

H B

279

COMMITTEE REPORT

HOUSE

3/6/81

FURTHER: FINANCE

(5)

Date: April 2, 1981

Mr. Speaker:

The Committee on HEALTH, EDUCATION & SOCIAL SERVICES has had HB 279

"An Act relating to state aid for school construction."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 279 same title
 new title
- and recommends _____
- ND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

[Signature]

[Signature]

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]
CHAIRMAN

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH 5
JUNEAU, ALASKA 99811

March 24, 1981

The Honorable Donald E. Clocksin
Chairman
House Health, Education and Social
Services Committee
Room 112 - Capitol Building
Juneau, Alaska

Dear Mr. Clocksin:

Re: House Bill No. 279

House Bill No. 279, an Act relating to state aid for school construction, was introduced in the House on March 6, 1981 and was referred to the House Health, Education and Social Services and Finance Committees.

For the consideration of the House Health, Education and Social Services Committee, I am enclosing a copy of a Fiscal Note prepared by Mr. Anselm Staack, Treasury Comptroller, Department of Revenue concerning the proposed legislation.

Sincerely,



R. D. Stevenson
Special Assistant

RDS/rdh

cc: The Honorable Samuel R. Cotten
Chairman
House Finance Committee

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Anselm Staack
Treasury Comptroller
Department of Revenue

I. REQUEST

Bill/Resolution No. HOUSE BILL NO. 279
 Title Relating to state aid for school construction
 Requested by House Health, Education & Social Services Committee Date 3/6/81

II. FISCAL DETAIL

Agency Affected Department of Education
 Program Category Affected General Fund
 BRU, Program, or Subprogram(s) Affected _____
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (~~THOUSANDS~~ of Dollars)

→ MILLIONS ←

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.	80 % Portion	83.0	50.6	51.4	45.8	30.7
	→ 20 % Portion	20.8	12.7	12.9	11.4	7.7 ←
TOTAL		103.8	63.3	64.3	57.2	38.4

FUNDING (~~THOUSANDS~~ of Dollars)

→ MILLIONS ←

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND		103.8	63.3	64.3	57.2	38.4
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This bill would have the state pay 100% of local debt service related to school construction as well as cash payments made for construction. Payments would be accelerated to the year after, vs. a two year lag as it is now.

Above includes bond issues outstanding as of 12/31/80 only and does not include cash payments that may have been made unrelated to debt service as they are unknown. FY 82 includes FY 80 and FY 81 amounts for "catch-up"; FY 83 shows debt service paid for FY 82, etc. The "80%" portion is as the current law is written; the "20%" portion shows the incremental effect of this bill. No future bond issues have been factored in as they are indeterminate.

IV. DATE March 24, 1981

PREPARED BY Anselm C. Staack, Treasury Comptroller
 AGENCY Dept. of Revenue/Treasury
 PHONE 465-2351

Original: Legislative Finance
 cc: Budget and Management
Prime Sponsor (First Legislator Named)

Steve Holt, Administrator
 Dept. of Education, 465-2884

Alaska State Legislature



PAT CARNEY
DISTRICT 8
WASILLA, ALASKA 99667
POUCH V
JUNEAU, ALASKA 99811

COMMITTEE
FINANCE

House of Representatives

MEMO

To: House HESS Committee
From: Representative Pat Carney
Date: March 25, 1981

Subject: Recommended Changes to Proposed CSHB 279

I would like to see the following changes made to Section 2 of the proposed Committee Substitute for House Bill 279. See pages 3 and 4 of the CS, specifically lines 3-25 of page 4.

1. All past construction costs--whether bonded or cash--shall be paid at 100% up to July 1, 1981.
2. All future construction costs, if approved under AS 14.07.020(11), are to be paid by the State at 100%, beginning July 1, 1981.
3. All payments made in the two fiscal years preceding the effective date of this act are to be paid at 100% during fiscal year 1982.
4. Delete reference on page 5, line 5, to "which exceed \$25,000", in order not to discriminate against smaller school districts.

have generally broadened their criteria of voluntariness by looking beyond the formal requisites of protest and determining more appropriately whether duress may be implied from the circumstances surrounding the payment. Under the old rule, duress did not exist unless a loss of life, limb, or liberty were threatened. Now courts may find duress from a payment made to prevent potentially great loss of property or the imposition of substantial penalties. State v. Wakefield Fisheries, Inc., Sup. Ct. Op. No. 779 (File Nos. 1397, 1398), 495 P.2d 166 (1972).

