

H B

380

HOUSE COMMITTEE REPORT

(7)

Date referred: 1/20/88

FURTHER REFERRALS: Finance

DATE: 3-3-88

The Health, Education and Social Services Committee has considered HB 380

"An Act relating to state aid for school construction; and providing for an effective date."

RECOMMENDS:

- replace with CS HB 380 (HESS) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Steve E. Korman
Bill Anderson

Steve E. Korman No Rec
David J. Kelly No Rec
J. Ellis No Rec
Raymond Hanley No Rec
Bill Anderson No Rec

J. Ellis
 Co Chairman's signature
Steve E. Korman

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: State aid for school construction . . .
Sponsor: Swackhammer
Requestor: House HESS

Agency Affected: Education
BRU: Debt Retirement

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0

CAPITAL		0	0	0	0	0
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

This estimate is based upon the assumption that grants awarded under this legislation will off set savings achieved through elimination of prospective debt service obligations.

Prepared by: Steve Hole
Division: Commissioner's Office

Phone: 465-2800
Date: 3-2-88

Approved by Commissioner: William G. Demmert
Agency: Department of Education

Date: 3-2-88

Distribution (by preparer):


- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Alaska MUNICIPAL League

TELEPHONE
(907) 586-1325

105 MUNICIPAL WAY, SUITE 301
JUNEAU, ALASKA 99801

TO: Representative Niilo Koponen, Co-Chair
Representative Johnny Ellis, Co-Chair
Members of House Health, Education and Social Services
Committee

FROM: Scott A. Burgess, Executive Director 

DATE: February 17, 1988

SUBJECT: HB 380 - State Aid for School Construction

The Alaska Municipal League supports the concept of HB 380 to address school construction costs past, present and future. The legislation would provide a mechanism for the State to meet its obligation to reimburse municipalities for school construction debt at statutory levels and to more effectively control the State's future capital cost in meeting its Constitutional responsibility for education. While the AML generally supports the direction of the bill, specific problems with HB 380 may arise during the hearings that must be addressed in order to implement the program.

HB 380 would continue the school debt reimbursement program for debt incurred prior to July 1, 1988. All school construction after that date would be financed by grants awarded on a state-wide priority basis. The bill reflects the efforts of the Department of Education and municipal and school officials who met during the interim as the School Construction Funding Review Committee to address the school construction program and the needs of municipalities and the State. The bill also responds to the moratorium on new school construction debt imposed as a part of SB 150 which passed the Legislature last year allowing municipalities to refinance existing debt. Governor Cowper had asked for the moratorium to give the State time to develop a mechanism to control future debt and state cost for school construction. The bill provides for that certainty for the Administration. HB 380 also maintains the Legislature prerogative to review priorities and determine the appropriation level on an annual basis. Presumably the new grant program will still retain local control over design and construction under state guidelines and the ability of municipalities and districts to pay for new facilities outside the grant program and to add to approved facilities beyond the "basics" at their cost.

House HESS Re: HB 380
February 17, 1988
Page 2

The shortcoming of the bill is the lack of guarantee that future appropriations will fully fund statutory obligations for debt reimbursement. While that guarantee does not exist now, i.e. it is subject to legislative appropriation, and cannot be given without a constitutional amendment or a ballot measure to authorize a state general obligation bond, the acceptance by municipalities of a grant process for future school construction is offered as a compromise in exchange for full funding of existing debt. Some commitment to this compromise by the Governor and the Legislature is needed.

The AML supports the concept of HB 380 and looks forward to working with the sponsor and Legislature to crafting a bill that meets existing state obligations, the desire of the State to more effectively control future costs, and to meet the education needs of our children.

cc: Representative Swackhammer

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

H HESS

2-18-88

8:30 a.m.

HOUSE BILL 380

INDEX

1. House Bill 380
2. Sectional Analysis
3. Governor's Intent for New Legislation
4. Research-Other States' School Construction Policies

COPY

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

January 26, 1988

SUBJECT: State aid for school construction - HB 380
TO: Representative C.E. Swackhammer
FROM: Michael F. Ford
Legislative Counsel

The following is a sectional analysis of the above referenced bill:

Section 1 Technical amendment regarding the Department of Education's power to administer grants under AS 14.11.

Section 2 Requires the Board of Education to review grant applications recommended under AS 14.11.013 and gives the board power to approve grants under AS 14.11.015.

Section 3 Provides authority for a regional school board to recommend school construction projects to the Department of Education.

Section 4 Establishes the school construction grant account.

Section 5 Provides that school districts may submit applications for school construction grants. Establishes eligibility criteria for grants and requires the department to perform certain review functions. Requires the department to establish grant priorities, allows the department to reduce or omit grant requests, and requires the department to reduce grant requests in certain cases. Provides for reconsideration of a grant decision by the department, and for appeal of the department's reconsidered decision. Requires the Board of Education to review grant applications and allows the board to approve an application that meets specified criteria. Provides that the department cannot award a grant unless approved by the board. Establishes certain conditions for all grants that are awarded.

Representative C.E. Swackhammer
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Section 6 Establishes limits on payment of state aid for retirement of certain school construction debt.

Section 7 Provides that a district is not prevented from using other revenue for school construction, by the terms of AS 14.11.

Section 8 Amends the definition of "costs of school construction".

Section 9 Adds a definition for "district".

Section 10 Technical amendment.

Section 11 Repealers.

