

Offered: 4/6/89
Referred: Finance

6-0461H

Original sponsors: Sturgulewski and
Pearce

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2

CS FOR SENATE BILL NO. 100 (HESS)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to insurance for school facilities
and equipment, state aid for school construction, and
division of duties between a borough and a borough
school board; and providing for an effective date."

7

8

9

10

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

11

* Section 1. AS 14.03 is amended by adding a new section to read:

12

Sec. 14.03.150. INSURANCE REQUIRED. (a) Each school district
shall purchase and maintain or provide proof of adequate property
insurance for the replacement cost of all school facilities and equip-
ment. Insurance purchased to comply with this section may contain a
deductible amount, if approved by the department. A school district
may comply with this section by initiating and maintaining a program
of self-insurance, if the department annually determines that the
school district has submitted adequate evidence of the district's
ability to self-insure for the replacement cost of all school facil-
ities and equipment. A copy of the insurance policy or other informa-
tion indicating compliance with this section shall be provided to the
department.

13

14

15

16

17

18

19

20

(b) If the department determines that a school district is not
insured as required under (a) of this section, the department shall
notify the school district of the determination. Unless the school
district obtains adequate insurance within 30 days after the school
district receives notice under this subsection, the department shall
purchase the insurance required by (a) of this section for that school

1 district.

2 (c) The department may not award a school construction grant
3 under AS 14.11 to a municipality that is a school district or a re-
4 gional educational attendance area that is not in compliance with (a)
5 of this section. The department shall reduce the amount of state
6 foundation aid under AS 14.17.021 for which a school district may
7 qualify, by the amount, if any, paid by the department under (b) of
8 this section.

9 * Sec. 2. AS 14.07.020(a)(13) is amended to read:

10 (13) administer the grants awarded under AS 14.11 [AS 14.-
11 11.020];

12 * Sec. 3. AS 14.07.170 is amended by adding a new subsection to read:

13 (b) The board shall review grant applications recommended under
14 AS 14.11.013 and may approve grant applications under AS 14.11.015.

15 * Sec. 4. AS 14.08.101(7) is amended to read:

16 (7) recommend to the department projects for construction,
17 rehabilitation, and improvement of schools and education-related
18 facilities as specified in AS 14.11.011(b) [AS 14.11.010(a)], and
19 plan, design, and construct the project when the responsibility for it
20 is assumed under AS 14.11.020;

21 * Sec. 5. AS 14.11 is amended by adding a new section to read:

22 Sec. 14.11.005. SCHOOL CONSTRUCTION GRANT ACCOUNT. There is
23 created a school construction grant fund as an account in the general
24 fund. The fund shall be used to make grants for the costs of school
25 construction. Legislative appropriations for school construction
26 shall be deposited in the fund, and the proceeds from the sale of
27 general obligation bonds for school construction may be deposited in
28 the fund.

29 * Sec. 6. AS 14.11 is amended by adding new sections to read:

1 Sec. 14.11.011. GRANT APPLICATIONS. (a) A municipality that is
2 a school district or a regional educational attendance area may submit
3 a grant request to the department for a school construction grant.

4 (b) For a municipality that is a school district or a regional
5 educational attendance area to be eligible for a school construction
6 grant the district shall submit

7 (1) a six-year capital improvement plan that includes a
8 description of the district's fixed asset inventory system and preven-
9 tive maintenance program no later than September 1 before the fiscal
10 year for which the request is made; the six-year plan must contain for
11 each proposed project a detailed scope of work, a project budget, and
12 documentation of conditions justifying the project;

13 (2) evidence that the district has secured and will main-
14 tain adequate property loss insurance for the replacement cost of all
15 facilities for which state funds are available under AS 14.11.005 or a
16 program of insurance acceptable to the department; and

17 (3) evidence that the proposed project should be a capital
18 construction project and not part of a preventive maintenance program
19 or regular custodial care program.

