

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 263

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to grant administration; and pro-
7 viding for an effective date."

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

9 * Section 1. LEGISLATIVE FINDINGS. (a) The legislature finds that in
10 the past the level of financial management of and accountability for the
11 use of state money appropriated or allocated for the purpose of awarding
12 grants under AS 37.05.315 -- 37.05.317 has not been sufficient to provide
13 assurance that that money has been spent according to the intent of the
14 legislature. The legislature finds that several conditions have led to
15 this problem. These conditions include the following:

16 (1) inadequate or deficient accounting and financial systems
17 being maintained by the recipients of the grants;

18 (2) grant recipient staff often is not knowledgeable of, nor
19 trained in, proper grant and financial management practices;

20 (3) state granting departments have not been able to provide
21 adequate direction to grant recipients concerning the use of grant money
22 and have not been able to provide adequate oversight of recipient use of
23 grant money; and

24 (4) adequate resources, financial and otherwise, have not been
25 available to resolve these conditions and the problem.

26 (b) The legislature finds that as a result of this problem there have
27 been instances in which substantial amounts of money appropriated or al-
28 located for the purpose of awarding grants under AS 37.05.315 -- 37.05.317
29 have been spent for purposes other than those intended by the legislature.

1 The legislature further finds that in such instances the recipient commu-
2 nities are left without the needed and vital services or facilities.

3 (c) The legislature finds that, when grants that are awarded under
4 AS 37.05.315 -- 37.05.317 are used for purposes other than those intended,
5 a potential liability is created for those grant recipients for repayment
6 of the amounts to the state. This liability might be beyond the financial
7 resources of the recipients to meet, and those recipients might also be
8 unable to complete the projects intended by the legislature.

9 (d) The legislature finds that state departments administering money
10 appropriated or allocated for the purpose of awarding grants under AS 37.-
11 05.315 -- 37.05.317 have a responsibility to provide to grant recipients
12 direction, assistance, and, if necessary, training in proper financial
13 management and use of grant money. The legislature also finds that state
14 grantor departments have a responsibility for adequately overseeing the
15 handling of grant money and for adopting measures necessary to assure that
16 grant money is spent by a recipient for the purpose intended by the legis-
17 lature.

18 * Sec. 2. PURPOSE AND POLICY. The purposes and policies of this Act
19 are to

20 (1) provide authority to state executive departments to estab-
21 lish procedures for the improvement of the manner in which money appropri-
22 ated or allocated for the purpose of awarding grants under AS 37.05.315 --
23 37.05.317 is administered and spent;

24 (2) provide the statutory framework necessary to assure that
25 fiscal oversight by grantor departments is increased, to assist grant
26 recipients in having audits completed, and to coordinate the training of
27 grant recipients in financial and grant management and accounting; and

28 (3) provide for the fair resolution of past financial problems
29 related to money appropriated or allocated for the purpose of awarding

1 grants under AS 37.05.315 -- 37.05.317.

2 * Sec. 3. AS 37.05.318 is repealed and reenacted to read:

3 Sec. 37.05.318. REGULATIONS. The commissioner of adminis-
4 tration may adopt regulations that establish requirements and proce-
5 dures that the commissioner determines are necessary to implement,
6 interpret, make specific, or otherwise carry out the provisions of
7 AS 37.05.315 -- 37.05.317. The head of each principal executive
8 department may adopt regulations in addition to those adopted by the
9 commissioner of administration, in order to meet the specific needs of
10 the respective departments with regard to grants administered under
11 AS 37.05.315 -- 37.05.317.

12 * Sec. 4. AS 37.05 is amended by adding new sections to read:

13 Sec. 37.05.320. GRANT REQUIREMENTS. (a) A contract for a grant
14 awarded under AS 37.05.315 -- 37.05.317 must require that the recipi-
15 ent spend grant money without discriminating on the basis of race,
16 color, religion, sex, or national origin, and that any facility con-
17 structed wholly or in part with grant money be open to the public
18 without discrimination on any of these grounds.

19 (b) A contract for a grant awarded under AS 37.05.315 -- 37.05.-
20 317 to a Native traditional or Indian Reorganization Act council, or
21 to any other entity that claims sovereign immunity, must require that
22 the council or entity waive its sovereign immunity for all purposes
23 connected with the grant, including enforcement of the grant terms and
24 liability arising from activities in connection with the grant. The
25 Department of Law shall provide a suitable form for such waivers.

26 Sec. 37.05.326. PERIODIC REPORTS AND DOCUMENTATION. (a) Each
27 recipient of a grant awarded under AS 37.05.315 -- 37.05.317 shall
28 submit to the grantor department progress and financial reports on a
29 periodic basis.

1 (b) Each recipient of grant money shall maintain for a period of
2 three years, or until final resolution of any audit findings, claims,
3 or litigation related to the grant, documentation to support the
4 receipt and disbursement of all money related to the grant. Documen-
5 tation must be made available, within 30 days after it is requested by
6 the grantor department, to an authorized representative of that de-
7 partment.

8 (c) Grant money, beyond initial advance payments, may not be
9 provided to a recipient unless the recipient has submitted the period-
10 ic progress and financial reports required by (a) of this section and
11 has accounted for the use of grant money.

12 Sec. 37.05.330. ACCOUNTING AND AUDIT RETAINAGE. (a) A depart-
13 ment to which an appropriation or allocation is made for the purposes
14 of a grant under AS 37.05.315 -- 37.05.317 may retain a percentage of
15 the total amount of the appropriation or allocation to pay for all or
16 a portion of the accounting and auditing costs incurred by the grant
17 recipient. The amount retained may not exceed three percent of an
18 appropriation or allocation of \$500,000 or less, and, for an appro-
19 priation or allocation of greater than \$500,000, may not exceed
20 \$15,000 plus one percent of the amount of the appropriation or allo-
21 cation above \$500,000.

