

SB67

HOUSE COMMITTEE REPORT

(11)

Date Referred: May 6, 1991

FURTHER REFERRALS:

Date of Committee Action: 5/21/91

The FINANCE Committee considered:

CSSB 67(FIN)

CS FOR SENATE BILL NO. 67 (FINANCE)

STATE AID FOR NONPROFIT HEALTH FACILITIES

"An Act relating to state aid for health facilities; and providing for an effective date."

RECOMMENDATIONS:

be replaced with HCS CSSB 67 (FIN) the same title a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) DHSS 5/1/91

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Nick Boyer</i> Boyer	X	<i>Tan Brown</i> Brown		✓	
<i>Koponen</i> Koponen	X	<i>Sharp</i> Sharp		✓	
<i>Jacko</i> JACKO	X	<i>Phillips</i> Phillips		✓	
<i>Karson</i> Karson	X	<i>Ulmer</i> Ulmer			
		<i>Mike Navaire</i> NAVAIRE		✓	

Mike Navaire

 CHAIRMAN'S SIGNATURE

FISCAL NOT

No. 2

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Bill Version: CSSB67(FIN)

(S) Publish Date: 5/1/91

Revision Date: April 24, 1991 Dept. Affected: Health & Social Services
 Title: An Act relating to aid for nonprofit health facilities and providing for an effective date BRU: Administrative Services
 Component: Facilities/CIP
 Sponsor: Jones, Zharoff
 Requestor: by the HESS Committee COMPONENT SERIAL NO. 0325

Expenditures/revenues: (Thousands of Dollars)

OPERATING	FY92	FY93	FY94	FY95	FY96	FY97
PERSONAL SERVICES	65.4	68.4	68.4	68.4	68.4	68.4
TRAVEL	17.4	17.9	17.9	21.4	17.9	17.9
CONTRACTUAL	38.8	38.8	38.8	41.8	38.8	38.8
SUPPLIES	0.9	0.9	0.9	0.9	0.9	0.9
EQUIPMENT	6.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	128.5	126.0	126.0	132.5	126.0	126.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

GENERAL FUND	128.5	126.0	126.0	126.0	126.0	126.0
FEDERAL FUNDS						
OTHER						
TOTAL	128.5	126.0	126.0	126.0	126.0	126.0

POSITIONS:

FULL-TIME	1.0	1.0	1.0	1.0	1.0	1.0
PART-TIME						
TEMPORARY						

Estimate of current year impact: No FY91 fiscal impact.

ANALYSIS: (Attach a separate page if necessary)

This legislation mandates establishment of a seven member Health Facilities Review Board, and includes specific requirements for objectives of the Board and the department. At a minimum, a Health and Social Services Planner II (R19) is needed to perform full administration of all duties related to the implementation of CSSB67. Duties of this position include: writing regulations; analysis and comparison of all 5-year master plans; contact with facilities and resolution of unclear master plans which they have submitted; verification and review of project budgets; analysis and review of all grant applications; staff support for the Health Facilities Review Board

(Continued)

Prepared by: Janet Clarke, Director *J. Clarke* Phone: 465-3082
 Division: Division of Administrative Services Date: 04/24/91
 Approved by Commissioner: Jan Jones for Date: 4/24/91
 Agency: Department of Health and Social Services

Distribution (by preparer):
 Legislative Finance OMB
 Legislative Sponsor Impacted Agency(ies)
 Requestor

ANALYSIS (cont.):

such as making travel arrangements, meeting preparation and meeting support; preparation and submission of all advertising for public hearings; staffing the hearings; administration of all appeals including coordination with board, hearing officers and the Department of Law; administration and execution of grant agreements; review of all grant request documentation and approval of grant payments; accurate accounting of all grant funds, and compilation of grant closeouts; preparation of reports to board or final grant accounting.

DESCRIPTION	COMMENT #	FY92	FY93
Line 100 - Personal Services			
11&SS Planner II, PFT, 12 months, (R19) Juneau	(1)	65,388	68,425
Line 200 - Travel			
72330 Board Travel - Member Travel			
2.5 meetings * 7 members * 3 days = 52.5 days	(2)		
Meetings will be 2 days and 1 day travel			
7 * \$475 average airfare * 2.5 meetings	(3)	8,313	8,750
7 members * \$35 misc. expenses * 2.5 meetings		613	613
72500 Board Travel Per Diem			
52.5 days * \$115		6,038	6,038
72300 Staff Travel for Board Meetings			
(2 meetings * 1 staff * 3 days = 6 days)			
1 staff * \$475 airfare * 2 meetings		950	1,000
1 staff * \$35 misc. expense * 2 meetings		70	70
72500 Staff Travel Per Diem for Board Meetings			
6 days * \$115 per diem		690	690
72300 Staff Travel for Public Hearings			
(1 hearing * 1 staff * 2 days = 2 days)	(4)		
1 staff * \$475 airfare * 1 hearing		475	500
1 staff * \$35 misc. expense * 1 hearing		35	35
72500 Per Diem for Public Hearing			
2 days * \$115		230	230
	TOTAL TRAVEL	17,414	17,926
Line 300 - Contractual Services			
73100 Hearing Officer Professional Services			
(2 appeals @ \$5,000 each)		10,000	10,000
Attorney time and costs related to litigations	(5)	12,000	12,000
Transcription of Public Hearings		1,500	1,500
73300 Communications, including local, long distance, fax and postage			
		9,500	9,500
73500 Advertising for 2 board meetings, 1 public hearing (display ads)			
		3,000	3,000
Printing and Binding of Reports, Minutes and Transcriptions			
		2,500	2,500
73800 Space Rental for meetings			
		300	300
	TOTAL CONTRACTUAL	38,800	38,800

