

*Bradners'*

# Alaska Legislative Digest

*- Commentary on Alaska issues and policy*

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## Stealth raid on school district budgets?

Educators are concerned about reports that Gov. Mike Dunleavy is planning a regulatory change that would have in-kind community contributions to municipal school districts be included in the funding under the cap on local funds contributed to schools. This is a complex formula but the impact, as we understand it, would effectively reduce state funds to municipal districts. The impacts would vary by district but Anchorage could be affected greatly because the city is at or near its cap for local funding to the Anchorage School District. The change is being discussed quietly, so we see this as a kind of stealth move to cut state money for schools. Rural schools in Rural Education Attendance Areas, or REAAs, would not be affected. However, anything this administration does with schools, particularly regulatory changes to avoid legislation, bears close watching.

### **State insurance Division close to publishing medical cost data**

The state Division of Insurance is finalizing data it has gathered from health insurers on Alaska medical costs and will publish it in the next few weeks. The information is voluntary from private insurers in the commercial insurance market but it also includes cost under the state's program. Data from the state's AlaskaCare program for active and retired public employees is also being added. The Medicaid and private health plans apply to 55% of covered Alaskans, and the AlaskaCare active employees and retirees will add another 10% to 12% of the market. The total data set will have enough to be representative of cost trends. Some insured groups, like union health trusts, are not yet contributing data. Several states mandate that medical cost data be included in so-called "All Claims Data Base" sets, but legislation is needed for this to be done in Alaska.

### **Long-running North Slope road dispute set for court trial**

A long-running dispute and lawsuit over use of private North Slope oil field roads is finally set for trial with oral arguments on Nov. 21 in state superior court in Anchorage. At issue is the decision by the state Department of Natural Resources to grant Santos, Ltd. an access easement along roads in the Kuparuk River field owned by ConocoPhillips, the Kuparuk owner and producer. ConocoPhillips filed a lawsuit.

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## **. . . Resources . . .**

### **Dispute over access to private North Slope roads set for trial**

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This dispute has been going on for several years now. Here's the background: ConocoPhillips and Santos have been unable to agree on terms for Santos to use roads owned by ConocoPhillips and other Kuparuk River field owners to aid construction of the new Pikka project, which Santos and its 49% partner Repsol are building. Fearing an action by ConocoPhillips to block access, Santos went to the DNR to get the land access permit to use the roads, which the DNR granted. ConocoPhillips wants Santos to help pay for maintenance of the road, which it says costs \$10 million to \$12 million a year, and that DNR's permit allows Santos free use of the roads and is unprecedented. DNR's action amounts to a kind of taking of private property, ConocoPhillips says. Santos and ConocoPhillips have gone back and forth on Santos' help in paying for road upkeep but have been unable to agree.

The issue is likely connected indirectly to an earlier dispute over ConocoPhillips' opposition to permits for Santos to build its own seawater treatment plant for Pikka instead of using one that ConocoPhillips built and operates for the Kuparuk field. Santos received permission for its plant and has now built it. The policy issue here is how the state can encourage consolidated use of production facilities and avoid duplication. That's because companies' capital costs are allowed as deductions on state production taxes. The water treatment plant matter no doubt soured relations and set the stage for the road dispute.

### **Court will decide whether DNR has authority to issue access permit**

The legal issue for the road is whether DNR has the authority to use its Miscellaneous Land Use Permit authority in this way, to grant a free access to a private road. DNR argues it has the responsibility to ensure access for development of resources on state land (the Pikka field). Given the parties' inability to agree to terms, it reached for its land-use permit, however clumsy the instrument may be. The court will decide the legal issue but the broader issue over access by third parties to roads and, more important, production facilities that can be used by other companies for nearby undeveloped oil and gas deposits must be resolved. The court may find a way to force a settlement of the immediate issue, too.

### **Long range solutions to road, infrastructure access**

This problem will crop up again. The long-range solution for the roads may be public ownership in some form, with users paying for maintenance through a toll similar to the way Teck Alaska pays the state's Alaska Industrial Development Authority, or AIDEA, for use of the Red Dog Mine road and port, which AIDEA owns. That idea was explored for the North Slope roads but Kuukpik, the Native village corporation for the nearby Nuiqsut village and the surface landowner, preferred that the regional municipality, the North Slope Borough, own the roads. The borough liked the idea but was unable to arrange financing, we're told. No more was done on this but the idea is still out there. The more complex problem is over sharing of spare capacity in production facilities, however.

## **. . . Construction/Education . . .**

### **Costs rise on Nome's big port project and construction now on hold. New state money asked?**

The big Nome port expansion is on hold after bids came in higher than allowed under U.S. Army Corps of Engineers rules. The project had been estimated at \$662 million and a 25% variance is allowed, but the corps wouldn't say what the bid amounts were. Hopes were for construction to be underway next summer but that's unlikely now. The corps isn't saying whether the project will be re-bid or whether it will be reconfigured to reduce costs. New dredging and construction of breakwaters were included in the planned construction. It's thought likely the city of Nome, which owns its port, will ask the state Legislature for additional funds.