"Business compulsion" standard of duress. — Under the "business compulsion" standard of duress, which the supreme court endorses, the taxpayer need

not be threatened with imminent incarceration or other disastrous consequences before he may claim duress by business compulsion. The standard is satisfied if, under the circumstances, a reasonably prudent businessman would find it necessary to pay taxes in order to preserve or protect his property. State v. Wakefield Fisheries, Inc., Sup. Ct. Op. No. 779 (File Nos. 1397, 1398), 495 P.2d 166 (1972).

Am. Jur. and ALR references. — 51 Am. Jur., Taxation, §§ 967, 1179 to 1182

Right to interest on tax refunds, 57 ALR 57; 76 ALR 1012; 112 ALR 1183.

Retrospective operation of statute enlarging or shortening period for claim of tax refund, 163 ALR 778.

Chapter 18. State Aid to Local Governments.

Article

1. Aid for Miscellaneous Municipal Purposes (§§ 43.18.010 — 43.18.050)
2. Aid for School Construction (§ 43.18.100)
3. Community Facilities Grants (§ 43.18.300)
4. Sports Facilities Grants (§§ 43.18.400 — 43.18.460)

Revisor's note (1969). — In ch. 95, SLA 1969, AS 43.18 was incorrectly numbered AS 43.78.

Article 1. Aid for Miscellaneous Municipal Purposes.

Section

10. State aid to local governments
12. Area cost-of-living differential
20. Construction and implementation of chapter
30. Local tax levy reduction

Section

40. Regulations
45. Unification, merger or consolidation of municipalities
50. [Repealed]

Sec. 43.18.010. State aid to local governments. (a) During each fiscal year the state shall pay to a city or organized borough of any class which has power to provide the following services and exercises that power

(1) \$12 per capita to cities and boroughs providing police protection, subject to the conditions of this paragraph and (g) of this section;

(A) municipal police protection shall be available 24 hours a day;

(B) municipal police officers shall be U.S. citizens who are at least 19 years of age and who have not been convicted of a crime involving moral turpitude within the past 10 years;

(2) \$7.50 per capita to cities and boroughs providing fire protection;

(A) fire provided b marshal w city or bor

(I) in ad shall pay t marshal ar for protec served by the latest reliable da organizati borough o to the sta standards promulga

(3) \$2 p control or

(A) in o shall be c control pr

(B) in municipal facilities sewage to

(4) \$2 ; subject to

(A) the a compreh use plan

(B) if t the muni itself of

(i) a st planning

(ii) an use plan program Regional

(iii) th the Depa

(C) if municipa staff pl planning

(A) fire protection includes, but is not limited to, fire protection provided by a volunteer fire department registered with the state fire marshal which has official recognition and financial support from the city or borough in which it is located;

(B) in addition to the grants authorized under this section, the state shall pay to a volunteer fire department registered with the state fire marshal and serving an area not in an organized borough or a city a sum for protection purposes equal to \$7.50 per capita for the population served by the department, as determined by the state fire marshal using the latest figures of the United States Bureau of the Census or other reliable data; grants shall be made on the same basis to facilitate the organization of volunteer fire departments in an area not in an organized borough or a city, upon application of the proposed fire protection group to the state fire marshal and approval of applications according to standards of organization and service prescribed by regulations promulgated by the state fire marshal;

(3) \$2 per capita to cities and boroughs providing air or water pollution control or both;

(A) in order to qualify for air pollution control aid the municipalities shall be either engaged in comprehensive study of an air pollution control program or implementation of an air pollution control program;

(B) in order to qualify for water pollution control aid the municipalities shall either have primary or secondary sewage treatment facilities under construction or be providing primary or secondary sewage treatment;

(4) \$2 per capita to cities and boroughs providing land use planning, subject to the conditions of this paragraph;

(A) the municipalities shall be in the process of preparing or updating a comprehensive land use plan or be implementing a comprehensive land use plan through exercise of zoning powers; and

(B) if the municipality has a population of fewer than 12,000 persons, the municipality shall qualify for aid under this paragraph by availing itself of planning assistance through either:

(i) a staff planner charged with the primary responsibility of land use planning and plan implementation; or

(ii) an annual contract with a recognized planning firm to provide land use planning and plan implementation on a consulting basis with a work program outline approved by the Department of Community and Regional Affairs; or

(iii) the state's continuing planning advisory service program through the Department of Community and Regional Affairs;

(C) if a municipality has a population over 12,000 persons, the municipality, to qualify for aid under this paragraph, shall employ a staff planner charged with the primary responsibility for land use planning and plan implementation;

(5) \$5 per capita to cities and boroughs providing for parks and recreation; and

(6) \$5 per capita to cities and boroughs providing transportation facilities or services limited to municipally-operated small boat harbors, ports, airports, or transit systems.

