICIPALITY]. The department shall adjust the locally generated
5 revenue reported [BY A MUNICIPALITY] to exclude the [MUNICIPAL] reve-
6 nue claimed by the local government that [MUNICIPALITY WHICH] does not
7 qualify for inclusion in or recognition as locally generated revenue
8 for local government purposes under AS 29.88.010(c)(1). The adjust-
9 ment shall be made by deducting from total revenue claimed by the
10 local government [MUNICIPALITY] the amount of the department's esti-
11 mate of revenue that [WHICH] is not recognized for local government
12 purposes.

13 * Sec. 6. AS 29.88.020(d) is amended to read:

14 (d) The full and true assessed property value shall be deter-
15 mined by the department in the manner provided for the computation of
16 state aid to education under AS 14.17.140. When the determination of
17 locally generated revenue includes revenue of a utility received under
18 AS 29.88.010(c)(1)(E), the full and true assessed property value shall
19 include the computed assessed value of the utility, determined by
20 dividing the amount of the payment in place of taxes made by the
21 utility by the millage rate that [WHICH] would apply to the utility if
22 the utility were subject to levy and collection of local taxes [UNDER
23 AS 29.53.010 - 29.53.420].

24 * Sec. 7. AS 29.88.020(e) is amended to read:

25 (e) In addition to the computation for local governments that
26 [MUNICIPALITIES WHICH] levy and collect a property tax, the department
27 shall determine an estimated full and true assessed property value
28 under (d) of this section for

29 (1) each municipality that [WHICH] is a school district and

1 that [WHICH] does not levy and collect a property tax;

2 (2) each second class city or Indian reserve with a popu-
3 lation of 750 or more persons; however, a computation is not required
4 under this paragraph more often than once during a period of three
5 successive calendar years; and

6 (3) all other second class cities and Indian reserves, by
7 determining the average per capita full and true assessed property
8 value of all cities and Indian reserves having a population of less
9 than 750 persons in which an assessment has been completed by a munic-
10 ipality or for which a determination is not made under (1) or (2) of
11 this subsection.

12 * Sec. 8. AS 29.88.025 is amended to read:

13 Sec. 29.88.025. REPORTS. A payment of an equalization entitle-
14 ment may not be made to a local government [MUNICIPALITY] under this
15 chapter until the local government [MUNICIPALITY] has submitted its
16 certificate of estimated revenue and its financial report to the
17 department for the fiscal year preceding the year for which the equal-
18 ization entitlement is sought, together with a budget for the local
19 government's [MUNICIPALITY'S] current fiscal year. The financial
20 report shall include a listing of general revenue collected from taxes
21 levied and assessed by the local government [MUNICIPALITY] and any
22 other revenue that [WHICH], in the opinion of the local [MUNICIPAL]
23 officials, is eligible for inclusion in computations of the locally
24 generated revenue of the taxing unit.

25 * Sec. 9. AS 29.88.030(b) is amended to read:

26 (b) An equalization entitlement for a municipality determined
27 with reference to revenue other than revenue obtained from the levy
28 and collection of taxes may be used for areawide or nonareawide pur-
29 poses, at the discretion of the assembly or council.

1 * Sec. 10. AS 29.88.035 is amended to read:

2 Sec. 29.88.035. TAX EQUALIZATION ACCOUNT. The tax equalization
3 account is established. Money to carry out the provisions of this
4 chapter shall be allocated by the department to the account. The
5 amount allocated to the account shall be fully distributed by the
6 department as payments to local governments [MUNICIPALITIES] to ful-
7 fill each local government's [MUNICIPALITY'S] share authorized under
8 AS 29.88.010. The amount allocated to the account shall be distri-
9 buted by the department pro rata among eligible local governments
10 [MUNICIPALITIES].

11 * Sec. 11. AS 29.88.040(a) is amended to read:

12 (a) The department may adopt regulations necessary to implement
13 AS 29.88.010 - 29.88.045. The regulations shall include, among other
14 provisions,

15 (1) procedures and filing dates for submitting certifica-
16 tion and financial reports;

17 (2) procedures for obtaining information required to com-
18 pute and determine the local government's [MUNICIPALITY'S] millage
19 rate equivalent; and

20 (3) procedures by which the department shall notify a local
21 government [MUNICIPALITY] in writing of the reasons for a proposed
22 disallowance or adjustment of any factor bearing upon the determina-
23 tion of the local government's [MUNICIPALITY'S] entitlement and by
24 which the local government [MUNICIPALITY] will be provided reasonable
25 time in which to respond or to challenge the department's determina-
26 tion.

