

CS FOR SENATE BILL NO. 141 (CRA)
 IN THE LEGISLATURE OF THE STATE OF ALASKA
 SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered: 4/24/91
 Referred: Finance

Sponsor(s): SENATE RULES/GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing a capital project matching grant program for municipalities and a
 2 capital project matching grant program for unincorporated communities; relating to the
 3 adoption of regulations involving the administration of certain grants; and providing for
 4 an effective date."

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

6 * Section 1. AS 37.05.318 is amended to read:

7 Sec. 37.05.318. [FURTHER] REGULATIONS. The Department of Administration
 8 under [PROHIBITED. NOTWITHSTANDING] the Administrative Procedure Act (AS 44.62)
 9 [, THE FISCAL PROCEDURES ACT (AS 37.05), AND THE EXECUTIVE BUDGET ACT
 10 (AS 37.07), A STATE AGENCY] may [NOT] adopt regulations that [OR] impose additional
 11 requirements or procedures to implement, interpret, make specific, or otherwise carry out the
 12 provisions of AS 37.05.315 - 37.05.317, including provisions for mandatory audits and
 13 reports. Regulations adopted under this section shall comply with this chapter, AS 37.07
 14 (Executive Budget Act), and requirements of [UNLESS REQUIRED BY] the federal

1 government for participation in federal programs.

2 * Sec. 2. AS 37.05 is amended by adding a new section to read:

3 Sec. 37.05.322. MUNICIPAL CAPITAL PROJECT MATCHING GRANT PROGRAM.

4 (a) The municipal capital project matching grant fund is established in the Department of
5 Administration consisting of appropriations to the fund. Appropriations do not lapse except as
6 provided under (f) of this section. Interest earned on money in the fund shall be deposited by
7 the department into the general fund. Appropriations shall be allocated by the department each
8 fiscal year to individual grant accounts within the fund for each municipality. The amount
9 allocated to a grant account is determined by multiplying the total amount appropriated to the
10 fund during a fiscal year by a fraction,

11 (1) the numerator of which equals

12 (A) for a municipality with a population under 1,000, the amount equal
13 to that population multiplied by 1.5;

14 (B) for a municipality with a population of at least 1,000 but less than
15 5,000, the amount equal to that population multiplied by 1.4;

16 (C) for a municipality with population of at least 5,000 but not greater
17 than 10,000, the amount equal to that population multiplied by 1.2; or

18 (D) for a municipality with a population of over 10,000, the amount equal
19 to that population; and

20 (2) the denominator of which equals the sum of the numerators calculated for all
21 municipalities under (1)(A) - (D) of this subsection.

22 (b) The minimum amount allocated to the grant account of a municipality each fiscal
23 year under (a) of this section equals \$25,000. The department shall reduce allocations under (a)
24 of this section on a pro rata basis based upon the population of the municipalities if necessary
25 to fund the minimum amount for each municipality. If appropriations are not sufficient to fully
26 fund minimum amounts, the amount available shall be equally allocated to each municipality.

27 (c) Subject to (d) and (e) of this section, each municipality may draw amounts from its
28 grant account within the municipal project matching grant fund for planning, design, and
29 construction of capital projects or capital improvements, as defined in AS 37.07.120. In
30 accepting a draw, the municipality covenants with the state that it will operate and maintain the
31 capital improvement for which the draw is used for the practical life of the capital improvement,

1 and that the municipality will not rely on the state to operate or maintain the capital improvement
2 or pay for its operation or maintenance. This requirement does not apply to use of money from
3 a draw for repair or improvement of an existing facility that is operated or maintained by the
4 state at the time that the draw is made if the repair or improvement for which the draw is used
5 will not substantially increase the operating or maintenance costs to the state. The municipality,
6 its agents, contractors, and subcontractors shall comply with the hiring preferences under
7 AS 36.10 in hiring employees to be paid wholly or in part with money from a draw.