(b) During each fiscal year the state shall pay to a city or organized borough of any class which has power to provide for road maintenance and exercises the power a sum equal to \$1,500 a mile for each mile of road, street or highway maintained by the local government, excluding the official state highway system, roads, streets or highways not dedicated to public use, any roads, streets or highways maintained under the local service road program (AS 19.30.111 — 19.30.251), and alleyways, in accordance with regulations adopted by the Department of Highways. No payments may be made for maintenance of roads not used by automotive equipment. Frozen waterways and connections from inhabited areas to the waterways which may be safely used for public transportation by automotive equipment and are so used during a portion of a year are eligible for payments of \$900 per mile if the waterways and connections are maintained during the period of use by a municipality or combination of municipalities. The Department of Community and Regional Affairs, after consultation with the Department of Highways, shall determine which waterways and connections qualify and, where the waterways or connections lie outside the corporate limits of a municipality, which municipality is eligible for the shared revenue unless the municipalities involved have agreed in writing to a particular distribution.

(c) For purposes of this section, population shall be determined by the latest figures of the United States Bureau of the Census or other reliable population data, including but not limited to public school enrollment figures, public utility connection, registered voters or certified employment payrolls.

(d) If a borough exercises the powers in (a) of this section in the borough area outside cities only, or in a service area only, the grants authorized under this section shall be based on the population of the borough area outside cities or the service area respectively.

(e) If the services in (a) and (b) of this section are provided by a service area, the borough shall give to the service area an amount equal to the funds provided by the state for the services provided by the service area.

(f) Funds received by a city, borough or service area under this section may be expended for any public purpose for which it has power to expend public funds, except as provided in (h) of this section.

(g) If a city within an organized borough provides police protection services, the borough may not qualify for aid under (a) (1) of this section unless

(1) police
cities, or
contract

(2) fire
protection

(h) Du

(1) \$2
health f

(2) in

(A) th

power to

power o

patient

construc

hospital

with les

under th

apportio

(B) th

paragra

municip

hospital

adopted

which w

paymen

accord

hospital

mainten

at the h

(C) a

paragra

(3) \$

organiz

actual

for in t

facility

(4) f

shall b

mainte

(5) b

commis

distrib

corpor

irrevoc

(i) I

(1) police protection services are provided in the borough area outside cities, or if limited to a service area, in the service area, through borough contract with a city or the state; or

(2) the borough assumes and exercises power to provide police protection services on an areawide basis in the manner provided by law.

(h) During each fiscal year the state shall make payments as follows:

(1) \$2 per capita to a municipality which has the power to provide health facilities and services and in which a hospital is located;

(2) in addition to the payment made under (1) of this subsection

(A) the state shall make payments to a municipality which has the power to provide hospital facilities and services and which exercises the power on the basis of \$1,000 per bed for each bed actually used for patient care limited to the number of beds provided for in the construction design of the hospital, or \$75,000 a hospital for those hospitals with 10 or more beds, or \$25,000 a hospital for those hospitals with less than 10 beds, as the municipality may elect; funds received under this subparagraph may be used only for hospitals and shall be apportioned among qualifying hospitals as the municipality determines;

(B) the state shall make payments on the basis set out in (A) of this paragraph to a municipality for nonprofit hospitals not operated by a municipality if the municipality first certifies to the department that the hospital is in compliance with all standards for hospitals which have been adopted by the municipality; in the absence of this certification the funds which would have gone to the hospital lapse into the state general fund; payments to the municipality shall be transferred to the hospital in accord with the basis by which the entitlement was generated by the hospital and shall be applied to the annual cost of operation and maintenance of the hospital or for the provision of health care service at the hospital as the directors of the hospital determine;

(C) a hospital may not receive payment under both (A) and (B) of this paragraph;

(3) \$1,000 per bed to an organized borough or city outside an organized borough in which a health facility is operated for each bed actually used for patient care, limited to the number of beds provided for in the construction design of the health facility, or \$4,000 per health facility as the local government may determine;

(4) funds received by a municipality under (1) or (3) of this subsection shall be used for expenses of health services or operation and maintenance of facilities as the municipality determines;

(5) before funds may be distributed under this subsection, the commissioner of health and social services shall certify to the distributing agency that any accumulation of assets by nonprofit corporations or other recipients under this subsection are dedicated irrevocably to a public purpose.