27 * Sec. 12. AS 29.88.040(b) is amended to read:

28 (b) The department shall make reasonable efforts to advise and
29 assist local governments [MUNICIPALITIES] in collecting information

1 and completing reports necessary for the determination of entitlements
2 under AS 29.88.

3 * Sec. 13. AS 29.88.040(c) is amended to read:

4 (c) The department shall, by regulation, classify for inclusion
5 or exclusion as a component of a local government's [MUNICIPALITY'S]
6 millage rate equivalent under AS 29.88.010 any tax revenue appropri-
7 ated for a utility not included in the definition set out in AS 29.-
8 88.045(4).

9 * Sec. 14. AS 29.88.045(3) is amended to read:

10 (3) "taxing unit" means an Indian tribe located on a fed-
11 erally established Indian reserve or a municipality and

12 (A) in a borough or unified municipality, a service
13 area or the entire area outside cities and outside federally
14 established Indian reserves;

15 (B) in a city, a differential tax zone;

16 * Sec. 15. AS 29.88.045 is amended by adding new paragraphs to read:

17 (5) "local government" means a municipality or an Indian
18 tribe located on a federally established Indian reserve;

19 (6) "Indian reserve" means a federally established Indian
20 reserve in existence before enactment of 43 U.S.C. 1601 - 1628 (Alaska
21 Native Claims Settlement Act) and continued in existence under 43
22 U.S.C. 1618(a).

23 * Sec. 16. AS 29.89.020 is amended to read:

24 Sec. 29.89.020. STATE AID TO MUNICIPALITIES FOR ROADS. (a) The
25 department shall pay to a local government that [MUNICIPALITY WHICH]
26 has power to provide for road maintenance and exercises that power,
27 \$2,500 a mile for each mile of road, street or highway maintained by
28 the local government, excluding (1) the official state highway system,
29 (2) roads, streets or highways not dedicated to public use, (3) roads,

1 streets or highways maintained under the local service road program
2 (AS 19.30.111 - 19.30.251), and (4) alleyways, in accordance with
3 regulations adopted by the Department of Transportation and Public
4 Facilities. A payment may not be made under this subsection for
5 maintenance of a road that [WHICH] is not used by automotive equip-
6 ment.

7 (b) A frozen waterway and a connection from an inhabited area to
8 a waterway that [WHICH] may be safely used for public transportation
9 by automotive equipment and is so used during a portion of a year is
10 eligible for a payment of \$1,500 per mile if the waterway and connec-
11 tion are maintained during the period of use by a local government
12 [MUNICIPALITY] or combination of local governments [MUNICIPALITIES].
13 The department, after consultation with the Department of Transporta-
14 tion and Public Facilities, shall determine which waterways and con-
15 nections qualify and, where the waterways or connections lie outside
16 the [CORPORATE] limits of a local government [MUNICIPALITY], which
17 local governments [MUNICIPALITIES] shall receive the payments under
18 this subsection, unless the local governments [MUNICIPALITIES] in-
19 volved have agreed in writing to a particular distribution.

20 * Sec. 17. AS 29.89.030(a) is amended to read:

21 (a) The department shall pay
22 (1) to a local government that [MUNICIPALITY WHICH] has the
23 power to provide hospital facilities and services and that [WHICH]
24 exercises that power, \$1,000 per bed for each bed actually used for
25 patient care, limited to the number of beds provided for in the con-
26 struction design of the hospital, or \$250,000 a hospital for those
27 hospitals with 10 or more beds, or \$50,000 a hospital for those hospi-
28 tals with less than 10 beds, as the local government [MUNICIPALITY]
29 may elect; money received under this paragraph may be used only for

1 hospitals and shall be apportioned among qualifying hospitals as the
2 local government [MUNICIPALITY] determines;