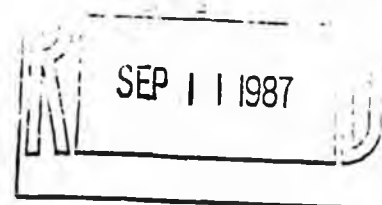
Section 12 Effective date.

MFF:gc
WKG1:051

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU



May 12, 1987

The Honorable Al Adams, Chairman
House Finance Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Adams:

SUBJECT: SB 150-Relating to bonds issued for school construction.

Many municipal and borough officials have met with me and my staff to express concern over the proposed level of funding for school debt retirement. To mitigate the impact of reduced revenues, they have requested legislation to allow restructuring of their current debt, extending the term for repayment. While restructuring will lower the present payments on the debt, it will obligate the state to reimbursement for school construction debt for years beyond the revenue curve generated by Prudhoe Bay.

The State can no longer afford to continue the existing and ever increasing obligation for debt reimbursement under school construction debt retirement program. It is my intent to work during the interim with municipal and borough officials, school district personnel, legislators and members of my administration to develop a new proposal for school construction finance for introduction next legislative session. It is imperative that a program be developed which adequately addresses the needs for school construction and major renovations statewide, while maintaining the proper checks and balances to assure fiscal prudence.

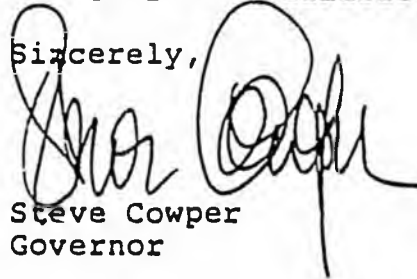
I have agreed to support SB 150 with the proposed amendments to allow for restructuring of existing debt. However, my support is contingent on maintaining in this legislation the cutoff date for the existing school debt reimbursement program. Those bonds which have been

May 12, 1987

authorized but unissued under this program would continue to be eligible for reimbursement, but the state would incur no additional obligation until a new program is in place.

I am confident that together we will be able to develop a new program for school construction which will adequately provide for the many needs of school districts around the state while increasing public confidence in our ability to effectively manage the limited resources available.

Sincerely,



Steve Cowper
Governor

cc: The Honorable C.E. Swackhammer
Alaska State Legislature

The Honorable Paul Fischer
Alaska State Legislature

Hugh Malone, Commissioner
Department of Revenue

Bill Demmert, Commissioner
Department of Education

SUMMARY -- METHODS OF FUNDING SCHOOL CONSTRUCTION

<u>STATE</u>	<u>METHOD OF FUNDING</u>	<u>EQUITY</u>
Alabama	Mostly local taxes - \$60/Classroom Unit per year State funded.	No
Arkansas	84 Million in FY87 - All local taxes - No State contribution.	No 1 mil = \$2500 to \$7500
Hawaii	25 million in FY87 - Direct appropriation.	Yes - Single School District
Florida	Plan 8.8 billion in construction in 10 years - need 573 elem., 174 middle, 94 H.S. facilities - State Board issues bonds - Board allocates funds based on enrollment growth compared to base years, and requires plant survey - Local levy limit of 10 mils for schools.	"Yes - substantially equal"
Indiana	State provides a \$250,000 advance to school districts with less than \$8400 AV/Pupil (ADA).	No
Kentucky	Foundation program includes \$1,800 per classroom per year "capital funds". Facilities needs established by State DOE - but largest part of project locally funded.	"No Answer"
Georgia	Required local effort of 10 - 25% of project based on wealth. State effort limited by statute to total of 100 million --- Each LEA entitled to a portion of total authorizations set by State Board based on ratio of LEAs need to total of all system needs. Program excludes: pools, tanks, stadiums, athletic facilities, and central administrative offices. Requires annual 5 year forecast and survey every five years. DOE sets qualifying standards and reviews and certifies surveys. State Board approves or rejects survey recommendations.	Yes
Massachussetts	120 million in grants - distributed by AV/P equalized funding pays interest only up to 50% of project cost.	No

Nebraska	31 million FY86 from local bond issues - minimal State funds.	No
New York	\$400 million/year - principal and interest reimbursed up to 51% of project.	Yes: For wealthy districts State % is less. For poorer districts it is more.
North Carolina	State Board issues capital money on per student basis (ADM) to districts - 25% local funds required. Commission on School Facility Needs - is studying ways to reduce incentive to delay maintenance.	No
Ohio	10 million in grants per year. Debt retirement assistance must be paid back to the State.	No
Texas	\$1 billion/year - local bonds and taxes - State guarantees bonds to raise ratings and save interest cost.	No
Virginia	\$81 million new - \$80 million additions and alterations - local funds - VPSA purchases general obligations bonds from localities - LEAs do not need voter approval for bonds sold to VPSA - VPSA sells <u>bonds to finance purchase</u> - <u>VPSA</u> bonds rank Aa.	No
Wisconsin	98.4 million P & I - State pays minor share of P & I - districts that spend at the same level per student will tax at the same rate.	"Yes - some"
Oklahoma	All local funds.	No
South Carolina	Total expenditures \$136 mill in FY87 - State provides only \$30/student/year from 10% sales tax for capital needs. Most construction funds are locally generated.	No
West Virginia	All local funds.	No
Wyoming	Local funding mostly. Since 1976 State grants up to 20% of some projects - 7 million this year to 25 qualifying districts (out of 49). No State standards for school buildings or sites.	No



Pouch Y. State Capitol
Juneau, Alaska 99811
(907) 465-3991

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

- Are there states which fund school construction through direct capital appropriation?
- Are there states which fund school construction through an administrative process?

