

Offered: 5/26/83
Referred: Judiciary

Original sponsor: Ziegler

1 IN THE SENATE
2 CS FOR SENATE BILL NO. 228 (C&RA)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST 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
12 commensurate with the services provided by the Metlakatla Indian Community
13 to the residents of the Annette Island Reserve. Neither this Act nor any
14 action taken under it should be construed to expand or diminish the author-
15 ity or jurisdiction of any Native village council.
16 * Sec. 2. AS 29.88.010(c)(1)(C) is amended to read:
17 (C) revenue from fees, rentals, leases, penalties,
18 licenses or permits received during the preceding fiscal year by
19 the local government [MUNICIPALITY] for a function or service
20 over which it has control, including revenues derived from parks
21 and recreation services, mass transit, offstreet parking, and
22 garbage and solid waste disposal services;
23 * Sec. 3. AS 29.88.010(c)(1)(E) is amended to read:
24 (E) payments received by a local government [MUNIC-
25 IPALITY] from a utility that [WHICH] are in place of taxes levied
26 and collected by the local government [MUNICIPALITY];
27 * Sec. 4. AS 29.88.010(c)(2)(A) is amended to read:
28 (A) revenue derived from the levy and collection of
29 local [MUNICIPAL] taxes and appropriated for the operating

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1 expenses and debt service of utilities;

2 * Sec. 5. AS 29.88.020(a) is amended to read:

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

8 * Sec. 6. AS 29.88.020(b) is amended to read:

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

15 * Sec. 7. AS 29.88.020(c) is amended to read:

16 (c) As early as possible, but not later than December 15 of each
17 year, the department shall make a final determination of the millage
18 rate equivalent of each taxing unit to use to compute and distribute
19 equalization entitlements under this chapter. The department shall
20 base the determination on audits, financial statements and other
21 financial reports prepared and submitted by the local government [A
22 MUNICIPALITY]. The department shall adjust the locally generated
23 revenue reported [BY A MUNICIPALITY] to exclude the [MUNICIPAL] reve-
24 nue claimed by the local government that [MUNICIPALITY WHICH] does not
25 qualify for inclusion in or recognition as locally generated revenue
26 for local government purposes under AS 29.88.010(c)(1). The adjust-
27 ment shall be made by deducting from total revenue claimed by the
28 local government [MUNICIPALITY] the amount of the department's esti-
29 mate of revenue that [WHICH] is not recognized for local government

1 purposes.

2 * Sec. 8. AS 29.88.020(d) is amended to read:

3 (d) The full and true assessed property value shall be deter-
4 mined by the department in the manner provided for the computation of
5 state aid to education under AS 14.17.140. When the determination of
6 locally generated revenue includes revenue of a utility received under
7 AS 29.88.010(c)(1)(E), the full and true assessed property value shall
8 include the computed assessed value of the utility, determined by
9 dividing the amount of the payment in place of taxes made by the
10 utility by the millage rate that [WHICH] would apply to the utility if
11 the utility were subject to levy and collection of local taxes [UNDER
12 AS 29.53.010 - 29.53.420].

13 * Sec. 9. AS 29.88.020(e) is amended to read:

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

18 (1) each municipality that [WHICH] is a school district and
19 that [WHICH] does not levy and collect a property tax;

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

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

1 * Sec. 10. AS 29.88.025 is amended to read:

2 Sec. 29.88.025. REPORTS. A payment of an equalization entitle-
3 ment may not be made to a local government [MUNICIPALITY] under this
4 chapter until the local government [MUNICIPALITY] has submitted its
5 certificate of estimated revenue and its financial report to the
6 department for the fiscal year preceding the year for which the equal-
7 ization entitlement is sought, together with a budget for the local
8 government's [MUNICIPALITY'S] current fiscal year. The financial
9 report shall include a listing of general revenue collected from taxes
10 levied and assessed by the local government [MUNICIPALITY] and any
11 other revenue that [WHICH], in the opinion of the local [MUNICIPAL]
12 officials, is eligible for inclusion in computations of the locally
13 generated revenue of the taxing unit.