3 (2) on the basis set out in (1) of this subsection to a
4 local government [MUNICIPALITY] for a nonprofit hospital not operated
5 by a local government [MUNICIPALITY] if the local government [MUNICI-
6 PALITY] first certifies to the department that the nonprofit hospital
7 is in compliance with all standards for hospitals that [WHICH] have
8 been adopted by the local government [MUNICIPALITY]; money may not be
9 paid on behalf of a nonprofit hospital without this certification;
10 payments to the local government [MUNICIPALITY] shall be transferred
11 to the nonprofit hospital in accordance with the basis by which the
12 payment was generated by the hospital, and shall be applied to the
13 annual cost of operation and maintenance of the hospital or for the
14 provision of health care service at the hospital as the directors of
15 the hospital determine;

16 (3) to a local government [MUNICIPALITY] in which a health
17 facility is operated, \$2,000 per bed for each bed actually used for
18 patient care, limited to the number of beds provided for in the con-
19 struction design of the health facility, or \$8,000 per health facility
20 as the local government [MUNICIPALITY] determines.

21 * Sec. 18. AS 29.89.030(c) is amended to read:

22 (c) Money received by a local government [MUNICIPALITY] under
23 (a)(3) of this section shall be used for expenses of health services
24 or operation and maintenance of health facilities as the local govern-
25 ment [MUNICIPALITY] determines.

26 * Sec. 19. AS 29.89.050 is amended to read:

27 Sec. 29.89.050. STATE AID TO NATIVE VILLAGE GOVERNMENTS. The
28 state shall pay \$25,000 to a Native village government for a village
29 that [WHICH] is not incorporated as a city under AS 29.03.010 -

1 29.95.030. In this section, "Native village government" means

2 (1) a local governing body organized by authority of [THE
3 ACT OF CONGRESS OF JUNE 18, 1934 () 25 U.S.C. [SEC.] 476 ()] other
4 than the governing body of an Indian tribe located on a federally
5 established Indian reserve existing before enactment of 43 U.S.C.
6 1601 - 1628 (Alaska Native Claims Settlement Act) and continued in
7 existence under 43 U.S.C. 1618(a); or

8 (2) a traditional village council or, if there is no tradi-
9 tional village council, the paramount chief or other governing body of
10 a Native village that [WHICH] meets the requirements of [THE ALASKA
11 NATIVE CLAIMS SETTLEMENT ACT () 43 U.S.C. [SECS.] 1601 - 1628 (Alaska
12 Native Claims Settlement Act).

13 * Sec. 20. AS 29.89.100 is amended by adding a new paragraph to read:

14 (4) "local government" means a municipality or an Indian
15 tribe located on a federally established Indian reserve existing
16 before enactment of 43 U.S.C. 1601 - 1628 (Alaska Native Claims
17 Settlement Act) and continued in existence under 43 U.S.C. 1618(a).

18 * Sec. 21. AS 29.95.020(a) is amended to read:

19 (a) An Indian tribe qualifying for an entitlement under AS 29.88
20 or AS 29.89 shall receive a minimum payment of \$25,000 plus an area
21 cost-of-living differential for each fiscal year. A municipality
22 qualifying for an entitlement under AS 29.88 or AS 29.89 shall receive
23 a minimum payment of \$25,000 plus an area cost-of-living differential
24 for each fiscal year if:

25 (1) the municipality has conducted a regular election under
26 AS 29.28.010 - 29.28.050 during the fiscal year preceding the year for
27 which payment of an entitlement is authorized by AS 29.88 or AS 29.89
28 and has reported the results of the election to the commissioner of
29 the Department of Community and Regional Affairs;

1 (2) regular council meetings are held in the municipality
2 in accordance with the requirements of AS 29.23.210 during the fiscal
3 year preceding the year for which payment of an entitlement is author-
4 ized by AS 29.88 or AS 29.89 and a record of the proceedings is main-
5 tained;

6 (3) a municipal budget has been adopted for the fiscal year
7 during which payment of an entitlement is authorized by AS 29.88 or
8 AS 29.89 and an audit or financial statement for the preceding fiscal
9 year has been prepared and furnished to the Department of Community
10 and Regional Affairs in accordance with AS 29.23.560(a); and

11 (4) local ordinances adopted by the governing body of the
12 municipality have been codified in accordance with AS 29.48.180.