In the case of states which use an administrative process to fund local school construction, we were also asked to provide examples of statutes used to authorize these programs.

We contacted the Education Commission of the States and obtained survey and descriptive information on the methods used by states to fund school construction. In addition, we contacted state education agencies in Alabama, Illinois, Indiana, Minnesota, Missouri, Nevada, Pennsylvania, South Carolina, Vermont, Washington, and Wisconsin to obtain specific information on school construction aid programs in these states.

Direct Legislative Appropriations

We have found only one example of a state other than Alaska which funds school construction through direct capital appropriation. Hawaii has only one school district, a statewide district, through which all school construction is funded. The Hawaii Legislature funds this construction on a project by project basis. According to Kay Jones of the Hawaii Department of Education, a statewide list of priorities is developed by the Department of Education; instructional space needs and facility rehabilitation are given top priority. Ms. Jones stated

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that the legislature generally follows the recommendations of the Department of Education with regards to the order of the projects. However, the department does not recommend the overall funding level; this is determined by the legislature. Ms. Jones noted that the legislature has occasionally funded projects which were not at the top of the priority list; however, these were few in number and usually involved less expensive additions such as recreational facilities and auditoriums, not major projects such as new schools.

In addition, Alabama funds school construction by state bond issues. The Alabama Legislature identifies school projects to be included on the ballot proposition placed before the voters; however, voter approval of the bond issue is required before the projects are funded. While this is not a direct legislative appropriation, the executive branch of government is not involved in the project selection process.

We encountered no other instances where states funded local school construction through direct legislative appropriation. However, we have contacted only eleven states directly. The remainder of our information is derived from two reports provided by the Education Commission of the States (ECS). Neither of these studies contains any reference to the use of direct capital appropriation as a method of providing state aid to local school construction. However, it is not clear that either of the studies intended to address nonadministrative programs for school construction assistance.

Administrative Methods of Funding School Construction

There appear to be six general methods used by states to fund local school construction: full state assumption of costs; cost sharing on a percentage basis; flat grants for school construction; an equalization funding system; low interest loan programs; and the creation of an independent authority which leases school facilities to local districts. In this section, we will provide a brief description of each method of school construction assistance, including examples of states which have implemented such programs.

At the end of each description, a list of the possible advantages and disadvantages of the program is provided. This list is derived from a survey article on school construction financing in the Journal of Education Finance.¹ For additional information on state school construction funding programs, we refer you to the article, which is

¹ Richard Salmon and Stephen Thomas, Journal of Education Finance, "Financing Public School Facilities in the 80's," Volume 17, No. 1, Summer 1981, pp. 88-109.

provided as Attachment A. In addition, we have provided an appendix which contains authorizing statutes from other states for each type of program.

Full State Support. Under full state support programs, the state undertakes to fund all capital and debt service expenditures associated with the construction of local schools. Full support programs do not always pay for the entire cost of school construction. If the amount of funds available from the state is less than the cost of all planned construction, local districts may have to supplement state funding or cancel projects. In the case of Hawaii, with a single, statewide school district, local governments may supplement school construction funds by donating equipment or locating recreational facilities adjacent to schools. The source of state funding may be legislative appropriation, as in the case of Hawaii, the sale of bonds, a dedicated fund, or from some combination of all three.

States with full support programs generally have a mechanism for determining the capital needs of local districts. As noted earlier, Hawaii develops a priority list giving first preference to instructional space needs, with needs such as recreational facilities given less weight. Florida develops an annual allocation for each school district based on projection of school facility needs, the district's school bond debt, and the district's ability to obtain funding from other sources.

In the appendix, we have included the statutes from Florida authorizing its full state support program.

Advantages: there is a high degree of fiscal equalization among districts;

 the local districts avoid over-taxing a single revenue source by using the state's greater access to revenue source;

 the state can develop an allotment mechanism based on need;

 there are savings in the bond market resulting from consolidation of bond issues into a single state issuance; and

 the long delays and costs that may be incurred by local bond referendums are avoided.

Disadvantages: there is an additional concentration of power and control of public schools at the state level;

the unique need of varying localities may not be recognized because of uniformity among facilities within the state;

there may be less experimentation and innovation in local school facilities; and

needed facilities may be unnecessarily delayed due to the competition for resources at the state level.

Percentage-Matching. A percentage-matching state support program provides local school districts with assistance for school construction according to the amount contributed by the local district. Alaska has such a program, but only for the organized boroughs and first-class and home rule cities. Under these programs, the state defines the allowable costs to be used when determining the amount of school construction aid, and then pays a percentage of the total cost, a percentage of the local district's debt service, or both. Such expenses as site acquisition, architectural fees, and moveable equipment may or may not be included when calculating the total cost of the project for the purpose of providing aid.

In Vermont, the state contributes 30 percent of the audited cost of local school construction, not including site acquisition or moveable equipment. In addition, the state also pays for 20 percent of all principal and interest payments made by local districts for school bonds or short-term school construction loans. The statutes authorizing this program have been included in the appendix.

Advantages: initiation of school construction projects remains the prerogative of local school districts;

the state, through use of a project approval process, can encourage cost-effective construction practices; and

state assistance reduces the dependency on local resources.

Disadvantages: school districts with the greatest revenue bases benefit the most from such programs;

substantial resources may be required from the state to meet its percentage-match obligation; and

school districts without significant facility needs would not benefit from state assistance.

