

HB

361

FISCAL NOTE

Revision Date: January 9, 1996 Dept. Affected: Community & Regional Affairs
 Title: An Act relating to municipal capital project BRU: none
matching grants for a municipality organized. Component none
 Sponsor: Rep. Mackie
 Requestor: Rep. Mackie COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE FUND SOURCE:						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

Estimate of current (FY94) impact \$ none

ANALYSIS: (Attach a separate page if necessary)
 This legislation clearly establishes the community of Metlakatla as a municipality for the purposes of the Municipal Capital Project Match Program, AS 37.06.010-090, removing an ambiguity under which the community has in the past received capital match program funds for both unincorporated and municipal elements of the program. This legislation would have no direct fiscal impact on the department. Funds currently maintained by DCRA for Metlakatla under the unincorporated capital match program would be transferred to the Municipal Capital Match Program Metlakatla account administered by the Department of Administration.

Prepared by: Remond Henderson, Director *Remond Henderson* Phone: 465-4708
 Division: Division of Administrative Services Date: 1/09/96
 Approved by Commissioner: *Mike Thurman* Date: 1/09/96
 Agency: Community & Regional Affairs

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STATE OF ALASKA

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DIVISION OF ADMINISTRATIVE SERVICES

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January 18, 1996

The Honorable Jerry Mackie
House of Representatives
State Capitol, Room 404
Juneau, AK 99801-1182

Dear Representative Mackie:

Re: Metlakatla - Unincorporated Matching Grant

The following is a brief description of the impact to this Department should Metlakatla be identified as an eligible entity in the Municipal section of the Capital Matching Grant Program rather than the Unincorporated section of that same program.

Since the inception of this program, Metlakatla has requested projects each fiscal year in the full amount of funds available with the exception of FY 94. The remaining balance that year in addition to a small amount of interest earned totals \$1,357.84 that would need to be transferred from Metlakatla's Community Account in this Department to the Department of Administration along with their FY 97 project request file. Metlakatla is aware of the available remaining funds and has incorporated them into their FY 97 project request.

All of Metlakatla's previously requested projects are currently under agreement and active with all funds encumbered. These projects should remain with this office until they are complete and closed-out. Below is a detailed listing of their projects to date.

<u>FY</u>	<u>PROJECT</u>	<u>AWARD</u>	<u>EXPENDED TO DATE</u>
94	Lift Station	\$23,775.00	\$ 6,222.00
95	Hatchery Site Preparation	25,000.00	20,640.00
96	Cold Storage Facility Repairs	18,000.00	18,000.00 (Closed)
	Replace Cannery Building Wall	7,000.00	1,750.00
97 Proposed	Smoked Salmon Dev. Proj.	26,358.00	

If you have any further questions or concerns please feel free to contact the Grants Administrator for these projects, Tena Bavard, at 465-4731.

Sincerely,

Remond Henderson

Remond Henderson
Director

Alaska State Legislature

REPRESENTATIVE
JERRY MACKIE



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House of Representatives

SPONSOR STATEMENT

HB 361 - "An Act relating to municipal capital project matching grants for a municipality organized under federal law as an Indian reserve; and providing for an effective date."

I introduced this legislation at the request of the Metlakatla Indian Community when their FY 96 Municipal Assistance Matching Grant Program appropriation was eliminated from last year's budget. Metlakatla qualified for this program under the Department of Administration regulations definition for "municipality". However, legal analysis found that the statute definition was not written specific enough to include the Metlakatla Indian Community in this program. Since the statute definition supersedes the regulatory definition the appropriation was eliminated.

HB 361 AMENDS AS 37.06 (Capital Project Matching Grants Programs) by adding a new section that includes a municipality organized under federal law as an Indian reserve. This bill has been drafted to specifically include the Metlakatla Indian Community within the Municipal Assistance Matching Grant Program. This legislation also provides that Metlakatla may not receive a grant under the Unincorporated Community Capital Project Matching Grant Program.

The community of Metlakatla is definitely more reflective of a municipal government and fits more appropriately into the Municipal Capital Matching Grant Program. The community has a mayor, city council, school board, constitution, law and order codes, police department, court system, etc..

There are two zero fiscal notes accompanying this legislation from the Department of Community and Regional Affairs and the Department of Administration.

Alaska State Legislature

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JUNEAU, ALASKA 99801-1182
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REPRESENTATIVE
JERRY MACKIE



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House of Representatives

HB 361 - "An Act relating to municipal capital project matching grants for a municipality organized under federal law as an Indian reserve; and providing for an effective date."