ANALYSIS (cont.):

DESCRIPTION	COMMENT #	FY92	FY93
Line 400 - Supplies			
74200 Office Supplies		600	600
Board Meeting supplies		300	300
	TOTAL SUPPLIES	<u>900</u>	<u>900</u>
Line 500 - Equipment			
75830 Data Processing Equipment (PC and Peripherals) and software		6,000	0
	TOTAL EQUIPMENT	<u>6,000</u>	<u>0</u>
	TOTAL for PROJECT	<u>128,502</u>	<u>126,051</u>

- (1) The staff cost for FY93 assumes a 5% cost of living increase.
- (2) This assumes one meeting for the board to rank hospital grant proposals and one meeting for the board to review appeals. One half of a meeting is budgeted for the board to allow a few board members to attend the public hearing.
- (3) For FY93, it is assumed that average travel costs will increase from \$475 to \$500 per trip.
- (4) This assumes one day for travel and one day to hold the public hearing.
- (5) The \$12,000 figure was provided by the Department of Law as what they would charge to handle all costs related to litigation for two hearings.

HOUSE CS FOR CS FOR SENATE BILL NO. 67 (FINANCE)
 IN THE LEGISLATURE OF THE STATE OF ALASKA
 SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
 Referred:

Sponsor(s): SENATORS JONES, Zharoff, Menard, Hoffman
 REPRESENTATIVE Taylor

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to state aid for health facilities; and providing for an effective date."

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

3 * Section 1. AS 18.25 is amended by adding new sections to read:

4 Sec. 18.25.011. GRANT APPLICATIONS. (a) On or before June 15, a person,
 5 including a municipality, may submit a grant application to the department for a health facility
 6 construction grant.

7 (b) A project for which a certificate of need is required under AS 18.07.031 - 18.07.111
 8 at the time of the grant application is not eligible for a grant under AS 18.25.011 - 18.25.035
 9 unless a certificate has been issued to the health facility that is the subject of the application, and
 10 the certificate is in effect at the time of the application.

11 (c) A project is not eligible for a grant under AS 18.25.011 - 18.25.035 unless the
 12 applicant has submitted a five-year master plan for the construction of the health facility on or
 13 before September 1 of the fiscal year in which the application is submitted; the master plan must
 14 include a description of the applicant's fixed asset inventory system and preventive maintenance

1 program, a detailed scope of work, an estimated project budget, an operation, maintenance, and
2 financial feasibility study, and a documentation of the conditions justifying the project, including
3 a signed statement by an architect or engineer verifying any code violation documented in the
4 plan.

5 (d) The grant application must include

6 (1) evidence that the applicant has secured and will maintain adequate property
7 loss insurance for the replacement cost of the health facility or a program of insurance acceptable
8 to the department; and

9 (2) evidence acceptable to the department that the proposed project is a capital
10 construction project and not part of a preventive maintenance program or regular custodial care
11 program.

12 Sec. 18.25.013. HEALTH FACILITIES REVIEW BOARD ESTABLISHED. (a) There
13 is created in the Department of Health and Social Services the Health Facilities Review Board
14 composed of seven members consisting of the following persons appointed by the governor and
15 who serve at the pleasure of the governor:

16 (1) an architect licensed under AS 08.48;

17 (2) an engineer licensed under AS 08.48;

18 (3) a representative nominated by the Alaska Municipal League;

19 (4) a representative from the department;

20 (5) a representative of a health facility;

21 (6) a representative of the Alaska Area Native Health Service; and

22 (7) a representative of the office of management and budget in the Office of the
23 Governor.

24 (b) To the extent possible and except for the board members described under (a)(4) and
25 (7) of this section, the board members must be representative of all areas of the state.

26 (c) The members serve for staggered terms of three years.

27 (d) The members of the board shall elect a member of the board as chair.

28 (e) The board shall hold at least one meeting each year. The board may hold additional
29 meetings at the call of the chair or of a majority of the board members.

30 Sec. 18.25.015. BOARD DUTIES. (a) The board shall annually

31 (1) review the master plans submitted by applicants under AS 18.25.011;

1 (2) with regard to the plans reviewed under (1) of this subsection, establish and
2 transmit to the department a revised and updated five-year construction grant schedule that
3 establishes the priorities among the proposed health facility construction projects and serves the
4 best interest of the state and the municipality or area in which the health facility is located.

5 (b) The primary criteria for establishing the priorities under (a) of this section are

6 (1) the degree of threat to the health or safety of facility occupants; and

7 (2) the degree of potential harm to building integrity as it affects the building's
8 ability to support health care functions in a cost-effective manner.

9 (c) The board shall establish by regulation additional criteria for establishing the priorities
10 under (a) of this section. The criteria must include at least the following factors:

11 (1) the ability of the project or project phase to be self-supporting;

12 (2) access to other sources of funding, including funding from the parent
13 corporation of the health facility, if applicable;

14 (3) the overall capital requirements and operating cost efficiency over the lifetime
15 of the facility;

16 (4) the community or area need for the facility as compared to alternative means
17 for providing the care;

18 (5) the level of care required to provide basic cost effective and efficient health
19 services;

20 (6) the effect of the grant award on the overall position of the applicant as
21 compared to health facilities that are not eligible to receive grants under AS 18.25.011 -
22 18.25.035.

