

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

**BY THE SENATE FINANCE COMMITTEE**

**Offered: 5/19/91**  
**Referred: Rules**

**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."**

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

**4 \* Section 1. PURPOSE.** (a) The legislature recognizes the continued need for wholly state funded  
**5 capital projects (1) that are of regional or statewide significance, (2) which meet basic needs, such as**  
**6 education projects constructed under AS 14.11 and village safe water projects, or (3) for which costs will**  
**7 exceed the amount available to a municipality or community under the capital project matching grant**  
**8 programs. The legislature also recognizes the continued need for legislatively directed funding of other**  
**9 capital projects.**

**10 (b) It is the purpose of this Act to provide a capital project funding system that is equitable to**  
**11 municipalities and communities throughout the state, particularly for small projects of a local nature, and**  
**12 to provide a mechanism for local government to initiate and prioritize the construction of capital projects**  
**13 and to participate in funding those projects.**

**14 \* Sec. 2. AS 29.60 is amended by adding a new section to read:**

1                   ARTICLE 7. CAPITAL PROJECT MATCHING GRANTS.

2                   Sec. 29.60.500. MUNICIPAL CAPITAL PROJECT MATCHING GRANT PROGRAM.

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

10                   (1) the numerator of which equals

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

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

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

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

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

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

26 (c) Subject to (d) and (e) of this section, each municipality may draw amounts from its  
27 grant account within the municipal project matching grant fund for planning, design, and  
28 construction of capital projects or capital improvements, as defined in AS 37.07.120. In  
29 accepting a draw, the municipality covenants with the state that it will operate and maintain the  
30 capital improvement for which the draw is used for the practical life of the capital improvement,  
31 and that the municipality will not rely on the state to operate or maintain the capital improvement

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

7 (d) For each draw made under (c) of this section, the municipality shall contribute a local  
8 share of the cost of the capital projects or improvements for which the draw is made. The  
9 amount of the local share equals the local share factor multiplied by the amount of the draw.  
10 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 3/7th before July 1, 1994, and  
15 1.0 after June 30, 1994; or

16 (B) if the local wealth factor is 0, the local share factor equals 5/95th for  
17 draws made before July 1, 1994, and 1/9th for draws made after June 30, 1994;

18 (2) local share percentage equals the population factor multiplied by the local  
19 wealth factor;

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

21 (4) population factor equals

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

23 (B) 0.3 if the population of the municipality is at least 1,000 but less than  
24 5,000;

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

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

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

31 (e) The amount of the local share calculated under (d) of this section shall be adjusted

1 if necessary so that (1) it does not exceed 30 percent of the amount of the project for which the  
2 draw is used and is not less than five percent of the amount of the project if the draw is made  
3 before July 1, 1994; or (2) it does not exceed 50 percent of the amount of the project for which  
4 the draw is used and is not less than 10 percent of the amount of the project if the draw is made  
5 after June 30, 1994. The local share may be satisfied with federal or municipal funds, locally  
6 contributed labor, materials or equipment the value of which shall be determined by the  
7 department, money from another nonstate source, or money received by the municipality under  
8 AS 29.60.010 - 29.60.375. Except for money received under AS 29.60.010 - 29.60.375, the local  
9 share may not be satisfied with money from appropriations, allocations, entitlements, grants, or  
10 other payments from the state.

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

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

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

1 (i) In this section,

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

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

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

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

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

19 (c) Subject to (d) and (e) of this section, an incorporated nonprofit entity or a  
20 Native village council may on behalf of each unincorporated community draw amounts from that  
21 community's grant account within the unincorporated community capital project matching grant  
22 fund for planning, design, and construction of capital projects or capital improvements, as defined  
23 in AS 37.07.120. In accepting a draw, the incorporated entity or council covenants with the state  
24 that it will operate and maintain the capital improvement for which the draw is used for the  
25 practical life of the capital improvement, and that the incorporated entity or council will not rely  
26 on the state to operate or maintain the capital improvement or pay for its operation or  
27 maintenance. This requirement does not apply to use of money from a draw for repair or  
28 improvement of an existing facility that is operated or maintained by the state at the time that  
29 the draw is made if the repair or improvement for which the draw is used will not substantially  
30 increase the operating or maintenance costs to the state. The incorporated entity or council, its  
31 agents, contractors, and subcontractors shall comply with the hiring preferences under AS 36.10

1 in hiring employees to be paid wholly or in part with money from a draw.

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

16 (e) For each draw made under (c) of this section, the incorporated nonprofit entity or  
17 Native village council shall contribute a local share of the cost of the capital projects or  
18 improvements for which the draw is made. The local share equals (1) five percent of the amount  
19 of the project for which the draw is used if the draw is made before July 1, 1994; or (2) 10  
20 percent of the amount of the project for which the draw is used if the draw is made after June 30,  
21 1994. The local share may be satisfied from federal or local money, locally contributed labor,  
22 materials or equipment the value of which shall be determined by the department, money from  
23 another nonstate source, or money received by the unincorporated community under  
24 AS 29.60.010 - 29.60.375. Except for money received under AS 29.60.010 - 29.60.375, the local  
25 share may not be satisfied with money from appropriations, allocations, entitlements, grants, or  
26 other payments from the state.

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

1 or Native village council within five years after the effective date of the appropriation from  
2 which the allocation is funded lapses into the general fund.

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

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

13 \* Sec. 4. Notwithstanding AS 29.60.500(c), enacted in sec. 2 of this Act, a municipality may not  
14 make a draw from its grant account within the municipal project matching grant fund until after June 30,  
15 1992. Notwithstanding AS 44.47.195(c), enacted in sec. 3 of this Act, an incorporated nonprofit entity  
16 or a Native village council may not make a draw from an unincorporated community's grant account  
17 within the unincorporated community capital project matching grant fund until after June 30, 1992.