### **Construction inflation is causing worry statewide**

Construction inflation is causing worries with other federal infrastructure and North Slope oil projects underway or being planned. In addition to Nome's port, Santos, Ltd. says that its Pikka project on the slope is seeing a 20% cost increase. Bids on small projects are being watched as indicators of trends. What was encouraging this week was that multiple bids on the Matanuska-Susitna Borough's planned visitor center came in near the borough's estimate of \$6 million. Mat-Su has a federal economic development grant sufficient to cover the project costs. Palmer's new public library, with an estimated \$16 million cost, will likely go to bid in late spring next year. The library is more complex than the visitor center, so there are concerns over costs. The city of Palmer must still complete its financing, too.

### **Seward gets \$45.7 million federal grant for cruise ship shoreside power**

Seward will receive a \$45.7 million federal grant to develop a project to supply shore power to cruise ships using its port. The project also includes battery power storage and other electric transmission upgrades. Extending shore power to cruise ships will allow the vessels to shut down engines while in port, reducing local air pollution. Alaska Electric Light & Power now supplies shore power to cruise ships at dock in Juneau. In Anchorage, the Don Young Port of Alaska will receive \$1.93 million to evaluate clean energy alternatives including use of hydrogen and also to do workforce planning. Port expansion projects are underway in both communities. The grants were made under the U.S. Environmental Protection Agency's Clean Ports Program.

### **\$50 million grant for new Alaska literacy program, but is it enough?**

On other federal funding, the state Department of Education and Early Development, or DEED, has been awarded a \$50 million U.S. Department of Education grant to support literacy efforts including the new Alaska Reads program in elementary schools. The grant will provide \$10 million a year over five years, DEED said. The Alaska Legislature established Alaska Reads in 2022 but there was insufficient funding to adequately carry out the initiative. The federal grant will help but school districts say one-time grants are temporary and don't allow for real program buildup, such as hiring of new staff. School districts are really short of teachers for regular programs along with new Alaska Reads requirements.

# . . . Issues to Watch . . .

## Post Nov. 5 election, here are legislative issues to watch

*Note to readers: We mention issues that were in advanced stages of passage as the Legislature ended last May. Although the bills themselves died the issues are still active and we assume the newly-elected Legislature will resume work on many of them. We list a few of interest and will continue with more in our interim briefs between now and the start of the new Legislature in January.*

### **Medical insurance prior authorization:**

This is a big one. A Senate bill to speed prior authorizations on medical procedures by insurers was close to passage last May when Premera Blue Cross stepped in and threatened to pull out of the state, stopping the bill. It will be back in January in a new version. Legislators may also have stiffened their spines by then to stand up to Big Insurance. This is a priority for health care providers.

### **Pharmacy Benefit Managers:**

A partial solution was passed last session on problems created by these organizations (squeezing out independent pharmacies; controlling distribution of medications, etc.) but Sen. Cathy Giessel and other legislators will try to finish the job next session.

### **Medical assistance demonstration projects:**

Proposed by the governor, this passed and the Department of Health is working on pilot projects. It relates to coordinated care for patients under Medicaid, which is state-managed.

### **Physician assistant scope of practice:**

This bill, SB 115, was by Sen. Loki Tobin and it made it to House Rules. Sen. Tobin will be back in Juneau, so expect a new push on it.

### **Contractor-owner insurance, HB 75:**

This governor's bill made it to Senate Rules Committee. It's important to contractors, so expect it to be back.

### **"S-Corp." tax exemption, oil and gas:**

Sen. Bill Wielechowski has been pushing a bill to remove the "S-Corporation" state income tax exemption for oil and gas producers, mainly Hilcorp Energy but also others. This got legs in the Senate last year but opposition in the Republican-controlled House doomed it. Whether it gets momentum again this year will depend on the Nov. 5 election and the makeup of the new House organization.

### **Natural gas royalty reduction:**

Despite the looming shortfall in natural gas production in Cook Inlet, Rep. George Rauscher's bill to reduce state royalty as an incentive for gas development failed in the Senate. We expect this to be back particularly if utilities move ahead with plans to import liquefied natural gas, which will prompt criticism.

### **Professional licensing:**

There was a lot of activity on this last session but major proposals, such as on expedited licensing, did not move. Opposition comes from professional groups on the licensing boards, which have a lot of independence. Expect more work this year.

We expect Rep. Mike Prax and Sen. Donny Olson to reintroduce bills for the state to join the multi-state nurse licensure compact, which medical providers support but a nurses' union opposes.