Flat-Rates. Some states reimburse local school districts for school construction costs based on a fixed amount per unit. This unit may be the average attendance of the district, the rated capacity of the facility, or the square footage of the project. The significant feature of a flat-rate support program is that it does not take into account the revenue capacity of the district, the level of local expenditure, or the need for the capital project.

In South Carolina, the Department of Public Instruction provides each district with \$30 per year for every student enrolled in the district. According to Dr. Henry Hollingsworth, with the Department of Public Instruction, South Carolina pays approximately \$18 million per year for school construction to the local district. This covers about 20 percent of the cost of school construction in the state. There is currently a proposal in the South Carolina Legislature to increase the amount per student to \$127 annually next year, with the amount to fluctuate over the next several years, leveling off at \$80 per year.

In Indiana, every district receives a grant of \$40 per registered student each year. The school district must apply this money to any debt service obligations; if there is a remainder, it may be transferred to the district's general fund. We have included the Indiana statute authorizing this program in the appendix.

Advantages: the control of school building programs remains at the local level;

some measure of equalization is provided since money is provided irrespective of the local contribution;

the flat-rate grants reduce the school district's dependency on local revenue sources; and

the program is easily administered, as it has a simple allocation formula.

Disadvantages: programs may not provide sufficient funds to finance projects; and

programs may not take into account the building needs of each district.

Equalization Aid. Equalization programs for state support of local school construction seek to provide a varying level of aid to different districts based on the district's ability to generate revenue. Thus, they seek to equalize the local districts' ability to finance school construction. Equalization support programs have two principal features: a method of determining the base amount of funding to be used, and a formula for calculating an equalization rate to be applied to the base amount of support to determine the actual amount of aid.

The equalization rate invariably includes some calculation which divides a number representing the size of the district's tax base by some measure of the size of the school system. A district with a large tax base will have lower ratio of reimbursement than a district of equal size with a small tax base. This may not be the only factor in calculating the equalization rate, however. The State of Washington includes projections of student growth and an inventory of existing buildings in the calculation of the district's equalization rate.

States use a variety of methods to determine the initial aid amount which is to be multiplied by the district's equalization ratio. Pennsylvania uses the student capacity of the project to determine the number used with the equalization ratio. For example, if a school district is building a high school with a capacity of 700, then the aid rate per student of \$3,000 is multiplied by 700 to derive a base aid rate of \$2.1 million. This is then multiplied by the district's equalization ratio. If the district had an equalization ratio of .5, it would receive \$1.05 million in aid for the school project.

Washington, on the other hand, uses a percentage match system in conjunction with its equalization program. Depending on the resources and needs of the district, the state reimburses between 20 and 90 percent of the cost of school construction projects.

The authorizing statutes for the Washington, Pennsylvania, and Wisconsin programs have been included in the appendix.

Advantages: comparable school facilities are available to districts independent of the capacity of the district to generate revenue; and

reduced need for local revenues for school construction allows municipalities to expend more on other needs.

Disadvantages: for the program to be effective, the state must fund the full amount needed for eligible school construction.

Loans. In addition to providing grants to local school districts for school construction, states may also provide low-interest loans. Loans may be funded through direct appropriation, or the state may establish a revolving loan fund. State loans are generally not charged against the local school district's debt limit for bonding purposes. Some states may make loans available to any district, while some states may have provisions which favor needier districts. The amount of funds available to districts through state loans is usually modest.

Minnesota has a low-interest loan program established to assist newly emerging school districts and districts in areas of rapid population growth. According to Ron Laliberte, with the Minnesota Department of Education, these districts may be faced with a substantial school population before the local tax base has developed sufficiently to support the district's construction needs. Eligibility is determined by computing the taxable property valuation of the district per student. He noted that very few districts qualify for the program because their property valuation is too high.

In Minnesota, the loan program is funded by legislative appropriation. According to Mr. Laliberte, there have been no loans given out in the last two years due to a lack of appropriations from the legislature. There are currently no plans to reactivate the program.

Arkansas has a revolving loan program which makes approximately \$350,000 available annually for loans to local school districts at 6 percent interest. The loans are generally for six years, and the district is required to levy taxes to pay off the principal and interest in this period. Indiana has one loan program which makes a total of \$1.5 million available annually to school districts for school construction loans at an interest rate one percent below the current bond market rate. It also has a Veterans' Memorial School Construction Fund which makes a small amount of loans available at one percent interest rates.

We have included the statutes authorizing school construction loan programs from Indiana and Minnesota in the appendix.

- Advantages:
- loan programs provide an economical way for local districts to borrow funds;
 - loans from the state are not generally charged against the district's debt limit;
 - the time required to obtain loans is generally less than for bonding; and

the state, through an approval process, can encourage cost effective construction practices.

Disadvantages: state loan funds are frequently limited and provide only a small portion of the funds needed for school construction;

equalization of resources may not be addressed, depending on the structure of the program;

establishment of a loan fund may direct the attention of the legislature away from other, more substantial methods of funding school construction; and

local control of the schools may be diluted by the state approval process.

Authorities. The final method used by states is the establishment of a nonprofit corporation or building authority which issues the bonds for construction of school facilities, retains ownership of the facilities, and leases them to the local school districts. This method is usually used to bypass state limits on local bonded indebtedness by having another party issue the bonds. Generally, the school district is deeded the facility after the lease payments have covered the costs of the bonds.