14 * Sec. 11. AS 29.88.030(b) is amended to read:

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

19 * Sec. 12. AS 29.88.035 is amended to read:

20 Sec. 29.88.035. TAX EQUALIZATION ACCOUNT. The tax equalization
21 account is established. Money to carry out the provisions of this
22 chapter shall be allocated by the department to the account. The
23 amount allocated to the account shall be fully distributed by the
24 department as payments to local governments [MUNICIPALITIES] to ful-
25 fill each local government's [MUNICIPALITY'S] share authorized under
26 AS 29.88.010. The amount allocated to the account shall be distri-
27 buted by the department pro rata among eligible local governments
28 [MUNICIPALITIES].

29 * Sec. 13. AS 29.88.040(a)(2) is amended to read:

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

4 * Sec. 14. AS 29.88.040(a)(3) is amended to read:

5 (3) procedures by which the department shall notify a local
6 government [MUNICIPALITY] in writing of the reasons for a proposed
7 disallowance or adjustment of any factor bearing upon the determina-
8 tion of the local government's [MUNICIPALITY'S] entitlement and by
9 which the local government [MUNICIPALITY] will be provided reasonable
10 time in which to respond or to challenge the department's determina-
11 tion.

12 * Sec. 15. AS 29.88.040(b) is amended to read:

13 (b) The department shall make reasonable efforts to advise and
14 assist local governments [MUNICIPALITIES] in collecting information
15 and completing reports necessary for the determination of entitlements
16 under AS 29.88.

17 * Sec. 16. AS 29.88.040(c) is amended to read:

18 (c) The department shall, by regulation, classify for inclusion
19 or exclusion as a component of a local government's [MUNICIPALITY'S]
20 millage rate equivalent under AS 29.88.010 any tax revenue appropri-
21 ated for a utility not included in the definition set out in AS 29.-
22 88.045(4).

23 * Sec. 17. AS 29.88.045(3) is amended to read:

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

26 (A) in a borough or unified municipality, a service
27 area or the entire area outside cities and outside federally
28 established Indian reserves;

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

1 * Sec. 18. AS 29.88.045 is amended by adding new paragraphs to read:

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

4 (6) "Indian reserve" means a federally established Indian
5 reserve in existence before enactment of 43 U.S.C. 1601 - 1628 (P.L.
6 92-203, the Alaska Native Claims Settlement Act) and continued in
7 existence under 43 U.S.C. 1618(a).

8 * Sec. 19. AS 29.89.020 is amended to read:

9 Sec. 29.89.020. STATE AID TO MUNICIPALITIES FOR ROADS. (a) The
10 department shall pay to a local government that [MUNICIPALITY WHICH]
11 has power to provide for road maintenance and exercises that power,
12 \$2,500 a mile for each mile of road, street or highway maintained by
13 the local government, excluding (1) the official state highway system,
14 (2) roads, streets or highways not dedicated to public use, (3) roads,
15 streets or highways maintained under the local service road program
16 (AS 19.30.111 - 19.30.251), and (4) alleyways, in accordance with
17 regulations adopted by the Department of Transportation and Public
18 Facilities. A payment may not be made under this subsection for
19 maintenance of a road that [WHICH] is not used by automotive equip-
20 ment.

21 (b) A frozen waterway and a connection from an inhabited area to
22 a waterway that [WHICH] may be safely used for public transportation
23 by automotive equipment and is so used during a portion of a year is
24 eligible for a payment of \$1,500 per mile if the waterway and connec-
25 tion are maintained during the period of use by a local government
26 [MUNICIPALITY] or combination of local governments [MUNICIPALITIES].
27 The department, after consultation with the Department of Transporta-
28 tion and Public Facilities, shall determine which waterways and con-
29 nections qualify and, where the waterways or connections lie outside

1 the [CORPORATE] limits of a local government [MUNICIPALITY], which
2 local governments [MUNICIPALITIES] shall receive the payments under
3 this subsection, unless the local governments [MUNICIPALITIES] in-
4 volved have agreed in writing to a particular distribution.