22 (b) A department may not retain the amount specified in (a) of
23 this section if the grant recipient has

24 (1) in the preceding year, submitted an audit report in
25 which no material internal control weakness or instance of noncompli-
26 ance was identified; and

27 (2) complied with AS 37.05.326(a) and (b).

28 Sec. 37.05.335. STATUS REPORT; UNEXPENDED BALANCES. (a) Each
29 recipient of grant money under AS 37.05.315 -- 37.05.317 shall submit

1 to the grantor department a status report on each grant within 60 days
2 after the end of the recipient's fiscal year or after completion of
3 the grant project, whichever occurs first. This report must include
4 each grant awarded under AS 37.05.315 -- 37.05.317 that has an unex-
5 pended or unobligated balance at the recipient's fiscal year end or at
6 the grant project's completion.

7 (b) An unexpended or unobligated balance identified under (a) of
8 this section which is determined by the head of the grantor department
9 to be no longer needed for the original grant purpose must be returned
10 to the grantor department within 30 days after that determination, for
11 deposit in the state general fund.

12 Sec. 37.05.340. AUTHORITY OF DEPARTMENT HEADS; CRIMINAL PROSE-
13 CUTION. (a) The head of each principal executive department shall
14 determine the allowability of recipient costs incurred under grants
15 awarded by that department under AS 37.05.315 -- 37.05.317, and shall
16 require disallowed amounts to be returned to the department. Repay-
17 ment of disallowed amounts may be made in a single lump sum amount or
18 may be made on an installment basis, at the discretion of the depart-
19 ment head. The department head shall require recipients to pay at
20 least one-half of a disallowed amount, in equal payments, over a
21 period not to exceed 10 years, with no interest. If, after five years
22 of payment in conformity with the repayment schedule, the recipient
23 provides an auditor's report that expressly provides satisfactory
24 evidence of adequate internal controls and compliance with grant
25 requirements, the remaining debt must be forgiven.

26 (b) A department head shall withhold, from a grant awarded under
27 AS 37.05.315 -- 37.05.317, 10 percent of the total amount of the
28 grant. However, this amount may not be withheld if the grant recipi-
29 ent has

1 (1) in the preceding year, submitted an audit report in
2 which no material internal control weakness or instance of noncompli-
3 ance was identified; and

4 (2) complied with AS 37.05.326(a) and (b).

5 (c) If, under (b) of this section, a department head withholds
6 money from a grant, the department head may use the money withheld to
7 offset amounts disallowed under (a) of this section in connection with
8 that grant.

9 (d) In the event of potential or impending default of a recip-
10 ient in the repayments required under (a) of this section, a depart-
11 ment head may renegotiate the terms for repayment of the debt or
12 release the recipient from repayment of disallowed amounts, if

13 (1) the recipient has submitted a resolution to the grantor
14 department

15 (A) passed by the governing body, if the recipient is
16 a municipality;

17 (B) passed by the council, if the recipient is a
18 Native traditional or Indian Reorganization Act council;

19 (C) passed by the board of directors, if the recipient
20 is a nonprofit corporation;

21 (2) the recipient provides in the resolution submitted
22 under (1) of this subsection a statement that the relief is needed
23 because the recipient does not have the resources to repay all or part
24 of the disallowed amounts or the repayments would create a significant
25 financial burden for the recipient; and

26 (3) the recipient provides a corrective action plan accept-
27 able to the department head.

28 (e) Amounts disallowed and returned to the grantor department
29 must be deposited in the state general fund.

1 (f) Release from repayment of disallowed costs under this sec-
2 tion does not serve as a defense to criminal prosecution of any indi-
3 vidual alleged to be responsible for a criminal act that contributed
4 to the misuse of state money.

5 (g) This section applies to any amounts disallowed under a grant
6 awarded under AS 37.05.315 -- 37.05.317, including grants awarded
7 before the effective date of this Act.

8 Sec. 37.05.345. ALASKA GRANT TRAINING ADVISORY COMMITTEE. (a)
9 There is created in the Department of Community and Regional Affairs
10 the Alaska grant training advisory committee consisting of (1) the
11 head of each principal executive department of the state or their
12 respective designees, (2) a representative of the cooperative exten-
13 sion service of the University of Alaska, (3) the director of the
14 Alaska Municipal League or his or her designee, and (4) other persons
15 designated by the commissioner of community and regional affairs.

16 (b) The committee shall meet at least once a year to develop a
17 cooperative work plan for the following fiscal year, and may meet at
18 such other times as the members see fit. The committee shall consider
19 and make recommendations to the commissioner of community and regional
20 affairs about

21 (1) financial management training needs of recipients of
22 state grants in Alaska;

23 (2) the objectives of the cooperative effort;

24 (3) the roles and contributions of the participating de-
25 partments and organizations;

26 (4) the cooperative work plan to accomplish the objectives;

27 (5) the regulations to be adopted by the commissioner of
28 administration under AS 37.05.318.

29 (c) The commissioner of community and regional affairs shall

1 make an annual report to the legislature on the actions of the commit-
2 tee under this section.

3 (d) Members of the committee receive no compensation for their
4 services, but are entitled to per diem and travel allowances au-
5 thorized by law for other boards and commissions under AS 39.20.180.

6 Sec. 37.05.350. DEFINITIONS FOR AS 37.05.315 -- 37.05.350. In
7 AS 37.05.315 -- 37.05.350, "allocation" and "appropriation" have the
8 meanings given in AS 57.07.120.

9 * Sec. 5. AS 37.05.325 is repealed.

10 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).