Kentucky uses this method of school financing, provided districts have levied the maximum general fund tax rate, levied a local tax sufficient to be eligible for their equalization program, submitted a balanced budget and have no current or projected deficit in either general or capital construction funds; and have completed a facilities survey within the last five years.

In the appendix, we have included the Kentucky and Pennsylvania statutes authorizing the creation of building authorities.

Advantages: building authorities offer a method of evading tax and debt restrictions imposed by state law or the state constitution;

state, local, and federal revenues may be used by the school district to pay for the rental costs of the schools; and

building authorities may enable local school districts to acquire funds for construction without voter approval.

Representative Pestinger
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Disadvantages: the creation of building authorities ignores the real problems of funding schools by circumventing tax and debt limitations;

building authorities generally use revenues bonds to finance school construction; these bonds have higher interest rates than general obligation bonds; and

the public's right to voter approval of school construction is circumvented by authorities.

In addition to the statutes included in the appendix and the article on school construction financing that is Attachment A, we have also attached to this memorandum a matrix chart prepared by the Education Commission of the States (Attachment B) which shows the operating and capital funding methods for the fifty states. For your purposes, the headings which run horizontally across the page are the pertinent categories; the vertical axis pertains to methods of funding operational expenditures. Unfortunately, the chart does not include information on states which permit building authorities.

There is a table in Attachment A which does show methods of capital funding by states and does include information on authorities; however, our telephone interviews have indicated that there are several inaccuracies in this table. It should be noted that we obtained information in our conversations with school officials in other states that was not in agreement with either chart. Therefore, while these summary tables provide somewhat useful indicators of the degree to which various types of programs are used, it appears likely that both contain at least some errors with regard to specific programs in individual states.

If you have any questions, or if we can provide further assistance, please do not hesitate to contact us.

JS

Attachments

APPENDIX

School Construction Finance Statutes

Florida
Indiana
Kentucky
Minnesota
Pennsylvania
Vermont
Washington
Wisconsin



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

P.O. Box Y, State Capitol
Juneau, Alaska 99811-3100
Mail Stop 3100
(907) 465-3991

February 27, 1987

MEMORANDUM

TO: Representative C. E. Swackhammer

ATTN: Tom Wright

FROM: Jay Livey *JL*
Legislative Analyst

RE: Implications of Proposed Changes in the Law Regarding Reimbursement
of School Debt Service Payments
Research Request 87.160

You asked that we analyze the effect of a proposed change in the law which would eliminate paragraphs (3) and (4) of AS 14.11.100(j). This change would allow municipalities more latitude in refinancing school bonds. Below, we explain the legal effect of the change and discuss the effect of the change on the finances of the State and municipalities.

EFFECT OF STATUTORY CHANGES

Alaska Statute 14.11.100 authorizes the State to reimburse municipalities for municipal debt service payments for school construction bonds. Section 14.11.100(j)(2) requires that "bonds may not be refunded unless the annual debt service on the refunding issue is not greater than the annual debt service on the original issue." Section 14.11.100(j)(3) states that "bonds must be repaid in approximately equal annual principal or approximate equal debt service payments over a period of at least 10 years."

In effect, these two paragraphs prohibit a municipality from refunding a bond if the annual debt service payments on the refunded bond exceed what the annual payments would have been on the original bond. If the refunding extends the debt service over more years than the original payment schedule, some payments will be made in years in which no payments would have been made under the original issue. This violates the provision of current law which requires lower annual debt service payments after refunding.

Bonds are normally refinanced to either take advantage of lower interest rates or to alter the debt service schedule. The latter reason is the primary motivation behind these proposed changes. Although the repayment schedule on a bond that was used to finance a building would normally

match the useful life of that building (20 to 30 years), many school bonds in Alaska have shorter pay back schedules to correspond to the "Prudhoe Bay curve." Municipal bond debt service payments were structured so that the bonds would be paid back before petroleum revenue from Prudhoe Bay production declined significantly. It is common for school bonds in Alaska to have pay back schedules of 10 to 12 years. As a result, the annual debt service payments of municipalities are higher than if the payments were extended over more years.

The recent decline in oil prices and subsequent State budget reductions have adversely affected the finances of many communities. One way for communities to respond to budgetary shortfalls is to restructure their debt so that principal and interest payments are made over a longer period of time. Although more debt service is paid if the payments are extended, the annual payments are reduced, helping to alleviate municipalities' immediate cash flow problems. The proposed changes to the law allow this restructuring.

SECTIONAL ANALYSIS OF HOUSE BILL 380

SECTION ONE OFFERS A TECHNICAL CHANGE TO INCLUDE RESPONSIBILITY FOR THE NEW GRANT PROGRAM AMONG THE DUTIES OF THE DEPARTMENT UNDER AS 14.11.

SECTION TWO ESTABLISHES BOARD OF EDUCATION REVIEW OF GRANT APPLICATIONS AND THAT FINAL APPROVAL AUTHORITY FOR GRANTS RESTS WITH THE BOARD.

A TECHNICAL CHANGE IS ADDRESSED IN SECTION THREE WHICH PROVIDES AUTHORITY FOR A REGIONAL SCHOOL BOARD TO RECOMMEND SCHOOL CONSTRUCTION PROJECTS TO THE DEPARTMENT OF EDUCATION AS SPECIFIED IN NEW LANGUAGE UNDER AS 14.11.011 (B).

A NEW SCHOOL CONSTRUCTION GRANT ACCOUNT IS ESTABLISHED IN SECTION FOUR. LEGISLATIVE APPROPRIATIONS FOR SCHOOL CONSTRUCTION WOULD BE DEPOSITED IN THE FUND AND GENERAL OBLIGATION BOND SALE PROCEEDS MAY ALSO BE DEPOSITED.