23 (d) The board may reject a grant application and omit it from the construction grant
24 schedule if

25 (1) the applicant provides incomplete information or documentation on the project;

26 (2) the board determines that existing facilities can adequately serve the program
27 requirements, or that an alternative project is in the best interests of the state; or

28 (3) the board determines that the project is not in the best interests of the state
29 or the municipality or area in which the health facility is located.

30 Sec. 18.25.017. DEPARTMENT ACTION. (a) Before a grant application is submitted
31 to the board, the department shall verify the amounts and reasons for the items in the budget for

1 each grant application.

2 (b) With regard to the construction grant schedule established by the board under
3 AS 18.25.015, the department shall transmit the construction grant schedule, including the
4 budgets verified under (a) of this section, to the governor by October 15 of each year and to the
5 legislature within the first 10 days of each regular legislative session.

6 Sec. 18.25.019. PUBLIC NOTICE AND HEARING. On or before July 15 of each year,
7 the department shall provide public notice of the grant applications made under AS 18.25.011
8 and the priorities established under AS 18.25.015. After public notice has been given, the
9 department shall, not later than August 15 of each year, hold a public hearing on the priorities
10 established under AS 18.25.015. In this section, "public notice" means notice published in a
11 newspaper of general circulation and notice to each person who has requested notice about the
12 grant requests from the department.

13 Sec. 18.25.021. AWARD. (a) The department shall award grants in the order of the
14 projects' priorities on the date the appropriation bill funding the health facility construction grant
15 fund becomes law, regardless of an administrative or judicial review pending under
16 AS 18.25.023. An administrative or judicial review pending under AS 18.25.023 at the time that
17 grants are awarded may not delay the funding of grants.

18 (b) If a project is assigned a new priority ranking under AS 18.25.023 after the date the
19 appropriation bill for the health facility construction grant fund becomes law, a grant shall be
20 awarded for the project in accordance with the new priority ranking at the next time that health
21 facility construction grants are awarded under AS 18.25.011 - 18.25.035.

22 Sec. 18.25.023. ADMINISTRATIVE AND JUDICIAL REVIEW. (a) An applicant
23 under AS 18.25.011 may not request reconsideration of a decision of the board unless the request
24 is based on reasonable issues of fact or law. The request must be in writing and include a
25 statement of the specific changes desired, and a summary of the evidence supporting the
26 applicant's claim that the board has erred in its review of the applicant's grant application. A
27 request for reconsideration must be submitted to the board by the first day of the public hearing
28 held under AS 18.25.019. The board shall review its decision on the basis of the request by the
29 applicant and determine whether its decision should be changed. The board shall issue its
30 determination in writing within 15 days after the last day of the public hearing held under
31 AS 18.25.019.

1 (b) An applicant under AS 18.25.011 may appeal an adverse decision of the board under
2 (a) of this section by filing a written notice of appeal with the commissioner within 15 days after
3 the date of the board's decision. The notice of appeal must state the legal and factual basis for
4 the appeal and the precise relief sought. The failure of the applicant to include an issue in a
5 notice of appeal constitutes a waiver of the right to have the issue considered. Not later than 10
6 days after receipt of a notice of appeal, the commissioner shall appoint a hearing officer who is
7 qualified under AS 44.62.350(c) to consider the appeal. If the hearing officer finds that the
8 notice of appeal does not raise a reasonable issue of fact or law, the hearing officer shall issue
9 a written decision denying the appeal. Denial of an appeal by a hearing officer is a final decision
10 that may be appealed under (d) of this section. If the hearing officer finds that the notice of
11 appeal raises a reasonable issue of fact or law, the hearing officer shall conduct a hearing on
12 those issues and recommend a decision to the commissioner. The hearing officer shall issue a
13 decision on the appeal not later than 60 days after being appointed. The commissioner shall
14 consider the recommended decision of the hearing officer within 10 days after receipt and may
15 adopt all, part, or none of the recommended decision or may remand the issue to the hearing
16 officer for further hearings. The commissioner shall issue a decision in writing within 10 days
17 after consideration of the hearing officer's decision.

18 (c) The hearing officer may consolidate appeals under (b) of this section if the notices
19 of appeal raise related issues of fact or law.

20 (d) An applicant under AS 18.25.011 may appeal an adverse decision of a hearing officer
21 or the commissioner under (b) of this section to the superior court in the manner provided by
22 AS 44.62.560 - 44.62.570 and the Alaska Rules of Appellate Procedure.

23 (e) The board shall adopt regulations governing procedures for the reconsideration and
24 appeal of decisions under (a) - (c) of this section. The regulations adopted under this subsection
25 are not required to conform to AS 44.62.330 - 44.62.630, but must be consistent with minimum
26 standards of due process.

27 (f) An applicant under AS 18.25.011 may not request reconsideration of or appeal a
28 priority determination on the grounds that a revised priority assigned to another project, due to
29 a reconsideration or appeal under this section, has resulted in a lower priority being accorded to
30 the applicant's project.

31 Sec. 18.25.025. GRANT AGREEMENT AND CONDITIONS. (a) The department shall

1 enter into a written agreement with the grantee before it distributes grant funds under
2 AS 18.25.011 - 18.25.035.