20 Sec. 14.11.013. DEPARTMENT REVIEW OF GRANT APPLICATIONS. (a)
21 With regard to projects for which grants are requested under AS 14.-
22 11.011, the department shall

23 (1) annually review the six-year plans submitted by each
24 district under AS 14.11.011(b) and recommend to the board a revised
25 and updated six-year construction grant schedule that serves the best
26 interests of the state and each district; in recommending projects for
27 this schedule, the department shall verify that each proposed project
28 qualifies as a project required to

29 (A) avert imminent danger or correct life-threatening

1 situations;

2 (B) house students who would otherwise be unhoused;

3 (C) protect the structure of existing school facil-

4 ities;

5 (D) correct building code deficiencies that require

6 major repair or rehabilitation in order for the facility to

7 continue to be used for the educational program;

8 (E) achieve an operating cost savings;

9 (F) modify or rehabilitate facilities for the purpose

10 of improving the instructional program;

11 (G) meet an educational need not specified in (A) -

12 (F) of this paragraph, identified by the department;

13 (2) prepare an estimate of the amount of money needed to

14 finance each project;

15 (3) provide to the governor, by November 1, and to the

16 legislature within the first 10 days of each regular legislative

17 session, a revised and updated six-year construction grant schedule

18 together with a proposed schedule of appropriations.

19 (b) In preparing the construction grant schedule, the department

20 shall establish priorities among projects for which grants are re-

21 quested and shall award school construction grants in the order of

22 priority established. In establishing priorities the department shall

23 evaluate at least the following factors:

24 (1) emergency requirements;

25 (2) priorities assigned by the district to the projects

26 requested;

27 (3) the number of students affected by the project;

28 (4) new local elementary and secondary programs;

29 (5) existing regional, community, and school facilities,

1 and their condition; and

2 (6) alternate education program options for accomplishing
3 the project's objectives.

4 (c) The department may reject project requests and omit them
5 from the six-year schedule due to

6 (1) incomplete information or documentation provided by the
7 district;

8 (2) a determination by the department that existing facili-
9 ties can adequately serve the program requirements, or that alterna-
10 tive projects are in the best interests of the state;

11 (3) a determination that the project is not in the best
12 interest of the state.

13 (d) The department shall reduce a project budget by the cost of
14 those portions of a project design that the department determines are
15 for construction of student residential space, planetariums, hockey
16 rinks, saunas, and other facilities for single purpose sporting or
17 recreational uses that are not suitable for other activities. This
18 subsection does not apply to funding for swimming pools that meet
19 criteria established by the department.

20 (e) By November 5, the department shall provide public notice of
21 the grant applications submitted under (a) of this section and the
22 priorities established under (b) of this section. After public notice
23 has been given, the department shall, not later than December 1, hold
24 a public hearing on the priorities established under (b) of this sec-
25 tion. In this subsection, "public notice" means notice published in a
26 newspaper of general circulation and notice to every person who has
27 requested notice about the grant application program from the depart-
28 ment.

29 (f) The department may not establish priorities among projects

1 under (b) of this section based only on the number of students af-
2 fected by the project.

3 Sec. 14.11.015. APPROVAL OF GRANT APPLICATIONS. (a) The board
4 shall review grant applications that have been recommended by the
5 department under AS 14.11.013, and may approve a grant application if
6 the board determines that the project meets the criteria specified in
7 AS 14.11.013(a)(1). The department may not award a school construc-
8 tion grant unless the grant application is approved by the board.

9 (b) The department shall award grants approved under (a) of this
10 section in the order of the projects' priority on the date the appro-
11 priation bill funding the school construction grant fund is passed by
12 the legislature, regardless of any appeal pending under AS 14.11.016.
13 Appeals pending under AS 14.11.016 at the time that grants are awarded
14 may not delay the funding of grants awarded under this section.