SECTION FIVE ADDS NEW SECTIONS TO AS 14.11.

1) THE FIRST NEW SECTION OUTLINES THE APPLICATION PROCESS. THE PROCESS IS IDENTICAL TO THE CURRENT APPLICATION EXCEPT THAT PROJECT APPLICATIONS WOULD BE REQUIRED FOR ALL REQUESTS ON A DISTRICT'S SIX YEAR PLAN, NOT THOSE FOR THE SUBSEQUENT FISCAL YEAR AS IS NOW DONE. ADDITIONALLY, A REQUIREMENT IS ADDED THAT ALL FACILITIES IN THE DISTRICT BE INSURED FOR REPLACEMENT COST.

2) THE NEW SECOND SECTION AS DESCRIBED IN AS 14.11.013 ASSIGNS TO THE DEPARTMENT OF EDUCATION THE RESPONSIBILITY FOR REVIEWING, EVALUATING AND RECOMMENDING PROJECTS FOR APPROVAL TO THE STATE SCHOOL BOARD. THE DEPARTMENT WILL VERIFY THAT EACH PROJECT QUALIFIES AS A PROJECT REQUIRED TO AVERT IMMINENT DANGER OR TO CORRECT LIFE THREATENING SITUATIONS, HOUSE STUDENTS THAT WOULD OTHERWISE NOT HAVE HOUSING, PROTECT THE STRUCTURE OF EXISTING SCHOOL FACILITIES, CORRECT BUILDING CODE DEFICIENCIES THAT REQUIRE MAJOR REPAIR OR REHABILITATION IN ORDER FOR ITS CONTINUED USE AS AN EDUCATIONAL FACILITY, ACHIEVE A MAJOR COST SAVINGS, MODIFY OR REHABILITATE FACILITIES TO IMPROVE INSTRUCTIONAL PROGRAMS OR MEET ANOTHER EDUCATIONAL NEED.

THE DEPARTMENT WOULD NO LONGER ESTABLISH TWO SEPARATE PRIORITIZED LISTS, ONE FOR R.E.A.A.'S AND THE OTHER FOR MUNICIPAL SCHOOL DISTRICTS WHICH IS THE CURRENT PRACTICE. IN PLACE OF THE CURRENT PROCESS, THE DEPARTMENT IS DIRECTED TO CREATE SIX LISTS, ONE FOR EACH FISCAL YEAR AS PART OF A SIX YEAR PLANNING CYCLE FOR SCHOOL CONSTRUCTION PROJECTS. THESE LISTS WOULD CONTAIN ONLY THOSE PROJECTS WHICH HAVE MET QUALIFICATIONS ESTABLISHED BY THE NEW STATUTE AND THE DEPARTMENT. THE STATE BOARD WOULD HAVE THE DISCRETION TO SCHEDULE OR PHASE PROJECTS AS DEEMED NECESSARY. AT LEAST ONE OF THE FOLLOWING FACTORS WILL BE EVALUATED BY THE DEPARTMENT WHEN ESTABLISHING PRIORITIES:

- A) EMERGENCY REQUIREMENTS;
- B) PRIORITIES ASSIGNED BY THE SCHOOL DISTRICT TO THE PROJECTS REQUESTED;
- C) NUMBER OF STUDENTS WITHOUT CLASSROOM SPACE;
- D) NEW LOCAL ELEMENTARY AND SECONDARY PROGRAMS;
- E) EXISTING REGIONAL, COMMUNITY AND SCHOOL FACILITIES AND THEIR CONDITION;
- AND F) ALTERNATE OPTIONS FOR ACCOMPLISHING THE PROJECT'S OBJECTIVES.

THE CRITERIA AND DETERMINATIONS THAT WERE OUTLINED ARE ESSENTIALLY THE SAME AS THOSE CURRENTLY USED BY D.O.E. THE PRIORITY SYSTEM IS NOW A PART OF STATUTE RATHER THAN REGULATIONS.

PROJECT REQUESTS MAY BE REJECTED AND OMITTED FROM THE SIX YEAR PLAN DUE TO INCOMPLETE INFORMATION OR DOCUMENTATION PROVIDED BY THE DISTRICT, A DETERMINATION THAT EXISTING FACILITIES CAN ADEQUATELY SERVE PROGRAM REQUIREMENTS OR THAT ALTERNATIVE PROJECTS ARE IN THE BEST INTERESTS OF THE STATE, A DETERMINATION THAT THE PROJECT IS INAPPROPRIATE AND SHOULD BE A DISTRICT MAINTENANCE OR OPERATIONS EXPENDITURE OR THAT THE PROJECT IS NOT IN THE BEST INTEREST OF THE STATE. THIS ALLOWS D.O.E. TO PROVIDE A CREDIBLE LIST TO THE GOVERNOR AND THE LEGISLATURE. THE BOARD WILL ALSO BE IN POSITION TO ACCELERATE PROGRAMS AS DEEMED NECESSARY BASED UPON AVAILABILITY OF FUNDS AND SUPPORTIVE EVIDENCE.

PROJECT BUDGETS WOULD BE REDUCED BY THE COST OF THOSE PORTIONS OF THE PROJECT THAT THE DEPARTMENT DETERMINES ARE FOR CONSTRUCTION OF STUDENT RESIDENTIAL SPACE, HOCKEY RINKS, OR OTHER FACILITIES FOR SINGLE PURPOSE SPORTING OR RECREATION USES NOT DEEMED SUITABLE FOR OTHER ACTIVITIES.