3 (b) The department shall require in the grant agreement that the grantee

4 (1) agree to construction of the health facility as described by the certificate of
5 need, if any, issued to the facility under AS 18.07.031 - 18.07.111;

6 (2) provide reasonable assurance by a means acceptable to the department that
7 the cost of the project will be uniform with the costs of the most current construction projects
8 in the area;

9 (3) agree to submit to the department for department approval a description and
10 justification of a cost overrun before the grantee agrees to pay for the overrun and before the
11 department distributes money to the grantee to pay for the overrun;

12 (4) agree to place the grant funds in an interest-bearing account and not to use
13 the interest or the grant funds for a purpose other than the project;

14 (5) agree to limit equipment purchases to that required for the facility operation;

15 (6) submit project budgets for department review and agree that the grant amount
16 may, at the discretion of the department, be reduced or increased by amounts equal to the
17 amounts by which contracts vary from the budget amounts approved by the department;

18 (7) submit to the department for approval, before advertising for bids for the
19 construction contract, a plan for construction that includes specifications, final construction
20 drawings, and proposed contract documents;

21 (8) submit for department review a tabulation of all bids received, a complete
22 copy of the lowest bid, a copy of the proposed notice to proceed with construction, and a copy
23 of the proposed construction contract;

24 (9) submit for department review and acceptance documentary evidence that the
25 project is being accomplished in accordance with all the assertions in the grantee's five-year
26 master plan and grant application;

27 (10) submit sufficient assurances that the project will be used for the stated
28 purposes of the grant for the expected useful lifetime of the facility;

29 (11) agree to conform to all applicable governmental codes and standards,
30 including the most recently adopted state statutes and regulations on building, health, mechanical,
31 electrical, fire, safety, and handicap accessibility, and those covering the planning, construction,

1 and operation of the health facility;

2 (12) agree to comply with

3 (A) the department's single audit requirements;

4 (B) AS 37.05.321, prohibiting the use of grant funds and earnings to
5 influence legislative action;

6 (C) the reporting requirements of AS 36.05 and AS 36.10; and

7 (D) 42 U.S.C. 2000a - 2000h-6 (Civil Rights Act of 1964), 29 U.S.C. 621-
8 634 (Age Discrimination in Employment Act of 1967), 7 U.S.C. 2027 (Food Stamp Act
9 of 1977), and the department's requirements for implementation of the federal statutes
10 listed in this subparagraph;

11 (13) identify anticipated operating costs and revenue and the sources of funding
12 that may be requested if costs exceed projected revenue;

13 (14) complete the project in a timely manner to a fully functional condition and
14 submit periodic status reports not less than every six months to the department detailing work
15 completed to date, a summary of expenditures compared with the approved budget, and an
16 explanation of any deviation from the approved work, schedule, or budget; and

17 (15) agree to comply with other requirements that the department, notwithstanding
18 AS 37.05.318, may reasonably impose on grantees and that are necessary to meet the intent of
19 the grant.

20 (c) Except as provided under (b) or (d) of this section, a cost of construction for a health
21 facility may be paid under a grant awarded under AS 18.25.021 without regard to whether the
22 cost was incurred before the

23 (1) award of the grant; or

24 (2) effective date of an appropriation to the health facility construction grant fund
25 for the year in which the grant is funded.

26 (d) The maximum percentage of the costs of planning and designing, including
27 engineering, that are incurred before awarding a grant and that may be paid under the grant may
28 not exceed 15 percent.

29 (e) The grantee may not satisfy more than five percent of the grantee's share of the total
30 cost of the health facility with items other than cash.

31 (f) Except as limited by (e) of this section, the fair market value of land acquisition and

1 site preparation may be included in the grantee's share of the total cost of the health facility.
2 The fair market value shall be determined as of the date when the grant application is submitted
3 under AS 18.25.011.

4 (g) The direct expenses of the grantee to administer the project may not exceed 10
5 percent of the grant.

6 Sec. 18.25.027. GRANT APPROPRIATIONS. Within the general appropriation bill
7 submitted to the legislature under AS 37.07.020, the governor shall include an appropriation for
8 health facility construction grants in the succeeding fiscal year as determined by the priority list
9 and budgets transmitted to the governor under AS 18.25.017.

10 Sec. 18.25.029. AMOUNT OF GRANTS. For each project included in a grant awarded
11 under AS 18.25.021, the state shall pay 75 percent of the total costs of construction incurred for
12 the project by the grantee during the fiscal year for which the grant is made.

13 Sec. 18.25.031. DISTRIBUTION OF GRANT. After the effective date of the agreement
14 for a grant under AS 18.25.011 - 18.25.035, the department shall advance 20 percent of the grant
15 to the grantee. The department shall base subsequent payments from the grant on payment
16 requests submitted by the grantee for the costs of construction incurred by the grantee for the
17 grant project. The department may not make a further payment under the grant until the grantee
18 has exhausted the advance.

19 Sec. 18.25.033. HEALTH FACILITY CONSTRUCTION GRANT FUND. The health
20 facility construction grant fund is created as an account in the general fund. The fund shall be
21 used to make grants under AS 18.25.011 - 18.25.035 for the costs of construction of health
22 facilities. Legislative appropriations under AS 18.25.011 - 18.25.035 for the costs of construction
23 of health facilities shall be deposited in the fund.

