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SB 9

"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 Senator Mackie

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SENATOR JERRY MACKIE

ALASKA STATE LEGISLATURE

SPONSOR STATEMENT / SB 9

SB 9 - "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."

This legislation made it through the committee process of the House and Senate last session, made the Senate Calendar, but was not brought up for consideration during the final hours of the session.

I introduced this legislation at the request of the Metlakatla Indian Community when their Municipal Assistance Matching Grant Program appropriation was eliminated from the Fiscal Year 96 year 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.

SB 9 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. Metlakatla is the only entity in the state that now, or in the future, could qualify under the language included in SB 9, Page 1, Lines 6 - 8.

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..

SB 9 specifically removes Metlakatla from the Unincorporated Capital Matching Grant Program and specifically includes Metlakatla in the statute provisions for the the Municipal Capital Matching Grant Program.



SENATOR JERRY MACKIE

ALASKA STATE LEGISLATURE

SB 9 - "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 SB 9 becomes effective July 1, 1997.

COUNCIL ANNETTE ISLANDS RESERVE

METLAKATLA INDIAN COMMUNITY

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

ESTABLISHED 1997

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Representative Jerry Mackie
House of Representatives
State Capitol
Juneau, Alaska 99801-1182

Re: **Identical to SB9*
*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.
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

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MEMORANDUM

TO: Sal Atkinson
FROM: LeRoy Wilder *John*
RE: HB No. 381 / *Identical to SB 9*
DATE: January 20, 1996

I talked yesterday with Tam Cook regarding the above named bill. As you know, HB 381 will make Metlakatla eligible for capital project matching grants as an incorporated municipality. Ms. Cook and I agreed that the language now in the bill does what we need it to do and that it would not be wise to modify it. If it is necessary to change the language to please the legislature, we will do so later, but for now, we agreed we should try to hold what we've got.

The problem is this. Some legislators are fearful that this provision, which is exclusively for Metlakatla's benefit, will somehow open up eligibility for capital project matching grants to other Native groups. They are concerned that the reference to 43 U.S.C. 1618(a) may not be restrictive enough. You will recall that section 1618(a) is the language in the Alaska Native Claims Settlement Act that terminates all reservations in Alaska with the single, specific exception of the Annette Islands Reserve. I reviewed the language and concluded that the reference is very restrictive and will not result in the eligibility of other Native groups. Moreover, section 1618(a) has been relied upon in the past to distinguish Metlakatla from all other Native groups and it has been unchallenged. Thus, I see no reason why we should not continue to rely on this reference as the limitation of the bill.

You probably know that the bill cannot simply say Metlakatla because there are laws against "special" legislation. By referring to the statutory provision, we avoid saying Metlakatla specifically but make a reference that includes only Metlakatla. Sounds rather silly, I know, but that's how its done. I will keep you posted if I hear anything more on this issue.

Post-It® Fax Note	7671	Date	# of pages ▶
To	Tam Cook	From	Jeanie
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OFFICE OF THE ATTORNEY GENERAL

TONY KNOWLES, GOVERNOR

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March 4, 1996

The Honorable Cynthia Toohey
Alaska State Legislature
House of Representatives
State Capitol - Room 104
Juneau, Alaska 99811

Re: House Bill 361 / SB9

Dear Representative Toohey:

Your request to Attorney General Botelho for a written opinion regarding "Indian lands" and House Bill 361 has been forwarded to me for a response. In particular, you have asked whether HB 361, dealing with municipal capital project matching grants for "a municipality organized under federal law as an Indian reserve," will have any impact on the concerns the Legislature expressed regarding the "Indian lands" issues. In short, the answer is no.

Under HB 361, only a municipality¹ organized under federal law as an Indian reserve that existed before enactment of 43 U.S.C. 1618(a), which is part of the Alaska Native Claims Settlement Act (ANCSA), and continues in existence under that subsection, is a municipality for purposes of the capital project matching grant program. Metlakatla is the only entity in the state that now, or in the future, could qualify under this language of HB 361. The "Indian land" issues raised by the Legislature in recent weeks concern areas of the state which were never Indian reserves, or no longer are Indian reserves, organized under federal law before 43 U.S.C. 1618(a) (copy enclosed), because ANCSA abolished all reserves other than Metlakatla.

According to officials at the Department of Community and Regional Affairs, the current capital project matching grant program statutes, AS 37.06.010 (municipalities) and AS 37.06.020 (unincorporated communities), do not adequately account for Metlakatla's federal Indian reserve status and it is unclear under which program Metlakatla falls. HB 361 would adopt

¹ We are unaware that federal law provides for organization of municipalities as reserves or reserves as municipalities. Therefore, it is possible that no entity qualifies under this bill. To avoid confusion, "municipality" here should probably be changed to "community" or a similar term.

Representative Toohey
HB 361

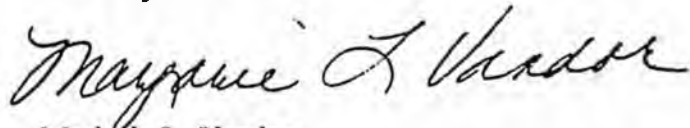
March 4, 1996
Page two

a new section, AS 37.06.040, effectively designating Metlakatla as a municipality for the limited purpose of qualifying under the municipal capital project matching grant program.

We hope this adequately addresses your concerns. Please do not hesitate to call us if you have further questions.

Sincerely,

Bruce M. Botelho
Attorney General



By: Marjorie L. Vandor
Assistant Attorney General

MLV:jn

cc: Representative Jerry Mackie ✓

Kim Metcalf - Helmar
Legislative Liaison - DCRA

Barbara Ritchie
Deputy Attorney General

Chrystal Smith
Legal Administrator

Becky Snow - Assistant Attorney General
Fairbanks