AN APPEAL PROCESS IS ESTABLISHED WHICH WOULD ALLOW DISTRICTS THE OPPORTUNITY TO APPEAL THE DEPARTMENT'S DECISION SHOULD THEY FEEL THE NEED TO DO SO.

3) THE DEPARTMENT CANNOT AWARD A GRANT UNLESS THE APPLICATION IS APPROVED BY THE BOARD.

4) SECTION AS.11.017 PROVIDES AUTHORITY TO ESTABLISH GUIDELINES FOR EQUIPMENT PURCHASES AND GIVES THE DEPARTMENT THE AUTHORITY TO REDUCE OR INCREASE THE GRANT AMOUNT DEPENDING UPON PROJECT REQUEST VARIATIONS WHICH MAY OCCUR DURING THE BIDDING PROCESS OR THE CONSTRUCTION PHASE. ANY INCREASE IN THE PROJECT AMOUNT WOULD BE SUBJECT TO THE AVAILABILITY OF FUNDS AND DEPARTMENT APPROVAL.

SECTION SIX ESTABLISHES A JULY 1, 1988, TERMINATION DATE FOR REIMBURSEMENT ELIGIBILITY OF DEBT SERVICE PROJECTS AND ESTABLISHES A JULY 1, 1989, TERMINATION DATE FOR THE CASH PAYMENT REIMBURSEMENT PROGRAM. THE LATTER PROVIDES A YEAR'S GRACE DURING THE PHASE IN OF THE NEW STATUTE.

A DISTRICT IS PERMITTED TO USE OTHER REVENUE FOR SCHOOL CONSTRUCTION UNDER SECTION SEVEN. A MUNICIPALITY MAY INCREASE THE SCOPE OF A BOARD APPROVED PROJECT AT THEIR OWN EXPENSE. SCHOOL CONSTRUCTION PROJECTS WHICH HAVE NOT BEEN AWARDED A GRANT MAY ALSO BE UNDERTAKEN AT THE MUNICIPALITY'S OWN EXPENSE.

SECTION EIGHT MODIFIES THE DEFINITION OF SCHOOL CONSTRUCTION. CURRENT STATUTE LANGUAGE RELATING TO FINANCING COSTS, BONDING COSTS, LEGAL FEES, PAYING AGENCIES AND OTHER ENTITIES BASICALLY RELATED TO THE SALE OF BONDS IS DELETED.

A DEFINITION OF DISTRICT, AS USED IN THE DEFINITION OF SCHOOL CONSTRUCTION, IS PROVIDED FOR IN SECTION 9.

SECTION TEN IS ANOTHER TECHNICAL AMENDMENT UPDATING THE REFERENCE TO AS 14.11. THIS SECTION DEFINES STATE FINANCIAL ASSISTANCE.

SEVEN SECTIONS ARE REPEALED IN SECTION 11.

1) AS 14.11.010 RELATING TO RECOMMENDATION AND EVALUATION OF PROJECTS IS REPLACED BY THE NEW SECTION FOUR WHICH ADDRESSES GRANT APPLICATIONS.

2) EVALUATION OF PROJECTS DESCRIBED IN AS 14.11.102 IS REPEALED BECAUSE IT APPLIES TO D.O.E. EVALUATION OF PROJECTS PROPOSED FOR DEBT RETIREMENT. SECTION SIX OF HOUSE BILL 380 ENDS THE NEED FOR SUCH APPROVAL.

3) THE REPEAL OF AS 14.11.105, THE PUBLIC SCHOOL FACILITIES CONSTRUCTION ADVANCE ACCOUNT, IS ALSO CONSISTENT WITH SECTION 6 OF THE NEW BILL. THE REPEAL ALSO ELIMINATES CONFUSION WITH THE NEW SECTION FOUR RELATING TO THE SCHOOL CONSTRUCTION GRANT ACCOUNT.

4) AS 14.11.110, ELIGIBILITY, IS REPEALED BECAUSE IT APPLIES TO APPROVAL OF PROJECTS PROPOSED FOR DEBT RETIREMENT WHICH IS ELIMINATED IN HOUSE BILL 380.

5) THE LAST THREE REPEALED SECTIONS RELATE TO STATE AID, APPLICATION FOR AID AND CONDITIONS OF STATE AID APPLY TO FUNDING THROUGH THE PUBLIC SCHOOL FACILITIES CONSTRUCTION ADVANCE ACCOUNT AND ARE NO LONGER NECESSARY.

MEMORANDUM

State of Alaska
Department of Education

To: Steve Hole
Deputy Commissioner

Date: February 17, 1987

From: Thomas G. Ryan
Facilities Coordinator

File No: 810-FAC

Phone: 789-9890

Subject: Sectional Analysis of
HB 380

In response to your February 11, 1987 request for a section by section analysis of HB 380 (as submitted 1/20/88 by Representative Swackhammer), I submit the following analysis:

SECTION 1 - AS 14.07.020(13)

This is a technical change to include responsibility for the new grant program among the duties of the department.

SECTION 2 - AS 14.07.170

This section states the sequence of events. It may not add substantive changes to the new procedures in SECTION 5, but it establishes the fact that the final approval authority for grants rests with the State Board of Education.

SECTION 3 - AS 14.08.101(7)

Corrects a reference, technical change only.