*SECTIONAL ANALYSIS

*Section 1.

amends AS 37.06(Capital Project Matching Grants Program) by adding a new section that includes a municipality organized under federal law as an Indian reserve.

lines 9 - 10, eliminates Metlakatla from the Unincorporated Capital Project Matching Grants Program under AS 37.06.020.

requires the community to form a community development corporation with authority to determine how the grant money will be used, and that the governing board of the corporation shall be elected at an annual election open to all registered and qualified voting residents of the municipality.

the Department of Administration may distribute money for the municipality only after the corporation has delivered a waiver of sovereign immunity from legal action by the state to recover all or a portion of the money distributed under AS 37.06.010.

*Section 2.

provides transition language to provide that the balance of funds in the Unincorporated Capital Matching Grant Program be transferred to the Department of Administration.

*Section 3.

provides that HB 361 becomes effective July 1, 1996.

UNIT 11 00 WED 12 92 METLAKATLA INDIAN COMM. FMA NO. 9070005500 P. 01

COUNCIL ANNETTE ISLANDS RESERVE

METLAKATLA INDIAN COMMUNITY

JACK L. BOOTH, SR., MAYOR
JUDITH A. LAUTH, SECRETARY
BARBARA J. FAWCETT, TREASURER
January 15, 1996

ESTABLISHED 1887

POST OFFICE BOX 8
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Representative Jerry Mackie
House of Representatives
State Capitol
Juneau, Alaska 99801-1182

Re: HB361- 'An Act relating to municipal capital project matching grants for a municipality organized under federal law as an Indian reserve; and providing for an effective date.'

Dear Representative Mackie:

We appreciate the work you have put into this issue during the interim and your sponsoring HB 361 this legislative session.

We received Capital Project Matching Grants funding in FY94 in the amount of \$60,619.00 which went to the fire hall project. In FY95 we received \$58,909.00 which is being allocated to the police department project.

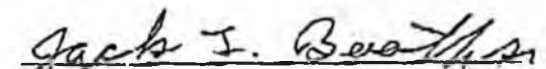
For FY96, we were allocated \$59,421, however, it was then determined that although the matching grant regulations explicitly allow Metlakatla to receive funding, the statute that defines municipalities does not include Metlakatla. We did not receive this appropriation due to this legal technicality.

We never questioned receiving for the Municipal Capital Matching Grant Program and the Unincorporated Capital Matching Grant Program since we weren't familiar with allocations to other communities and this had never been brought to our attention by the administration or the legislature previously.

We appreciate your active support for passage of this legislation which removes us from the Unincorporated Capital Matching Grant Program completely and specifically includes Metlakatla in the statute provisions for the Municipal Capital Matching Grant Program.

Sincerely,

METLAKATLA INDIAN COMMUNITY


Jack L. Booth, Sr., Mayor

cc: Metlakatla Indian Community Council Members
Rep. Ivan Ivan CO-chair, House C & RA
Rep. Alan Austerman, CO-Chair House C & RA Committee
C & RA Committee Members: Rep. Pete Kott, Al Vezey, Rep.
Bettye Davis, Rep. Kim Elton, Rep. Irene Nicholai, Rep. Mackie

MEMORANDUM

January 8, 1996

To: Alan Austerman, Co-Chair
Ivan Ivan, Co-Chair
Community and Regional Affairs Committee

From: Representative Jerry Mackie
Alaska State Legislature



Subject: Committee Schedule request - HB 361 - "An Act relating to municipal capital project matching grants for a municipality organized under federal law as an Indian reserve; and providing for an effective date."

By Representative Mackie

I would appreciate your consideration in scheduling HB 361 for a hearing in the Community and Regional Affairs Committee.

Funding Metlakatla as a municipality was a policy choice made in 1993 by the prior administration. The matching grant regulations were written explicitly to allow this;¹ Funding them additionally as an unincorporated community resulted from the fact that they met the matching grant program eligibility criteria for an unincorporated community.²

Legal Services Director, Tam Cook informed the municipality of Metlakatla that under current law, Metlakatla cannot legally receive matching grant funds as a municipality. Although the matching grant program regulatory definition of "municipality" includes Metlakatla, it is invalid because it conflicts with another statute that defines municipalities, but does not include Metlakatla.

The Department of Law and Legislative Legal Services have both determined that AS 01.01.060(4) supersedes the matching grant regulatory definition.

Your consideration in scheduling this legislation for a hearing would be greatly appreciated.

¹2AAC 47.170(5) for DOA defines "municipality" as "any incorporated city or borough, or any entity that is eligible to receive municipal assistance under AS 29.50.365...(Emphasis added). Metlakatla receives municipal assistance as a municipality under AS 29.60.365; it also receives forest receipts as a municipality.