(i) In (h) and (j) of this section

(1) "hospital" means a licensed hospital determined by the Department of Health and Social Services to be a general hospital; the term excludes facilities operated or wholly supported by the state or the federal government;

(2) "health facility" means public health centers, maternity homes and community mental health centers, facilities for the mentally or physically handicapped, nursing homes and convalescent centers which are licensed, when required, by the state under AS 18.20.010 — 18.20.130 and are owned or operated or both by a local government or by a nonprofit corporation or other nonprofit sponsor; the term excludes facilities operated or wholly supported by the state or the federal government.

(j) If construction of a facility began after January 1, 1968 and state matching aid for construction approved for payment to the local government or other facility sponsor constitutes less than 25 per cent of the total project cost, the state shall pay to the local government or other facility sponsor each fiscal year a sum equal to \$2,500 a bed for the maximum number of beds provided for in the construction design of the facility. State aid provided for in this subsection shall continue until the local government or other facility sponsor has received an amount which, combined with state matching money for construction of the facility, equals 25 per cent of the total project cost. No funds received for construction shall be used for any other purpose.

(k) A city or borough may not receive state shared revenue based on the population residing on that portion of a military reservation annexed to a city or borough after January 1, 1973, except as provided in this subsection. If a military reservation is located within a city or borough, the city or borough is limited in its entitlement to state shared revenue, based on the population residing on the reservation, as follows: 50 per cent of the amount paid per capita for police protection under (a)(1) of this section; 25 per cent of the amount paid per capita for parks and recreation under (a)(5) of this section; and 50 per cent of the amount paid per capita for transportation facilities or services under (a)(6) of this section. (§ 10 ch 95 SLA 1969; am §§ 1 — 4 ch 194 SLA 1970; am § 3 ch 84 SLA 1971; am §§ 1, 2 ch 127 SLA 1971; am § 43 ch 71 SLA 1972; am §§ 3, 4 ch 200 SLA 1972; am § 6 ch 32 SLA 1973; am § 1 ch 87 SLA 1973; am §§ 1, 2 ch 43 SLA 1974; am § 44 ch 127 SLA 1974; am § 1 ch 45 SLA 1975; am § 1 ch 100 SLA 1975; am § 2 ch 265 SLA 1976)

Revisor's note (1970). — In ch. 194, SLA 1970, AS 43.18.010 (i) referred to health facility licensing under AS 18.20.130. Since that is a definition section rather than a licensing section, the citation has been corrected to read "AS 18.20.010 — 18.20.130."

Effect of amendments. — The first 1973 amendment added subsection (k).

The second 1973 amendment rewrote subsections (h) and (i).

The first 1974 amendment substituted "\$12" for "\$10" in the introductory language of subsection (a)(1) and added the language beginning "including but not limited to public school enrollment figures" to the end of subsection (c).

The second 1973 amendment substituted "a municipal municipality" for "a municipality" in subsection (h)(4).

The first 1974 amendment substituted "\$7.50" for "\$7.00" in the language of paragraph (a) and in subsection (b).

The second 1974 amendment substituted "third and fourth" for "third" in subsection (b).

Sec. 43.18.012
to a city or borough
volunteer fire department
cost-of-living index
sum of per capita
or organized
appropriate
differential
department
provisions
to be applied
the base amount
(b) The
designated
December
proclamation

Sec. 43.18.013
This chapter
(b) The
carry out
annually by
insufficient
recipient's
are available
government
(c) Monies
of the fund
amount re
to the gen

*Effect of
amendment
subsection*

Sec. 43.18.014
chapter is
government

The second 1974 amendment substituted "a municipality" for "an organized municipality" near the end of subsection (h)(4).

The first 1975 amendment substituted "\$7.50" for "\$5" in the introductory language of paragraph (2) of subsection (a) and in subparagraph (B) of that paragraph.

The second 1975 amendment added the third and fourth sentences of subsection (b).

The 1976 amendment rewrote paragraphs (1), (2) and (4) of subsection (h).

Legislative committee reports. — For report on ch. 71, SLA 1972 (HCSSB 383 am H), see 1972 House Journal, p. 898. For report on ch. 87, SLA 1973 (CSHB 42 [Finance] am S), see 1973 House Journal, p. 189. For report on ch. 127, SLA 1974 (SCSHB 817 am S), see 1974 House Journal, p. 657.

Sec. 43.18.012. Area cost-of-living differential. (a) State payments to a city or an organized borough or to an unorganized borough volunteer fire department under § 10 of this chapter shall reflect area cost-of-living differentials. Amounts distributed shall be based upon the sum of per capita, per mile and per bed or facility grants due each city or organized borough or volunteer fire department multiplied by the appropriate area cost-of-living differential. The area cost-of-living differential for each city and organized borough or volunteer fire department shall be determined annually by election district under the provisions of AS 39.27.030; however, the area cost-of-living differential to be applied shall not result in an amount to be distributed less than the base allocation.