SECTION 4 - AS 14.11.005

This new section creates a grant account to be used for all school construction needed state-wide. The State Board of Education can award grants from this fund.

SECTION 5 - AS 14.11 changes

AS 14.11.01 and AS 14.11.013 outline the process for application for school construction grants. The process is identical to the current application except that project applications would be required for all requests on a district's six year plan, not just those for the subsequent fiscal year as is now done. This provides DOE the added information needed to project the grant schedule. Additionally it adds a requirement that all facilities in the district be insured for replacement cost.

This section assigns to the Department of Education the responsibility for reviewing, evaluating projects and recommending them for approval by the State Board of Education.

The Department of Education, pursuant to this section, would no longer establish two separate prioritized lists, one for REAAs and one for municipal school districts for capital budget requests as is currently done. In place of the current process, the Department is directed to create six lists, one for each fiscal year: representing a six year planning cycle for school capital projects. These lists would contain only those projects which have met the qualifications established by statute and the Department. The State Board would have the discretion to schedule or phase projects as deemed necessary.

The criteria and determinations to be used in establishing priorities of the projects are essentially the same as those currently used by DOE. The only change is that the priority system is made part of statute (the Priority System for Education is now only referenced in regulation) and the top priority is worded to reflect the terms that have been used in practice, which is "imminent danger".

AS 14.11.013 (c) provides the Department with the statutory authority to reject projects based on the criteria specified in the bill. This would provide DOE an opportunity to propose a credible list to the Governor and the Legislature. The Board will also be in a position to accelerate projects on the list as deemed necessary based upon the availability of funds and supportive evidence.

AS14.11.013 (d) No change from existing law.

AS14.11.013(e) This section establishes an appeal process which would allow districts the opportunity to appeal the Department's decision should they feel the need to do so.

AS14.11.015 establishes authority for the State Board of Education in terms of project approval.

AS14.11.017 provides authority to establish guidelines for equipment purchases and gives the Department the authority to reduce or increase the grant amount depending upon project cost variations which may occur during the bidding process, or during the construction phase. Any increase in the project amount would be subject to the availability of funds and Department approval.

SECTION 6 - AS 14.11.100 (a) (5)

Establishes a July 1, 1988 termination date for reimbursement eligibility of debt service projects, and establishes a July 1, 1989 termination date for the cash payment reimbursement program. The latter provides a year's grace during the phase in of this new statute.

SECTION 7

This section permits municipalities to increase the scope or magnitude of a construction project which has been approved under this new statute at their own expense. It also allows them to accomplish at their own expense school construction projects which have not been awarded a grant under this statute.

SECTION 8

This modifies the definition of school construction deleting language relating to financing costs, bonding costs, legal fees, paying agencies etc. which are basically related to the sale of bonds.

SECTION 9

Provides a definition of "district" as used in the definition of school construction (Section 8 above) by referring to the definition used in existing statute.

SECTION 10

Amends AS 46.11.900, which defines "state financial assistance" partly as excluding school construction grants, by updating the reference from (AS 14.11.100 - 14.11.135) to read A.S. 14.11.

SECTION 11

Repeals a number of sections which are superseded by sections of HB380:

AS 14.11.010 "Recommendation and Evaluation of Projects" is replaced in HB380 by Sec 14.11.011 "Grant Applications"

AS 14.11.102 "Evaluation of Projects" is repealed because it applies to DOE evaluation of projects proposed for debt retirement and HB 380 Section 6 ends the need for any such approvals.

AS 14.11.105 "Public School Facilities Construction Advance Account" is a little used (unused to our knowledge) mechanism for funding debt retirement projects. Its repeal is consistent with Section 6 of HB 380 establishing an end date for eligibility of projects for debt retirement, and eliminates possible confusion with new Section 4 in HB 380 - AS 14.11.005 "School Construction Grant Account".

AS 14.11.110 "Eligibility" is repealed in 380 because it applies to approval of projects proposed for debt retirement and HB 380 ends the need for such approvals.

AS 14.11.115 "State Aid", AS 14.11.120 "Application for aid", and AS 14.11.125 "Conditions of State Aid" are repealed because they too apply to funding through the Public School Facilities Construction Advance Account (see AS 14.11.105 above) which is recommended for repeal.



NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

ANCHORAGE REGIONAL OFFICE

1411 W. 33RD AVENUE
ANCHORAGE, ALASKA 99503
(907) 274-0536

JUNEAU OFFICE

105 MUNICIPAL WAY, SUITE 302
JUNEAU, ALASKA 99801
(907) 586-3090

FAIRBANKS REGIONAL OFFICE

2118 CUSHMAN STREET
FAIRBANKS, ALASKA 99701
(907) 456-4435

February 19, 1988

To: Rep. Ellis & Rep. Koponen, Co-Chairs
Members, House HESS Committee

Re: HB 380; "An Act relating to state aid for school
construction; and providing for an
effective date."

NEA-Alaska supports and encourages passage of HB 380.

From our perspective this legislation effectively addresses
a need of long standing in that it systematizes the approach
to all school construction statewide.

It makes sense that all school districts plan and utilize
the same standard criteria relative to their school
construction needs.

It is also our hope that this kind of approach will serve to
reduce the competition and even rivalry between urban and
rural interests, both in the legislature and within the
education community.

We encourage that HB 380 be dealt with as expeditiously as
possible.

Thank you for your consideration of our concerns.

Respectfully submitted,

Bob Manners
Executive Secretary

cc: Rep. Swackhammer

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