24 Sec. 18.25.035. DEFINITIONS. In AS 18.25.011 - 18.25.035,

25 (1) "board" means the Health Facilities Review Board;

26 (2) "costs of construction" means the cost of acquiring, constructing, enlarging,
27 repairing, remodeling, equipping, or furnishing health facilities and includes the total of all costs
28 of financing and carrying out the project, including

29 (A) the cost of necessary studies, surveys, plans and specifications,
30 architectural, engineering and other special services, the acquisition of real property, site
31 preparation and development, and the acquisition of machinery and equipment necessary

1 for the project;

2 (B) the direct expenses of the grantee to administer the project;

3 (C) the cost of financing the project, including interest on bonds issued
4 to finance the project; and

5 (D) the cost of other items, including indemnity and surety bonds and
6 premiums on insurance, legal fees, fees and expenses of trustees, depositories, financial
7 advisors, and paying agents for the bonds issued;

8 (3) "health facility" means a nursing home or a facility that provides
9 hospitalization for inpatient medical and surgical care of acute illness or injury or obstetric care,
10 but does not include a nursing home or facility that has more than 200 beds.

11 * Sec. 2. AS 18.25.035(3) is repealed and reenacted to read:

12 (3) "health facility" means a nursing home or a facility that provides
13 hospitalization for inpatient medical and surgical care of acute illness or injury or obstetric care.

14 * Sec. 3. AS 18.25.100 is repealed and reenacted to read:

15 Sec. 18.25.100. REGULATIONS. The department shall adopt regulations to implement
16 this chapter.

17 * Sec. 4. AS 46.11.900(7) is amended to read:

18 (7) "state financial assistance" means a loan, grant, guarantee, insurance, payment,
19 rebate, subsidy, or other form of state assistance other than aid under AS 05.35.010 - 05.35.070,
20 AS 14.11, AS 18.25.011 - 18.25.035, and AS 29.60, including the purchase by a state agency of
21 a loan to finance the construction or purchase of a residential building;

22 * Sec. 5. AS 18.25.010, 18.25.020, 18.25.030, 18.25.070, 18.25.080, 18.25.090, and 18.25.110 are
23 repealed.

24 * Sec. 6. Section 2 of this Act takes effect July 1, 1996.

25 * Sec. 7. Except as provided in sec. 6, this Act takes effect July 1, 1991.

Alaska State Legislature

Chair, Resources Committee
Vice-chair, Transportation Committee
Member, Rules Committee
Member, Committee on Committees



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Senator Lloyd Jones

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MEMORANDUM

To: Representative Mike Navarre, Co-chair
Representative Eileen MacLean, Co-chair
House Finance Committee

From: Senator Lloyd Jones *LJ*

Subj: Senate Bill 67

Date: January 16, 1992

Senate Bill 67, relating to state aid for health facilities, has been referred back to your committee for review. I would appreciate you scheduling it for a hearing as soon as your calendar permits. Since the bill was heard and passed in House Finance last session, I'm sure you're familiar with the contents of the bill and why I believe it should be moved as soon as possible.

I've enclosed a copy of the Alaska Municipal League's Resolution No. 92-2, which supports Senate Bill 67 to be included in the background material for the bill.

If you have any questions, or would like more information, I would be happy to talk to you personally.

enclosure (1)

Alaska State Legislature

Chair, Resources Committee
Vice-chair, Transportation Committee
Member, Rules Committee
Member, Committee on Committees



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Senator Lloyd Jones

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MEMORANDUM

To: Representative Mike Navarre, Co-chair
House Finance Committee

Representative Eileen MacLean, Co-chair
House Finance Committee

From: Senator Lloyd Jones 

Date: May 8, 1991

Subj: Senate Bill 67

Senate Bill 67 has been referred to your committee. Please consider hearing the bill as soon as your schedule permits.

SB 67 is a comprehensive bill which sets up a structure by which the legislature and administration can objectively fund health care facilities in the state. As you know, many of our health care facilities are in serious disrepair. In the past, facilities have asked individual legislators for appropriations to take care of physical plant needs. There was no standardized method or priority system by which the legislature could fund these projects.

Fifteen hospitals were surveyed in a 1982 study commissioned by the Department of Health and Social Services. The ranking was based on the relative severity of all physical and functional deficiencies found at each facility. It did not consider other factors such as facility utilization or population trends. There have been several attempts to fund health facility construction grants. Last year, Senator Fred Zharoff and Representative Cliff Davidson introduced bills which authorized the issuance of general obligation bonds for three hospitals that were on the 1982 list. Those bills failed to pass the legislature.

As a result, Senator Zharoff was named chair of the Senate Special Committee on Health Care Facilities. I was a member, as was Senator Jay Kerttula. The committee assessed health care facility needs

Rep. Mike Navarre
Rep. Eileen MacLean
Senate Bill 67
Page 2
May 8, 1991

around the state. The committee was also charged with making recommendations regarding the funding of capital construction grants for health care facilities. Senate Bill 67 is a direct result of the task force's work on the issue.

My bill proposes the establishment of a Health Care Facilities Review Board, whose duties include prioritizing projects based on broad criteria contained in the bill, and criteria established by the board. The priority list and the Board's recommendation would be transmitted to the Governor and the Legislature each year.

You have reviewed a similar bill (HB 214), sponsored by Representative Cliff Davidson. Although our bills were identical when introduced, SB 67 was amended in the Senate Finance Committee. Attached is an explanation of the amendments. Also attached is a one-page fact sheet on SB 67, the Department of Health and Social Service's fiscal note and position paper.