13 * Sec. 22. AS 29.95.020(b) is amended to read:

14 (b) The area cost-of-living differential payable to each Indian
15 tribe and municipality under this section shall be determined annually
16 by election district under the provisions of AS 39.27.030. Except as
17 provided in AS 29.95.030, application of the area cost-of-living
18 differential may not result in a payment which is less than the mini-
19 mum payment determined under (a) of this section. For purposes of
20 this subsection, the election districts used are those designated by
21 the proclamation of reapportionment and redistricting of December 7,
22 1961, and retained for the house of representatives by proclamation of
23 the governor September 3, 1965.

24 * Sec. 23. AS 29.95.020(c) is amended to read:

25 (c) The Department of Community and Regional Affairs shall pay
26 to each Indian tribe and municipality eligible to receive a minimum
27 payment under this section an amount equal to the difference between
28 the minimum payment determined under (a) and (b) of this section and
29 the sum of the amounts payable for the same fiscal year under AS 29.88

1 and AS 29.89.

2 * Sec. 24. AS 29.95.020 is amended by adding a new subsection to read:

3 (f) In this section, "Indian tribe" means an Indian tribe
4 located on a federally established Indian reserve in existence before
5 enactment of 43 U.S.C. 1601 - 1628 (Alaska Native Claims Settlement
6 Act) and continued in existence under 43 U.S.C. 1618(a).

7 * Sec. 25. AS 43.20.016(a) is amended to read:

8 (a) There is established within the Department of Revenue the
9 municipal assistance fund. The legislature may appropriate to the
10 fund during each fiscal year an amount equal to or greater than 30
11 percent of the income tax revenue received by the state under AS 43.-
12 20.011(e) [AND AS 43.21] for the previous fiscal year. The Department
13 of Revenue shall distribute money from the fund to each Indian tribe
14 and municipality [ORGANIZED BOROUGH AND EACH CITY OF ANY CLASS] on an
15 annual basis as provided in (b), [AND] (c) and (e) of this section.
16 An Indian tribe or a municipality [A BOROUGH OR CITY] may not receive
17 payment under (b), [OR] (c) or (e) of this section until it submits to
18 the Department of Revenue a resolution approved by the governing body
19 [OF THE MUNICIPALITY] that requests the funds. Distribution of money
20 from the fund to an Indian tribe or a municipality [CITY OR ORGANIZED
21 BOROUGH] with a fiscal year beginning on January 1 shall be made on
22 February 1 of the state fiscal year for which the appropriation to the
23 fund is made. Distribution of money from the fund to all other Indian
24 tribes [CITIES] and municipalities [ORGANIZED BOROUGH] shall be made
25 on June 1 of the state fiscal year for which the appropriation to the
26 fund is made. A municipality [BOROUGH OR CITY] that incorporates
27 after December 31 of a state fiscal year is not eligible for a distri-
28 bution under this section until the following state fiscal year.

29 * Sec. 26. AS 43.20.016(c) is amended to read:

1 (c) If the amount in the fund at the time of distribution ex-
2 ceeds the base amount to be distributed under (b) and (e) of this
3 section, the excess amount shall be distributed to each Indian tribe
4 [BOROUGH] and municipality [CITY] on the basis of population. For the
5 purpose of this subsection, the population of each Indian tribe and
6 each [A] city within an organized borough shall be deducted from the
7 population of the borough. Population, for the purpose of this sec-
8 tion, shall be as certified by the commissioner of community and
9 regional affairs.

10 * Sec. 27. AS 43.20.016 is amended by adding new subsections to read:

11 (e) The base amount to be distributed during each fiscal year
12 from the municipal assistance fund to each Indian tribe within a
13 borough or unified municipality shall be a share of the amount dis-
14 tributed to the borough or unified municipality in which the reserve
15 is located based on the ratio of population in the reserve to the
16 total population in the borough or unified municipality. The base
17 amount to be distributed to each Indian tribe outside a borough or
18 unified municipality shall be the amount received as a base amount by
19 the city most closely approximating the reserve in population at the
20 time of the city's incorporation.

21 (f) In this section, "Indian tribe" means an Indian tribe
22 located on a federally established Indian reserve in existence before
23 enactment of 43 U.S.C. 1601 - 1628 (Alaska Native Claims Settlement
24 Act) and continued in existence under 43 U.S.C. 1618(a).

25 * Sec. 28. This Act takes effect July 1, 1984.