(b) The election districts used in (a) of this section are those designated by the proclamation of reapportionment and redistricting of December 7, 1961, and retained for the house of representatives by proclamation of the governor September 3, 1965. (§ 1 ch 95 SLA 1974)

Sec. 43.18.020. Construction and implementation of chapter. (a) This chapter may not be construed so as to create a debt of the state.

(b) The special municipal services account is established. Funds to carry out the provisions of § 10 of this chapter may be appropriated annually by the legislature to the account. If amounts in the account are insufficient for the purpose of each local government's or other recipient's share authorized under § 10 of this chapter, such funds as are available shall be distributed pro rata among eligible local governments and other recipients.

(c) Money in the special municipal services account which, at the end of the fiscal year for which the money is appropriated, exceeds the amount required for the allocations authorized in this chapter reverts to the general fund. (§ 10 ch 95 SLA 1969; am § 2 ch 208 SLA 1976)

Effect of amendment. — The 1976 amendment in the third sentence of subsection (b), inserted "or other recipient's" preceding "share" and added "and other recipients" to the end.

Sec. 43.18.030. Local tax levy reduction. (a) The intent of this chapter in authorizing state aid for municipal purposes is that local governments which levy property taxes reduce those levies in

reasonable proportion to the amount of state aid received by a local government for a given fiscal year.

(b) The governing body shall furnish the following notice with tax statements mailed for the fiscal year for which aid is received under this chapter:

"NOTICE TO TAXPAYER

For the current fiscal year the (city) (borough) has been allocated the following amount of state aid for school and municipal purposes under the Public School Foundation Program (Alaska Statutes 14.17) and the revenue sharing provisions of Alaska Statutes 43.18:

SCHOOL AID	\$
AID BASED ON MUNICIPAL SERVICES FURNISHED	\$
(fire protection, police protection, air or water pollution control, land use planning, road maintenance, parks and recreation, transportation facilities and services, hospital operation)	

Total Aid \$

The millage equivalent of this state aid, based on the present dollar value of a mill in the municipality, is mills." (§ 5 ch 194 SLA 1970)

Editor's note.—Sections 4, 5 ch. 120, SLA 1977, effective July 1, 1978, amended this section to read as follows: "(a) The intent of §§ 10 — 100 of this chapter in authorizing state aid for educational purposes and municipal services is that municipalities which levy taxes reduce those levies in reasonable proportion to the amount of state aid received by the municipality for a given fiscal year.

"(b) If the municipality levies and collects real or personal property taxes, the governing body shall furnish the following notice with tax statements mailed for the fiscal year for which aid is received under AS 14.17 and §§ 10 — 100 of this chapter:

"NOTICE TO TAXPAYER

For the current fiscal year the (city) (borough) has been allocated the following amount of state aid for school and municipal purposes under the public school foundation program (Alaska Statutes 14.17), the municipal services revenue sharing program of Alaska Statutes 43.13.610 — 43.14.050, and the program of state aid for retirement of school construction debt (Alaska Statute 43.16.100):

PUBLIC SCHOOL FOUNDATION PROGRAM ASSISTANCE	\$
STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT	\$
AID BASED ON MUNICIPAL SERVICES FURNISHED (fire protection, police protection air or water pollution control, land use planning, road maintenance, parks and recreation, transportation facilities and services, hospital operation)	\$
Total Aid	\$

The millage equivalent of this state aid, based on the dollar value of a mill in the municipality during the current assessment year and for the preceding assessment year, is:

MILLAGE EQUIVALENT	
PREVIOUS YEAR	THIS YEAR
PUBLIC SCHOOL FOUNDATION PROGRAM ASSISTANCE	... MILLS ... MILLS
STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT	... MILLS ... MILLS
AID BASED ON MUNICIPAL SERVICES FURNISHED	... MILLS ... MILLS
TOTAL MILLAGE EQUIVALENT	... MILLS ... MILLS

"(c) If it collects only body shall pr the form set providing no council or su millage equ equivalent s categories of (b) of this se "(1) by general circ

Sec. 43 Regional purposes minimum each ser demonstr allowed v prescribe 1974; am

Revisor's 43.18.040 : 43.18.100(c) 43.18.300(e) conflict wit it seems lik only to A Article 1).