If you have any questions or would like to discuss the bill with me, please don't hesitate to call. Your consideration in scheduling this bill for a hearing soon is greatly appreciated.

SENATE BILL 67 - FACT SHEET

by Senator Lloyd Jones

Purpose of the Bill

Senate Bill 67 is an attempt to rationally fund the renovation and replacement of hospital and nursing home facilities in our state. It sets up a priority ranking system to be used by the legislature and the administration when decisions are being made about what capital projects should be funded. In the past, these facilities have had to compete with other capital project funds. This bill establishes a Health Care Facility Review Board whose main duty is to accept grant applications and prioritize projects based on criteria set by the board.

Key provisions of the bill

- Establishes a seven member board appointed by the governor, serving staggered terms of three years. Members must be representative of all areas of the state.
- Facilities must meet criteria as established in the bill. The Board will also establish other criteria.
- Facilities must have a valid certificate of need.
- Health care facilities as defined in the bill are acute care hospitals and nursing homes of no more than 200 beds.
- The state will award 75-percent of the total construction grant. Facilities must match a total of 25-percent with no more than 5-percent being in-kind contribution.
- The bill outlines and an extensive appeals process, however, award of grants may not be delayed regardless of any administrative or judicial review pending.
- Once a grant has been awarded, the Department and the applicant must formerly enter into a written agreement. Conditions of the agreement are outlined in the bill.

Explanation of Senate Finance Committee Amendments Senate Bill 67

Unfair Competitive Advantage - Non-profit vs. For-profit

There were several ideas suggested regarding the solution to this issue. Senator Jones suggested that all reference to non-profits should be deleted out of the bill, thereby allowing all health facilities, as defined in the bill, to apply for grants. This idea was incorporated in the Senate Finance Committee Substitute.

200 Bed Limit

Senator Adams offered an amendment which limited access to the process. Under the Adams amendment, facilities with over 200 beds were excluded from the process. The rationale for the amendment was that small hospitals would have a better chance if they competed among themselves. This essentially eliminated two Anchorage hospitals from the process, Providence (non-profit) and Humana (for-profit). Senator Jones objected to the amendment, stating the purpose of the bill was to allow all health facilities to compete on a needs-based criteria system. The amendment passed in the Senate Finance and eventually passed on the Senate floor. The Adams amendment is on page 9, line 10.

Board Composition

Senators Kerttula and Uehling suggested we add more administration representation to the board. Senator Jones offered to delete a member of the general public and add a representative of the office of management and budget in the Office of the Governor (page 2, line 22).

Regional Representation

Senator Kerttula suggested membership of the board reflect regional representation. The bill now reflects this on page 2, starting on line 24: (b) To the extent possible and except for the board members

Explanation
Senate Finance Committee Amendments
Senate Bill 67
Page 2

described under (a)(4) and (7) of this section, the board members must be representative of all areas of the state.

Strengthened Criteria

Because the bill allows for both the non-profits and for-profit health facilities to apply for grants. Senator Jones wanted to strengthen the criteria section of the bill to reflect the original intent of the bill, which was to help facilities facing life-threatening physical plant/code violations. This is reflected on page 3, starting on line 5: (b) The primary criteria for establishing the priorities under (a) of this section are (1) the degree of threat to the health or safety of facility occupants; and (2) the degree of potential harm to building integrity as it affects the building's ability to support health care functions in a cost-effective manner.

Access to other sources of funding

There was some question regarding whether or not the board would be able to determine a facility has access to funding from its parent company. This was one of the main objections that Humana had regarding Providence Hospital's eligibility in the bill. Senator Jones strengthened the criteria on page 3, line 12: (2) access to other sources of funding, including funding from the parent corporation of the health facility, if applicable;

Grant Award

Senator Pourchot was concerned over the in-kind contribution. He did not want the local match to be satisfied only by land donation. Page 7, line 29 was changed to read: (e) The grantee may not satisfy more than five percent of the grantee's share of the total cost of the health facility with items other than cash.

Senator Kerttula and Senator Duncan expressed concern over the state/local match formula in the bill. Senator Kerttula suggested the state's share by 75% rather than 80%. This is reflected on Page 8, line 11.

Retroactive Clause

Senator Duncan introduced an amendment which would allow hospitals who have already completed construction without state aid to apply for retroactive grants for reimbursement of construction costs

Explanation
Senate Finance Committee Amendments
Senate Bill 67
Page 3

that were incurred before the effective date of this Act. This new section is on page 9, beginning on line 21.

Revised

DRAFT

Position Paper
Senate Bill CSSB 67

"An Act relating to state aid for nonprofit health facilities; and providing for and effective date."

While the Department of Health and Social Services supports in general terms Committee Substitute for Senate Bill 67 (CSSB67), some important changes are required before we can actively provide our support. These changes are:

1. Assurance that adequate ongoing funding is available to develop and maintain the ongoing program.
2. Allow the Department to charge up to 1.5% in any one year in which an \$8 million or more appropriation is made to cover additional administrative and contractual cost potentially associated with the larger volume of work, and/or complexity implicit in the larger appropriation.
3. A mechanism needs to be put in SB 67 to end the existence of the Health Facilities Review Board, such as "sunsetting" it in five years.

If the changes that are outlined in items 1-3 above are made to Senate Bill 67, the Department of Health and Social Services will actively support it. Also, the Department feels that the fiscal note that has been developed is the minimum required to carry out the provisions and requirements of this legislation.