5 * Sec. 20. AS 29.89.030(a)(1) is amended to read:

6 (1) to a local government that [MUNICIPALITY WHICH] has the
7 power to provide hospital facilities and services and that [WHICH]
8 exercises that power, \$1,000 per bed for each bed actually used for
9 patient care, limited to the number of beds provided for in the con-
10 struction design of the hospital, or \$250,000 a hospital for those
11 hospitals with 10 or more beds, or \$50,000 a hospital for those hospi-
12 tals with less than 10 beds, as the local government [MUNICIPALITY]
13 may elect; money received under this paragraph may be used only for
14 hospitals and shall be apportioned among qualifying hospitals as the
15 local government [MUNICIPALITY] determines;

16 * Sec. 21. AS 29.89.030(a)(2) is amended to read:

17 (2) on the basis set out in (1) of this subsection to a
18 local government [MUNICIPALITY] for a nonprofit hospital not operated
19 by a local government [MUNICIPALITY] if the local government [MUNICI-
20 PALITY] first certifies to the department that the nonprofit hospital
21 is in compliance with all standards for hospitals that [WHICH] have
22 been adopted by the local government [MUNICIPALITY]; money may not be
23 paid on behalf of a nonprofit hospital without this certification;
24 payments to the local government [MUNICIPALITY] shall be transferred
25 to the nonprofit hospital in accordance with the basis by which the
26 payment was generated by the hospital, and shall be applied to the
27 annual cost of operation and maintenance of the hospital or for the
28 provision of health care service at the hospital as the directors of
29 the hospital determine;

1 * Sec. 22. AS 29.89.030(a)(3) is amended to read:

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

7 * Sec. 23. AS 29.89.030(c) is amended to read:

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

12 * Sec. 24. AS 29.89.050(1) is amended to read:

13 (1) a local governing body organized by authority of the
14 Act of Congress of June 18, 1934 (25 U.S.C. sec. 476) other than the
15 governing body of an Indian tribe located on a federally established
16 Indian reserve existing before enactment of 43 U.S.C. 1601 - 1628
17 (P.L. 92-203, the Alaska Native Claims Settlement Act) and continued
18 in existence under 43 U.S.C. 1618(a); or

19 * Sec. 25. AS 29.89.100 is amended by adding a new paragraph to read:

20 (4) "local government" means a municipality or an Indian
21 tribe located on a federally established Indian reserve existing
22 before enactment of 43 U.S.C. 1601 - 1628 (P.L. 92-203, the Alaska
23 Native Claims Settlement Act) 43 U.S.C. 1601 - 1628 and continued in
24 existence under 43 U.S.C. 1618(a).

25 * Sec. 26. AS 29.95.020(a) is amended to read:

26 (a) An Indian tribe qualifying for an entitlement under AS 29.88
27 or AS 29.89 shall receive a minimum payment of \$25,000 plus an area
28 cost-of-living differential for each fiscal year. A municipality
29 qualifying for an entitlement under AS 29.88 or AS 29.89 shall receive

1 a minimum payment of \$25,000 plus an area cost-of-living differential
2 for each fiscal year if:

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

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

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

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

20 * Sec. 27. AS 29.95.020(b) is amended to read:

21 (b) The area cost-of-living differential payable to each Indian
22 tribe and municipality under this section shall be determined annually
23 by election district under the provisions of AS 39.27.030. Except as
24 provided in AS 29.95.030, application of the area cost-of-living
25 differential may not result in a payment which is less than the mini-
26 mum payment determined under (a) of this section. For purposes of
27 this subsection, the election districts used are those designated by
28 the proclamation of reapportionment and redistricting of December 7,
29 1961, and retained for the house of representatives by proclamation of

1 the governor September 3, 1965.

2 * Sec. 28. AS 29.95.020(c) is amended to read:

3 (c) The Department of Community and Regional Affairs shall pay
4 to each Indian tribe and municipality eligible to receive a minimum
5 payment under this section an amount equal to the difference between
6 the minimum payment determined under (a) and (b) of this section and
7 the sum of the amounts payable for the same fiscal year under AS 29.88
8 and AS 29.89.

9 * Sec. 29. AS 43.20.016(a) is amended to read:

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

1 distribution under this section until the following state fiscal year.

2 * Sec. 30. AS 43.20.016(c) is amended to read:

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

12 * Sec. 31. AS 43.20.016 is amended by adding new subsections to read:

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

23 (f) For purposes of this section, "Indian tribe" means an Indian
24 tribe located on a federally established Indian reserve in existence
25 before enactment of 43 U.S.C. 1601 - 1628 (P.L. 92-203, the Alaska
26 Native Claims Settlement Act) and continued in existence under
27 43 U.S.C. 1618(a).

28 * Sec. 32. This Act takes effect July 1, 1983.