Sec. 4 municip consolidi sharing for the fi or unific receive

Sec. 4 Repe

Editor's derived fr ch. 127, S

Section 100. Stat cor

"(c) If the municipality levies and collects only a sales tax, the governing body shall provide a notice substantially in the form set out in (b) of this section. In providing notice under this subsection, the council or assembly shall substitute for the millage equivalency its estimate of the equivalent sales tax rate for each of the categories of financial assistance set out in (b) of this section. Notice shall be provided

"(1) by publishing in a newspaper of general circulation within the municipality

a copy of the notice once each week for a period of three successive weeks, with first publication to occur not earlier than 45 days before the first day of the municipality's fiscal year; or

"(2) if there is no newspaper of general circulation in the municipality, by posting a copy of the notice for at least 20 days in at least two public places within the municipality, with posting to occur not earlier than 45 days before the first day of the municipality's fiscal year."

Sec. 43.18.040. Regulations. The Department of Community and Regional Affairs shall adopt regulations necessary to carry out the purposes of §§ 10 — 9ⁿ of this chapter. The regulations shall include minimum standards required to qualify a municipality for grants for each service and provisions for a performance report adequate to demonstrate to the department that each service for which credit was allowed was actually performed by the municipality, at least at the prescribed minimum level. (§ 2 ch 87 SLA 1973; am § 45 ch 127 SLA 1974; am § 1 ch 208 SLA 1976)

Revisor's note (1973). — Since AS 43.18.040 appears to conflict with AS 43.18.100(c) and 43.18.100(g)(1) and with AS 43.18.300(c) and 43.18.300(h)(1), and may conflict with AS 43.18.450 and 43.18.460(1), it seems likely that it was intended to apply only to AS 43.18.010 — 43.18.099 (i.e. Article 1).

Effect of amendments. — The 1974 amendment inserted "§§ 10 — 99 of" near the end of the present first sentence.

The 1976 amendment added the second sentence.

Legislative committee report. — For report on ch. 127, SLA 1974 (SCSHB 817 am S), see 1974 House Journal, p. 657.

Sec. 43.18.045. Unification, merger or consolidation of municipalities. If a borough and the cities within the borough merge, consolidate or unify in accordance with AS 29.68, the amount of revenue sharing to which the successor municipality is entitled shall be computed for the first year and each year thereafter as if the merger, consolidation or unification had not occurred, and the successor municipality shall receive not less than the amount so computed. (§ 1 ch 265 SLA 1976)

Sec. 43.18.050. Specific expenditures.

Repealed by § 3 ch 265 SLA 1976, effective July 1, 1976.

Editor's note. — The repealed section derived from § 2, ch. 87, SLA 1973; § 46, ch. 127, SLA 1974.

Legislative committee report. — For report on ch. 127, SLA 1974 (SCSHB 817 am S), see 1974 House Journal, p. 657.

Article 2. Aid for School Construction.

Section
100 State aid for retirement of school construction debt

Sec. 43.18.100. State aid for retirement of school construction debt.

(a) During each fiscal year the state shall allocate to an organized borough or a city which is a school district one-half, or if school construction is for vocational education facilities as determined by the commissioner three-quarters, of the following sums:

(1) payments made by the borough or city during the fiscal year two years prior for the retirement of principal and interest on bonds, notes, or other indebtedness incurred to pay costs of school construction;

(2) the amount of payments that would have been expended by a borough or city two years prior for the retirement of principal and interest on bonds, notes, or other indebtedness incurred to pay costs of school construction had the borough or city issued bonds, notes, or other indebtedness of 10 years duration bearing interest at the rate of six per cent a year to finance the costs rather than paying those costs through taxes or other local sources;

(3) cash payments made by the borough or city during the fiscal year two years earlier to pay costs of school construction.

(b) The commissioner shall administer the program of reimbursement authorized under this section and shall provide by regulation for the filing of applications for reimbursement, the form of proof of costs for which application for reimbursement is made, and other regulations necessary to administer the program. The commissioner shall exclude from the total school construction cost of the local district all state and federal funds included in these costs except funds provided under this section and AS 43.50.140. In approving applications for reimbursement, the commissioner shall offset against the amount of reimbursement authorized the amount of any funds distributed to the borough or city in the second preceding fiscal year from the school fund provided for in AS 43.50.140.

(c) The school construction account is established. Funds to carry out the provisions of this section may be appropriated annually by the legislature to the account. If amounts in the account are insufficient for the purpose of providing the share to which a borough or city is entitled under this section, those funds that are available shall be distributed pro rata among the eligible local governments.

(d) Money in the school construction account which, at the end of the fiscal year for which the money is appropriated, exceeds the amount required for the allocations authorized in this section reverts to the general fund.

(e) The commissioner shall annually provide a report to the legislature on allocations of state aid made under this section.

(f) The provisions of (a)(2) of this section apply only to payments made before July 1, 1971. The provisions of (a)(3) of this section apply to payments made after June 30, 1971.