8 (d) The municipality shall contribute a local share to be used on each capital project or
9 improvement for which a draw is made. The amount of the local share equals the local share
10 factor multiplied by the amount of the draw. For purposes of this subsection, the

11 (1) local share factor equals the local share percentage divided by the state share
12 percentage, except that

13 (A) if the product of the population factor and the local wealth factor is
14 greater than or equal to 1.0, the local share factor equals $\frac{3}{7}$ th; or

15 (B) if the local wealth factor is 0, the local share factor equals $\frac{5}{95}$ th;

16 (2) local share percentage equals the population factor multiplied by the local
17 wealth factor;

18 (3) state share percentage equals one minus the local share percentage;

19 (4) population factor equals

20 (A) 0.1 if the population of the municipality is less than 1,000;

21 (B) 0.3 if the population of the municipality is at least 1,000 but less than
22 5,000;

23 (C) 0.7 if the population of the municipality is at least 5,000 but not more
24 than 10,000; or

25 (D) 1.0 if the population of the municipality is more than 10,000;

26 (5) local wealth factor equals the amount obtained by dividing the per capita
27 taxable real and personal property valuation of the municipality by the statewide average per
28 capita taxable real and personal property valuation of all municipalities in the state.

29 (e) The amount of the local share calculated under (d) of this section shall be adjusted
30 if necessary so that it does not exceed 30 percent of the amount of the project for which the draw
31 is used and is not less than five percent of the amount of the project. The local share may be

1 satisfied with federal or municipal funds, locally contributed labor, materials or equipment the
2 value of which shall be determined by the department, or money from another nonstate source.
3 The local share may not be satisfied with money from appropriations, allocations, entitlements,
4 grants, or other payments from the state.

5 (f) A municipality shall repay to the department money drawn from a grant account if
6 substantial, ongoing work on the project or improvement is not started within five years after the
7 effective date of the appropriation from which the draw is funded. Money repaid shall be
8 deposited into the general fund. Money from an allocation to a grant account that has not been
9 drawn out by the municipality within five years after the effective date of the appropriation from
10 which the allocation is funded lapses into the general fund.

11 (g) The department under the Administrative Procedure Act (AS 44.62) may adopt
12 regulations that impose additional requirements or procedures to implement, interpret, make
13 specific, or otherwise carry out the provisions of this section. The department shall adopt
14 regulations providing for periodic audits of the use of grant money under this section. The audits
15 must include a review of the department's determination of the value of locally contributed labor
16 under (e) of this section and a review of the adequacy of the department's verification of the
17 actual use of locally contributed labor on a project. Regulations adopted under this subsection
18 shall comply with this chapter, AS 37.07 (Executive Budget Act), and requirements of the federal
19 government for participation in federal programs.

20 (h) For purposes of this section, the population of a borough shall exclude the population
21 of each city in the borough and the per capita taxable real and personal property valuation of a
22 borough shall exclude the property valuation of each city in the borough. The determination of
23 population and per capita taxable real and personal property valuation for a municipality shall
24 be based upon data used by the Department of Community and Regional Affairs under
25 AS 14.17.140, AS 29.45.110, and AS 29.60.140 - 29.60.150.

26 (i) In this section,

27 (1) "appropriation" has the meaning given in AS 37.07.120;

28 (2) "department" means the Department of Administration.

29 * Sec. 3. AS 37.05.322(e) is repealed and reenacted to read:

30 (e) The amount of the local share calculated under (d) of this section shall be adjusted
31 if necessary so that it does not exceed 50 percent of the amount of the project for which the draw

1 is used and is not less than 10 percent of the amount of the project. The local share may be
2 satisfied with federal or municipal funds, locally contributed labor, materials or equipment the
3 value of which shall be determined by the department, or money from another nonstate source.
4 The local share may not be satisfied with money from appropriations, allocations, entitlements,
5 grants, or other payments from the state.

6 * Sec. 4. AS 44.47 is amended by adding a new section to article 3 to read:

7 Sec. 44.47.195. UNINCORPORATED COMMUNITY CAPITAL PROJECT MATCHING
8 GRANT PROGRAM. (a) The unincorporated community capital project matching grant fund
9 is established in the department consisting of appropriations to the fund. Appropriations do not
10 lapse except as provided under (f) of this section. Interest earned on money in the fund shall be
11 deposited by the department into the general fund. Appropriations shall be allocated by the
12 department each fiscal year to individual grant accounts within the fund for each unincorporated
13 community that is entitled to receive state aid under AS 29.60.140 during that fiscal year. The
14 amount allocated to a grant account is determined by dividing the total amount appropriated to
15 the fund during a fiscal year by the number of communities eligible for allocations during that
16 fiscal year.

17 (b) By February 1, the department shall determine the amount of appropriations needed
18 to provide an allocation of \$25,000 under (a) of this section for each unincorporated community
19 for the next fiscal year. The department shall request the legislature for an appropriation to the
20 unincorporated community capital project matching grant fund of at least that amount.