15 (c) If a project is assigned a new priority ranking under AS 14.
16 11.016 after the date of passage by the legislature of the appropria-
17 tion bill for the school construction grant fund, the project must be
18 funded in accordance with the new priority ranking at the next time
19 that school construction grants are awarded.

20 Sec. 14.11.016. ADMINISTRATIVE AND JUDICIAL REVIEW. (a) A
21 district may request reconsideration of a decision of the department
22 assigning a priority to the district's project, establishing the scope
23 of the project, or establishing the budget for the project. The
24 request must be in writing and must include a statement of the spe-
25 cific changes desired, and a summary of the evidence supporting the
26 district's claim that the department has erred in its review of the
27 district's grant application. A request for reconsideration must be
28 received by the department by the day of the public hearing held under
29 AS 14.11.013(e). The department shall review its decision on the

1 basis of the request by the district and determine whether its deci-
2 sion should be changed. The department shall issue its determination
3 in writing within 15 days after the last day of the public hearing
4 held under AS 14.11.013(e).

5 (b) A district may appeal an adverse decision of the department
6 under (a) of this section by filing a written notice of appeal with
7 the commissioner within 15 days after the date of the department's
8 decision. The notice of appeal must state the legal and factual basis
9 for the appeal and the precise relief sought. The failure of the
10 district to include an issue in a notice of appeal constitutes a
11 waiver of the right to have the issue considered. Not later than 10
12 days after receipt of a notice of appeal, the commissioner shall
13 appoint a hearing officer who is qualified under AS 44.62.350(c) to
14 consider the appeal. If the hearing officer finds that the notice of
15 appeal does not raise a reasonable issue of fact or law, the hearing
16 officer shall issue a written decision denying the appeal. Denial of
17 an appeal by a hearing officer is a final decision that may be ap-
18 pealed under (d) of this section. If the hearing officer determines
19 that the notice of appeal does raise a reasonable issue of fact or
20 law, the hearing officer shall conduct a hearing on those issues and
21 recommend a decision to the board. The hearing officer shall issue a
22 decision on the appeal, not later than 60 days after being appointed.
23 The board shall consider the recommended decision of the hearing
24 officer at its next regularly scheduled meeting and may adopt all,
25 part, or none of the recommended decision or may remand the issue to
26 the hearing officer for further hearings. The board shall issue its
27 decision in writing within 10 days after considering the hearing
28 officer's decision.

29 (c) The hearing officer may consolidate appeals under (b) of

1 this section, if the notices of appeal raise related issues of fact or
2 law.

3 (d) A district may appeal an adverse decision of a hearing
4 officer or the board under (b) of this section to the superior court
5 in the manner provided by AS 44.62.560 - 44.62.570.

6 (e) The board shall adopt regulations governing procedures for
7 the reconsideration and appeal of decisions under this section. The
8 regulations adopted under this subsection are not required to conform
9 to AS 44.62.330 - 44.62.630, but shall be consistent with minimum
10 standards of due process.

11 (f) A district may not request reconsideration of or appeal a
12 priority determination on the grounds that a revised priority assigned
13 to another project, due to a reconsideration or appeal under this sec-
14 tion, has resulted in a lower priority being accorded to the dis-
15 trict's project.

16 Sec. 14.11.017. SCHOOL CONSTRUCTION GRANT CONDITIONS. (a) The
17 department shall require in the grant agreement that a municipality
18 that is a school district or a regional educational attendance area

19 (1) agree to construction of a facility of appropriate size
20 and use that meets criteria adopted by the department;

21 (2) provide reasonable assurance by a means acceptable to
22 the department, that the cost of the project will be uniform with the
23 costs of the most current construction projects in the area;

24 (3) agree to limit equipment purchases to that required for
25 the approved school construction plan and account for all equipment
26 purchased for the project under a fixed asset inventory system ap-
27 proved by the department;

28 (4) submit project budgets for department approval and
29 agree that the grant amount may, at the discretion of the department,

1 be reduced or increased by amounts equal to the amounts by which
2 contracts vary from the budget amounts approved by the department; and
3 (5) submit to the department for approval, before award of
4 the construction contract, a plan for school construction that in-
5 cludes educational specifications, final construction drawings, and
6 contract documents.