(g) In this section, unless the context requires otherwise,

(1) "commissioner" means the commissioner of education;

(2) "costs" means the cost of construction of public buildings which is not limited to the purchase of architectural materials, but includes the sale of bonds, notes, or other indebtedness under AS 1 ch. 47 c.

Revisor's of this section in ch. 28, SI 114. How subsection pre-1973 and that subsection amendment 24.30.060(a) Uniform Drafting Manual whether the clerical error amendment

Effect of amendments "exclusive" or "federal costs" from language paragraph present sentence "those" of subsection (f), redrafted subsection requires language "including secondary paragraph deleted paragraph

The 1977, and subsection secondarily is not limited" Editor 1977, and subsection fiscal year organized school

(2) "costs of school construction" means the cost of acquiring, constructing, enlarging, repairing, remodeling, equipping or furnishing of public elementary and secondary school buildings and includes but is not limited to the cost of acquisition of sites, legal, engineering, fiscal, architectural and other fees of specialists or consultants, costs of labor, materials, equipment and supplies, costs of authorization, issuance and sale of bonds, notes, or other evidences of debt. (§ 1 ch 249 SLA 1970; am § 1 ch 98 SLA 1971; am § 2 ch 137 SLA 1972; am § 1 ch 28 SLA 1973; am § 47 ch 127 SLA 1974)

Revisor's note (1973). — Subsection (g) of this section is set out here as it appears in ch. 21, SLA-1973, derived from HCSSB 114. However, since that definition subsection is virtually identical to the pre-1973 subsection (f), and the changes in that subsection did not follow the amendment method required by AS 24.30.060(a), Rule 12 of the Legislature's Uniform Rules, and the Legislative Drafting Manual, it is not entirely clear whether the changes were inadvertent clerical errors or intentional legislative amendments.

Effect of amendments. — The 1973 amendment deleted the language "exclusive of any funds received from State or Federal sources for school construction costs" from the end of the introductory language of subsection (a), added paragraph (3) to that subsection, added the present second sentence in subsection (b), inserted "second" in the present third sentence of that subsection, substituted "those" for "such" and "that" for "as" in subsection (c), added the present subsection (f), redesignated former subsection (f) as subsection (g), deleted "unless the context requires otherwise" from the introductory language of that subsection, substituted "including" for "of public elementary and secondary school buildings and includes" in paragraph (2) of that subsection, and deleted "is" following "but" in that paragraph.

The 1974 amendment, in subsection (g), inserted "unless the context requires otherwise" in the introductory language and substituted "of public elementary and secondary school buildings and includes but is not limited" for "including but not limited" in paragraph (2).

Editor's note. — Section 1, ch. 120, SLA 1977, effective July 1, 1978, amended subsection (a) to read: "(a) During each fiscal year, the state shall allocate to an organized borough or a city which is a school district, the following sum:

"(1) payments made by the borough or city during the fiscal year two years earlier for the retirement of principal and interest on outstanding bonds, notes or other indebtedness incurred before July 1, 1977 to pay costs of school construction, and cash payments made by the borough or city before July 1, 1976 to pay the cost of school construction;

"(2) 50 per cent of

"(A) payments made by the borough or city during the fiscal year two years earlier for the retirement of principal and interest on outstanding bonds, notes or other indebtedness incurred after July 1, 1977 to pay costs of school construction;

"(B) cash payments made after July 1, 1977 by the borough or city during the fiscal year two years earlier to pay costs of school construction."

Section 2 of ch. 120, effective July 1, 1978, amended subsection (b), to read: "(b) The commissioner shall administer the program of reimbursement authorized under this section and shall provide by regulation for the filing of applications for reimbursement, the form of proof of costs for which application for reimbursement is made, and other regulations necessary to administer the program. The commissioner shall exclude from the total school construction cost of the local district all state and federal funds included in these costs except funds provided under this section and AS 43.50.140. In approving applications for reimbursement, the commissioner shall

"(1) offset against the amount of reimbursement authorized the amount of any funds distributed to the borough or city in the second preceding fiscal year from the school fund provided for in AS 43.50.140;

"(2) require the borough or city to provide, with its application, a certified copy of the notice to taxpayers required by sec. 30 of this chapter."

Section 2 of ch. 120, effective July 1, 1978, amended subsection (e) to read: "(e)

The commissioner shall annually provide a report to the legislature on allocations of state aid made under this section, including but not limited to, the amount of state aid paid on a per capita and per student basis and the resultant effect on the rate of levy of taxes by the municipality for educational purposes."