²19 AAC 55.160(6) for DCRA defines "unincorporated community" as "any community that is eligible to receive state aid under AS 29.60.140. Metlakatla receives revenue sharing (state aid) as an unincorporated community under 29.60.365.

Sec. 29.60.310. Time of payment. The department shall make payments under AS 29.60.010 — 29.60.300 no later than July 31, based upon the enactment calculations made during the preceding fiscal year. (§ 6 ch 10 SLA 1987)

Article 4. Municipal Assistance.

Section	Section
350. Municipal assistance fund	370. Increased assistance
360. Base amount of assistance	375. Definition
365. Municipalities organized under federal law	

Sec. 29.60.350. Municipal assistance fund. (a) There is established in the department the municipal assistance fund. The legislature may appropriate to the municipal assistance fund during each fiscal year an amount equal to or greater than 30 percent of the income tax revenue received by the state under AS 43.20.011(e) for the previous fiscal year.

(b) The department shall distribute money from the municipal assistance fund to each municipality on an annual basis as provided in AS 29.60.360 and 29.60.370. A municipality may not receive payment until it submits to the department a resolution approved by the governing body of the municipality that requests the money. Distribution of money from the municipal assistance fund to all municipalities must be made on February 1 of the state fiscal year for which the appropriation to the fund is made. A municipality that incorporates after December 31 of a state fiscal year is not eligible for a distribution under this section until the following state fiscal year. (§ 16 ch 74 SLA 1985; am § 7 ch 10 SLA 1987)

Sec. 29.60.360. Base amount of assistance. (a) The base amount to be distributed from the municipal assistance fund to each municipality for the fiscal year shall be the amount received by the municipality during fiscal year 1978 under AS 43.70.080 as that section provided before the 1978 amendment. A city incorporated within a borough after June 30, 1977, shall receive as a base amount a share of the amount distributed to the borough in which it is located based on the ratio of population in the city to the total population in the borough. A city incorporated outside a borough after June 30, 1977, shall receive as a base amount the amount received by the city in the state most closely approximating it in population at the time of its incorporation. A borough incorporated after June 30, 1977, shall receive as a base amount the amount received by the borough in the state most clearly approximating it in population at the time of its incorporation. The base amount to be distributed to each municipality organized

NOTES TO DECISIONS

For case interpreting the former revenue sharing scheme for hospitals and health care facilities, see *Municipality of Anchorage v. Sisters of Providence in Wash., Inc.*, 628 P.2d 22 (Alaska 1981).

Sec. 29.60.130. State aid to volunteer fire departments not in organized municipality. (a) The department shall pay to a volunteer fire department registered with the state fire marshal and serving an area not in an organized municipality a sum for protection purposes equal to \$10 per capita for the population served by the fire department, as determined by the state fire marshal.

(b) A grant shall be made under (a) of this section to facilitate the organization of a volunteer fire department in an area not in an organized municipality, upon application of the proposed fire protection group to the state fire marshal and upon approval of applications according to standards of organization and service prescribed by regulations adopted by the state fire marshal. (§ 16 ch 74 SLA 1985)

Sec. 29.60.140. State aid to unincorporated communities.

(a) The department shall pay to each unincorporated community an entitlement each fiscal year to be used for a public purpose. The department with advice from the Department of Law shall determine whether there is in each unincorporated community an incorporated nonprofit entity or a Native village council that will agree to receive and spend the entitlement. If there is more than one qualified entity in an unincorporated community, the department shall pay the money under the entitlement to the entity that the department finds most qualified to receive and spend the money. The department may not pay money under an entitlement to a Native village council unless the council waives immunity from suit for claims arising out of activities of the council related to the entitlement. A waiver of immunity from suit under this subsection must be on a form provided by the Department of Law. If there is no qualified incorporated nonprofit entity or Native village council in an unincorporated community that is willing to receive money under an entitlement, the entitlement for that unincorporated community may not be paid. Neither this subsection nor any action taken under it enlarges or diminishes the governmental authority or jurisdiction of a Native village council. If at least \$41,472,000 is appropriated for all entitlements under AS 29.60.010 — 29.60.310 for a fiscal year, the entitlement for each unincorporated community under this subsection for that year equals \$40,000. Otherwise, the entitlement equals \$25,000.

(b) In this section "unincorporated community" means a place in the unorganized borough that is not incorporated as a city and in which 25 or more persons reside as a social unit. (§ 16 ch 74 SLA 1985; am § 2 ch 122 SLA 1990)