Recommended by:

Janet Clarke

Janet Clarke
Director
Division of Administrative Services

Date:

4/12/91

Approved by:

Theodore A. Mala, MD, MPH
Commissioner
Department of Health and Social Services

Date:



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May 14, 1991

MAY 16 1991

Representative Mike Navarre, Co-Chairman
House Finance Committee
P.O. Box V, Capitol Room 511/515
Juneau, Alaska 99811

Dear Representative Navarre:

Enclosed is a position paper supporting a requested amendment of AS 47.30.550 regarding grant income. We believe that Senate Bill 67 would be an appropriate vehicle for this amendment. Any help you can provide in resolving this problem will be appreciated.

Thank you for your consideration.

Sincerely,

Ken Taylor, LCSW
Executive Director

KT/sms
Enclosure



POSITION PAPER

AS 47.30.550 COST SHARING FORMULA; LIMITATION

AMENDMENT

- (d) Income earned by an entity through a community mental health project funded under AS 47.30.520 - 47.30.620 shall be used, [AS APPROVED BY THE DEPARTMENT], to augment or enhance the entity's mental health services.*

The clause "AS APPROVED BY THE DEPARTMENT," was added to this section of AS 47.30.550 in 1987, with effective date July 1, 1987. This statute applies only to community mental health projects. The interpretation of this language as applied since its inclusion has resulted in over-control of private nonprofit organizations through excessive regulation.

Regulatory implementation of the above statute by the Department of Health and Social Services has included proposed revision of regulations governing grant income (7AAC 78.210). The pending regulations significantly increase state control of grant income by requiring payment of excess income by grant organizations to the state. Currently, grant income is utilized for personnel costs, insurance costs, capital acquisitions and repairs, cash reserves used for cash flow, expansion of services, and various other program and support costs. The state has been unable to meet increasing costs of operations over the past several years. The significant funding increments for mental health provided by the legislature during the 1980s have been utilized for increased staffing, with no allowance for maintenance of effort. Increasing control of grant income is only workable if the state also assumes increased responsibility for the increasing organizational costs and liabilities.

Nonprofit organizations are unique in their ability to expand state funding for services. By definition, the mission of nonprofits is to recycle any profits or excess income to enhance their services. The state defrays a significant share of costs by delivering services through grant organizations. The local community gains input and accepts responsibility through volunteer governing boards. Consistent with original statutory language (AS 47.30.520 Legislative Purpose), the state relationship with private nonprofit organizations allows improved utilization of existing resources through locally developed, administered, and controlled community mental health programs. This relationship is optimal when effective and efficient management is demanded of local programs as well as state government.

Increasing control by the bureaucracy of state government will not improve effective or efficient management of programs. The motivation to succeed for nonprofit organizations and the ability to succeed as business organizations is undermined by such over-control.

The position of Anchorage Community Mental Health Services, Inc. is that the language "AS APPROVED BY THE DEPARTMENT" should be removed from the statute. Furthermore, all efforts to improve the ability of nonprofit organizations to enhance and augment state funds should be undertaken. All public policy, statutory as well as regulatory, should be constructed with the goal of maximization of public and private resources through effective partnerships.

ALASKA STATE

HOSPITAL & NURSING HOME

ASSOCIATION

Monday
May 13, 1991

MEMO TO: MEMBERS, HOUSE FINANCE COMMITTEE

FROM: HARLAN KNUDSON
Alaska State Hospital & Nursing Home
Association - 586-1790

SUBJECT: SUPPORT - SB 67 - Health Facility Construction
Authority - With Amendments

SB 67 brings a badly needed "process" to establish need and set priorities for construction of hospitals and nursing homes in Alaska.

1. SB 67, Page 8, Line 10: AS 18.25.029 be revised to read:

AMOUNT OF GRANTS. For each project included in a grant awarded under AS 18.25.021, the state shall pay 75 percent of the total costs of construction incurred for the project by the grantee before the end of (DURING) the fiscal year for which the grant is made, except that any cost of construction that was paid under a prior year's grant under AS 18.25.021 shall not be paid again.

Amendment Purpose - Clarifies that legitimate costs spent prior to the grant year can be reimbursed and that such expenditures cannot be paid for twice. (See Attached #1)

2. SB 67, Page 9, Line 9 - delete "," and insert period "."

Page 9, Line 10 - delete Line 10 "but does not include a nursing home or facility that has more than 200 beds."

Amendment Purpose - After establishing financial needs, as required under SB 67, allows community facilities (Our Lady of Compassion Care Center, Anchorage, Providence Hospital, Anchorage and Humana Hospital-Alaska, Anchorage) with over 200 beds to participate in grant process. (See Attached #2)

Attachment (2)

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PROPOSED CHANGES TO CSSB 67 (FIN)

May 13, 1991

Page 8, line 10: AS 18.25.029 should be revised as follows:

AMOUNT OF GRANTS. For each project included in a grant awarded under AS 18.25.021, the state shall pay 75 percent of the total costs of construction incurred for the project by the grantee before the end of [DURING] the fiscal year for which the grant is made, except that any cost of construction that was paid under a prior year's grant under AS 18.25.021 shall not be paid again.