Legislative committee reports. — For report on ch. 28, SLA 1973 (HCSSB 114), see 1973 Senate Journal, p. 312. For report on ch. 127, SLA 1974 (SCSHB 817 am S), see 1974 House Journal, p. 657.

Article 3. Community Facilities Grants.

Section

300. Civic, convention and community recreation centers

Sec. 43.18.300. Civic, convention and community recreation centers. (a) Within the limits of legislative appropriations for the purpose, the state shall make matching grants to local governments or their nonprofit designee equal to 50 per cent of the estimated reasonable costs of land acquisition, planning, and construction of municipal civic, convention and community recreation centers and 50 per cent of the cost of feasibility studies relating to these facilities, in accordance with the provisions of this section.

(b) Grants for only one study and one project may be awarded to a local government under this section. Applications for grants shall be made in a form prescribed by the commissioner. A grant shall be allotted according to an agreement made between the commissioner on behalf of the state and the local government receiving the grant. The agreement may include any provision agreed upon by the parties and shall include in substance the following provisions:

(1) estimates of reasonable costs of a study or project as approved by the commissioner after consultation with the Department of Public Works;

(2) a schedule of grant disbursements, if, as determined by the commissioner, a grant is to be disbursed other than in one sum;

(3) agreement by the local government to

(A) proceed with and complete the proposed study or project expeditiously;

(B) not discontinue operation or dispose of all or part of a project for which it receives a grant without the approval of the commissioner;

(C) apply for, and make reasonable efforts to secure, federal assistance which may be available for the study or project, subject to any conditions the commissioner may require in order to maximize the amounts of that assistance received or to be received for all projects in the state;

(D) provide for payment of the local government's share of the cost of the study or project;

(4) agreement by the local government that, if federal assistance for a study or project becomes available to the local government which was not included in the calculation of the amount of a grant authorized and

disbursed under this section shall be ascertained by the commissioner. The balance of the grant shall be paid by the local government.

(5) provision for the project and the agreement between the local government and the commissioner.

(6) provision for the project which would be paid by the local government. This section shall apply to grants for community recreation centers which had to perform regulations.

(c) If funds are available under this section for a grant applying for the establishment of a facility promulgated under this section.

(d) This section shall apply to grants for the construction of a facility which is to be feasible.

(e) The agreement between the local government and the state shall include the following provisions:

(1) The cost of the study or project shall be paid by the local government.

(2) The cost of the study or project shall be paid by the local government.

(3) The cost of the study or project shall be paid by the local government.

(4) In this section, "local government" means the local government which is authorized to develop the project.

(5) "local government" means the local government which is authorized to develop the project.

Cross reference. — For provisions relating to the cost of civic, convention and community recreation centers, which are authorized under this section, see ch. 180, § 180.010.

disbursed under this section, the value of the federal assistance shall be ascertained and subtracted from the total value of the project and the balance shall be equally divided between the state and local government;

(5) provision for alteration or modification of an approved study or project and for remedies in case of failure to perform the agreement between the parties or noncompliance with regulations promulgated by the commissioner under this section;

(6) provision for alteration or modification of an existing facility which would have qualified under this section as a civic, convention or community recreation center at the time of initial construction if this section had been in effect and provision for remedies in case of failure to perform the agreement between the parties or noncompliance with regulations promulgated by the commissioner under this section.

(c) If funds appropriated by the legislature to provide grants under this section are not adequate to satisfy amounts required by approved grant applications, funds shall be allocated on the basis of priority established by the Department of Economic Development by regulations promulgated to carry out the provisions of this section.

(d) This section does not require that a local government receiving a grant for a feasibility study under this section must proceed with construction of a project, notwithstanding the project is determined to be feasible.

(e) The commissioner shall require in the negotiations and agreements with the local government that continued maintenance of the facility is the responsibility of the local government and the local government must show the feasibility of this before authorization of state funds.

(f) The commissioner shall provide an annual report to the legislature with respect to grants made under this section.

(g) The commissioner may promulgate regulations to carry out the purpose of this section.

(h) In this section

(1) "commissioner" means the commissioner of economic development;

(2) "local government" means a city of any class or a borough having power to implement the studies or projects for which grants are authorized in this section. (§ 1 ch 114 SLA 1971; am § 44 ch 71 SLA 1972)

Cross reference. — As to bond issues to pay the cost of capital improvements for civic, convention and community recreation centers, which were rejected by the voters, see ch. 180, SLA 1972 and ch. 2, SLA 1973.

Temporary and Special Acts and Resolutions 1972 and 1973.

Legislative committee report. — For report on ch. 71, SLA 1972 (HCSSB 323 am H), see 1972 House Journal, p. 898.