7 (b) The cost of any school construction activity encompassed by
8 the definition of "costs of school construction" under AS 14.11.135 is
9 payable under a grant awarded under AS 14.11.015 without regard to
10 whether the costs were incurred prior to the

11 (1) award of the grant;

12 (2) approval of the grant application by the board; or

13 (3) effective date of an appropriation to the school con-
14 struction grant account for the year in which the grant is funded.

15 Sec. 14.11.019. SCHOOL CONSTRUCTION GRANT APPROPRIATIONS.
16 Within the general appropriation bill submitted to the legislature
17 under AS 37.07.020, the governor shall include an appropriation for
18 school construction grants in the succeeding fiscal year as determined
19 by the six-year construction grant schedule prepared under AS 14.-
20 11.013.

21 * Sec. 7. AS 14.11.100(a)(5) is amended to read:

22 (5) subject to (h), (i), and (j) of this section, 80 per-
23 cent of

24 (A) payments made by the municipality during the
25 fiscal year for the retirement of principal and interest on

26 (i) outstanding bonds, notes or other indebted-
27 ness authorized by the qualified voters of the municipality
28 after June 30, 1983, but before July 1, 1989, to pay costs
29 of school construction, additions to schools, and major

1 rehabilitation projects that exceed \$25,000 and are approved
2 under AS 14.07.020(11); or

3 (ii) outstanding bonds, notes, or other indebted-
4 ness authorized by the qualified voters of the municipality
5 before July 1, 1989, and reauthorized before November 1,
6 1989, to pay costs of school construction, additions to
7 schools, and major rehabilitation projects that exceed
8 \$25,000 and are approved under AS 14.07.020(11); and

9 (B) cash payments made after June 30, 1983, by the
10 municipality during the fiscal year two years earlier to pay
11 costs of school construction, additions to schools, and major
12 rehabilitation projects that exceed \$25,000 and are approved by
13 the department before July 1, 1990, under AS 14.07.020(11).

14 * Sec. 8. AS 14.11.100(c) is amended to read:

15 (c) The school construction account is established. Funds to
16 carry out the provisions of this section shall be included within the
17 general appropriation bill submitted to the legislature under AS 37.-
18 07.020 and may be appropriated annually by the legislature to the
19 account. If amounts in the account are insufficient for the purpose
20 of providing the share to which a borough or city is entitled under
21 this section, those funds that are available shall be distributed pro
22 rata among the eligible local governments except that the legislature
23 may direct that additional debt service on refunding bonds that ex-
24 ceeds the total debt service on the refunded bonds be disregarded in
25 whole or in part.

26 * Sec. 9. AS 14.11.102 is amended to read:

27 Sec. 14.11.102. ALLOCATION REQUESTS. [EVALUATION OF PROJECTS.
28 THE DEPARTMENT SHALL EVALUATE PROJECTS FOR WHICH RETIREMENT OF SCHOOL
29 CONSTRUCTION DEBT IS REQUESTED BY SCHOOL DISTRICTS IN ACCORDANCE WITH

1 THE PROCEDURES SET OUT IN AS 14.11.010.] A request for an allocation
2 of funds under AS 14.11.100 must be submitted to the department by the
3 school district not [NO] later than October 15 of the fiscal year
4 before the fiscal year for which the request is made.

5 * Sec. 10. AS 14.11.130 is repealed and reenacted to read:

6 Sec. 14.11.130. CONSTRUCTION OF CHAPTER. This chapter may not
7 be construed to prevent a municipality that is a school district or a
8 regional educational attendance area from using other revenue to
9 include additional or expanded facilities as part of approved school
10 construction projects.