21 (c) Subject to (d) and (e) of this section, an incorporated nonprofit entity or a
22 Native village council may on behalf of each unincorporated community draw amounts from that
23 community's grant account within the unincorporated community capital project matching grant
24 fund for planning, design, and construction of capital projects or capital improvements, as defined
25 in AS 37.07.120. In accepting a draw, the incorporated entity or council covenants with the state
26 that it will operate and maintain the capital improvement for which the draw is used for the
27 practical life of the capital improvement, and that the incorporated entity or council will not rely
28 on the state to operate or maintain the capital improvement or pay for its operation or
29 maintenance. This requirement does not apply to use of money from a draw for repair or
30 improvement of an existing facility that is operated or maintained by the state at the time that
31 the money is made if the repair or improvement for which the draw is used will not substantially

1 increase the operating or maintenance costs to the state. The incorporated entity or council, its
2 agents, contractors, and subcontractors shall comply with the hiring preferences under AS 36.10
3 in hiring employees to be paid wholly or in part with money from a draw.

4 (d) The department, with advice from the Department of Law, shall determine whether
5 there is in each unincorporated community an incorporated nonprofit entity or a Native village
6 council that will agree to receive and spend money allocated to the community under (a) of this
7 section. If there is more than one qualified entity in the community, the department shall
8 authorize the entity that the department finds most qualified to make draws from the allocation
9 and spend the money. The department may not pay the money to a Native village council unless
10 the council waives immunity from suit for claims arising out of activities of the council related
11 to the draw. A waiver of immunity from suit under this subsection must be on a form provided
12 by the Department of Law. If there is no qualified incorporated nonprofit entity or Native village
13 council in an unincorporated community that is willing to receive money from an allocation
14 under (a) of this section, draws may not be made from the allocation for that unincorporated
15 community and the amount allocated lapses into the general fund. Neither this subsection nor
16 any action taken under it enlarges or diminishes the governmental authority or jurisdiction of a
17 Native village council.

18 (e) The incorporated nonprofit entity or Native village council shall contribute a local
19 share to be used on each capital project or improvement for which a draw is made. The local
20 share equals 5 percent of the amount of the project for which the draw is used. The local share
21 may be satisfied from federal or local money, locally contributed labor, materials or equipment
22 the value of which shall be determined by the department, or money from another nonstate
23 source. The local share may not be satisfied with money from appropriations, allocations,
24 entitlements, grants, or other payments from the state.

25 (f) An incorporated nonprofit entity or a Native village council shall repay to the
26 department money drawn from a grant account if substantial, ongoing work on the project or
27 improvement is not started within five years after the effective date of the appropriation from
28 which the draw is funded. Money repaid shall be deposited into the general fund. Money from
29 an allocation to a grant account that has not been drawn out by an incorporated nonprofit entity
30 or Native village council within five years after the effective date of the appropriation from
31 which the allocation is funded lapses into the general fund.

1 (g) The department under the Administrative Procedure Act (AS 44.62) may adopt
2 regulations that impose additional requirements or procedures to implement, interpret, make
3 specific, or otherwise carry out the provisions of this section. The department shall adopt
4 regulations providing for periodic audits of the use of grant money under this section. The audits
5 must include a review of the department's determination of the value of locally contributed labor
6 under (e) of this section and a review of the adequacy of the department's verification of the
7 actual use of locally contributed labor on a project. Regulations adopted under this subsection
8 shall comply with AS 37.05 (Fiscal Procedures Act), AS 37.07 (Executive Budget Act), and
9 requirements of the federal government for participation in federal programs.

10 (h) The limitations of AS 44.47.140 do not apply to grants made under this section.

11 * Sec. 5. AS 44.47.195(e) is repealed and reenacted to read:

12 (e) The incorporated nonprofit entity or Native village council shall contribute a local
13 share to be used on each capital project or improvement for which a draw is made. The local
14 share equals 10 percent of the amount of the project for which the draw is used. The local share
15 may be satisfied from federal or local money, locally contributed labor, materials or equipment
16 the value of which shall be determined by the department, or money from another nonstate
17 source. The local share may not be satisfied with money from appropriations, allocations,
18 entitlements, grants, or other payments from the state.

19 * Sec. 6. Sections 1, 2, and 4 of this Act take effect immediately under AS 01.10.070(c).

20 * Sec. 7. Sections 3 and 5 of this Act take effect two years after the date sections 1, 2, and 4 of this
21 Act take effect.