Comment: As currently drafted, this section appears to provide that the grant for a particular fiscal year would pay only for those construction costs actually incurred during that fiscal year. If so, then this section is inconsistent with AS 18.25.025(c) (page 7, line 20), which provides that a cost of construction may be paid

without regard to whether the cost was incurred before the

- (1) award of the grant; or
- (2) effective date of an appropriation to the health facility construction grant fund for the year in which the grant is funded.

The "effective date of an appropriation" for a grant will always be before the beginning of the fiscal year for which the grant is made. For example, the Legislature would adopt a budget in May of 1993 (Fiscal Year 1993) that appropriated funds for grants to be paid in the next fiscal year (Fiscal Year 1994, beginning in July 1993).

Unless the grants are permitted to pay costs that are incurred before the beginning of the grant year, substantial legitimate and necessary costs will be excluded from the program. For example, in order to be eligible to receive a grant in Fiscal Year 1994 (beginning in July 1993), a facility would have to submit a grant application by June 15, 1992. (AS 18.25.011(a)--page 1, line 4) Before submitting that application, however, the facility must already have a certificate of need. (AS 18.25.011(b)--page 1, line 7) The certificate of need process itself can take months to complete, and it is necessary to incur planning and design costs in order to obtain a certificate of need. Thus, a facility may incur such costs as early as the fall of 1991 in order to obtain a grant that would not be paid until the year beginning in July 1993. AS 18.25.025(d) (page 7, line 26) provides that up to fifteen percent of such planning and design costs may be paid by the grant, so the bill does contemplate that some costs incurred before the beginning of the grant year may be paid by a grant. In order to avoid an interpretation that would exclude such costs from the grant program, AS 18.25.029 should be revised as proposed above.

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May 13, 1991
PROPOSED CHANGES FOR CSSB 67 (Fin)

Page 9, Line 9 - delete comma (,) and insert period (.).

Page 9, Line 10 - delete line 10 ("but does not include a nursing home or facility that has more than 200 beds").

Comment: The language on line 10 excludes Alaska's larger hospital and nursing home facilities from participating in the proposed matching grant program for construction or remodeling. This would mean that Our Lady of Compassion Care Center, Providence Hospital, and Humana Hospital, cannot apply for matching grants under this program.

Section 18.25.015 outlines stringent criteria that a facility must meet in showing financial need. A facility that does not need financial help will not get financial help from the state. The process under SB 67 and the need for the approval for funding from the Legislature and the Governor provide that assurance.

In excluding facilities with more than 200 beds, the state is setting a health policy that says:

1. The state is not willing to help our larger facilities, such as Providence Hospital, whose mission in Alaska for over eighty years has been to take care of every Alaskan, from every region of the state, who needs medical care, regardless of ability to pay.
2. It denies all Alaskans potential access to the latest in medical technology or service.

At this time, Providence may not need to seek the assistance from the state to rebuild or add a needed unit, but small hospitals across the state that refer patients to both Providence and Humana want to see these major referral hospitals have access to the best of care.

To exclude your largest, most sophisticated hospital you are closing the door for the state to help if:

- financial help is needed to increase the level of care in the neonatal intensive care unit -- It is here that the most critically ill newborns from all parts of the state are cared for.
 - financial help that may make it possible for Alaskans to receive badly needed care for burns, or transplants.
3. By excluding the state's largest nursing home, you close the door to assist a nursing home in Anchorage to request help when there is a nursing home bed shortage in Anchorage.

In refusing to help your most sophisticated health facilities, you force Alaskans to leave the state for care.

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

P.O. BOX H
JUNEAU, ALASKA 99811-0601
PHONE: (907) 465-3030

May 14, 1991

Honorable Ramona Barnes
Alaska State House of Representatives
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Re: Community mental health center income

Dear Representative Barnes:

You have asked for our opinion on the necessity of retaining approval authority by the Department over income earned by a community mental health center as provided in AS 47.30.550(d).

In our view, this provision, specifically the words "as approved by the Department," may be deleted from statute with no deleterious consequences for the state. This approval power is about four years old and, as a practical matter, has contributed nothing but additional paperwork to the responsibilities of mental health centers and the Department. Removal of the provision may also lead mental health centers to more vigorously pursue other sources of funding and income.

Finally, the strictures placed on mental health centers by existing law and by Internal Revenue Service requirements of non-profit corporations are more than sufficient to prevent the frivolous expenditure of income.

Sincerely,



Theodore A. Mala, MD, MPH
Commissioner

TAM/TB/cb

Seward General Hospital

P.O. BOX 385 417 FIRST AVENUE
SEWARD, ALASKA 99662 '365
PHONE (907) 224-5200

May 13, 1991

Representative Mike Navarre
P.O. Box V
Juneau, AK 99811

Dear Representative Navarre:

Seward General Hospital asks your support for SB 67, establishing a process for health facility construction and support of an amendment to repeal a 200 bed limit now in the bill that prohibits Providence Hospital and Our Lady of Compassion Care Center from applying for matching construction grants.

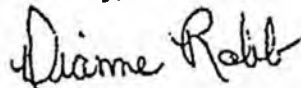
Providence Hospitals cares for badly injured patients from this area, and for seriously ill newborns. They should not be denied state support if they can show there is a need for that support.

Please support SB 67 with the amendment to repeal 200 bed limit on participation in matching grant program.

Humana Hospital is a for profit, stock holder owned corporation with 1990 profits of \$307 million dollars. I cannot support their access to limited state funding.

Thank you.

Sincerely,



Dianne Rabb, M.H.A.
Chief Executive Officer

DR/sj