11 * Sec. 11. AS 14.11.135(3) is amended to read:

12 (3) "costs of school construction" means the cost of ac-
13 quiring, constructing, enlarging, repairing, remodeling, equipping or
14 furnishing of public elementary and secondary schools that are owned
15 or operated by the state, a municipality, or a district [SCHOOL BUILD-
16 INGS] and includes the sum total of all costs of financing and carry-
17 ing out the project; these include, but are not limited to, the costs
18 of all necessary studies, surveys, plans and specifications, architec-
19 tural, engineering or other special services, acquisition of real
20 property, site preparation and development, purchase, construction,
21 reconstruction and improvement of real property and the acquisition of
22 machinery and equipment as may be necessary in connection with the
23 project; an allocable portion of the administrative and operating
24 expenses of the grantee; the cost of financing the project, including
25 interest on bonds issued to finance the project; and the cost of other
26 items, including any indemnity and surety bonds and premiums on insur-
27 ance, legal fees, fees and expenses of trustees, depositaries, finan-
28 cial advisors, and paying agents for the bonds issued as the issuer
29 considers necessary;

- 1 * Sec. 12. AS 14.11.135 is amended by adding a new paragraph to read:
2 (5) "district" means the districts described in AS 14.12.-
3 010.
- 4 * Sec. 13. AS 14.14.060 is amended by adding a new subsection to read:
5 (i) Notwithstanding (e) and (f) of this section, a borough
6 assembly and a borough school board may divide the duties imposed
7 under (e) and (f) of this section by agreement between the borough
8 assembly and the borough school board.
- 9 * Sec. 14. AS 46.11.900(8) is amended to read:
10 (8) "state financial assistance" means a loan, grant,
11 guarantee, insurance, payment, rebate, subsidy, or other form of state
12 assistance other than aid under AS 05.35.010 - 05.35.070, AS 14.11,
13 [AS 14.11.100 - 14.11.135,] and AS 29.60, including the purchase by a
14 state agency of a loan to finance the construction of a new resi-
15 dential, commercial, or industrial building;
- 16 * Sec. 15. AS 46.11.900(8) is amended to read:
17 (8) "state financial assistance" means a loan, grant,
18 guarantee, insurance, payment, rebate, subsidy, or other form of state
19 assistance other than aid under AS 05.35.010 - 05.35.070, [AS 14.11,]
20 and AS 29.60, including the purchase by a state agency of a loan to
21 finance the construction of a new residential, commercial, or in-
22 dustrial building;
- 23 * Sec. 16. AS 14.11.010, 14.11.105, 14.11.110, 14.11.115, 14.11.120,
24 and 14.11.125 are repealed.
- 25 * Sec. 17. AS 14.03.150; AS 14.07.020(a)(13), 14.07.170(b); AS 14.08.-
26 101(7); and AS 14.11 are repealed.
- 27 * Sec. 18. Notwithstanding AS 14.11.013(b), added by sec. 6 of this
28 Act, the Department of Education shall award school construction grants in
29 the following order:

1 (1) projects required to avert imminent danger or correct life-
2 threatening situations;

3 (2) projects that are in their final phase before January 1,
4 1989, and that have received more than \$2,500,000 in school construction
5 grant funds;

6 (3) projects that are:

7 (A) approved by the Department of Education before July 1,
8 1989;

9 (B) approved for reconstruction or renovation by the
10 qualified voters before July 1, 1989; and

11 (C) determined by a federal or state agency to be a threat
12 to the welfare of the public; and

13 (4) other projects approved under AS 14.11.015, added by sec. 6
14 of this Act.

15 * Sec. 19. Except for secs. 15 and 17 of this Act, this Act takes
16 effect July 1, 1989.

17 * Sec. 20. Sections 15 and 17 of this Act take effect July 1, 1995.