

HB

135

<TARGET><BILL>HB 135</BILL><SUBJECT>HB
135</SUBJECT><COMM>SEDC30</COMM></TARGET>

Representative Dean Westlake

Alaska State Legislature | District 40

Contact:
State Capitol Rm 24
Phone: (907) 465-3473
Rep. Dean.Westlake@akleg.gov



Special Committee on Arctic, Economic Development,
and Tourism, Chair
Resources Committee, Vice Chair
Community and Regional Affairs Committee
Special Committee on Energy

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TO: Senate Hughes, Chairwoman

FROM: Representative Westlake *DW*

DATE: April 3, 2017

RE: Scheduling Memo for HB 135

Dear Chairwoman:

I am requesting a floor hearing of HB 135 in the Senate Education Committee, pending referral. Attached is a bill packet that contains the following:

- 1) HB 135 Sponsor Statement
- 2) HB 135 Legislation – most recent version forthcoming
- 3) HB 135 Legislation – Ver. A
- 4) HB 135 Fiscal Note - HB135-EED-SFF-3-03-17
- 5) HB 135 Summary of changes – Ver. A to Ver. D
- 6) HB 135 Supporting Document – Support Letter NWAB
- 7) HB 135 Supporting Document – Support Letter NWABSD
- 8) HB 135 Additional Document – DEED Participating Share Issue Examples
- 9) HB 135 Additional Document – Memo for H-EDU questions
- 10) HB 135 – Proposed Amendment A.1
- 11) HB 135 – Proposed Amendment A.2

Staff contact in my office for this bill will be Elizabeth Rexford, who can be reached at (907) 465-3473 or Elizabeth.Rexford@akleg.gov.

Alaska State Legislature



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Representative Dean Westlake Sponsor Statement

House Bill 135 "School Construction Grant Program"

This bill will extend the time period allowed for school districts to raise their percentage share (matching funds) of project costs for grants as outlined under AS 14.11.008 "School district participation in grant program" for appropriations made under AS 37.05.560 the "Educational facilities maintenance and construction fund" from 3 years to 5 years. HB 135 will also allow the Commissioner of the Department of Education to grant a time extension of no more than 3 additional years if good cause is demonstrated.

Since the original legislation was adopted with a 3 year limit in 1993, various entities could have benefited from having this extra time to raise the required percentage share of project costs. Recent examples of districts this legislation would have benefitted include the Yukon Flats School District, Northwest Arctic Borough School District, YUPIIT School District and the Kenai Peninsula Borough School District.

According to the Department of Education & Early Development the 3-year time lapse is appropriate for most of the approved projects but, as mentioned above, some of our schools could benefit from an extended time period. This gives flexibility to deal with real world hurdles outside of a school district's control. For these reasons, I've introduced this bill.

Staff contact in my office for this bill will be Elizabeth Rexford, who can be reached at (907) 465-3473 or Elizabeth.Rexford@akleg.gov.

Representative Dean Westlake

Alaska State Legislature | District 40

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HB 135

Summary Of Changes Ver. A to Ver. D.A

Page 1, line 8:
Delete "three"
Insert "five"

Page 1, line 13:
Following "share" insert "for an additional period of not more than three years"

Page 2, line 4:
Delete "on"
Insert "before, on,"

Staff contact in my office for this bill will be Elizabeth Rexford, who can be reached at (907) 465-3473 or Elizabeth.Rexford@akleg.gov.

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: HB 135
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB135-EED-SFF-3-03-17
Title: SCHOOL CONSTRUCTION GRANT PROGRAM
Sponsor: WESTLAKE
Requester: (H) Education

Department: Department of Education and Early Development
Appropriation: Education Support Services
Allocation: School Finance & Facilities
OMB Component Number: 2737

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2018	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2018 Request	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES	FY 2018	FY 2018					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By: Heidi Teshner, Director
Division: School Finance & Facilities / Education Support Services
Approved By: Dr. Michael Johnson, Commissioner
Agency: Department of Education and Early Development

Phone: (907)465-2875
Date: 03/02/2017 10:00 AM
Date: 03/02/17

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

BILL NO. HB 135

Analysis

AS 14.11.008 establishes the time period for districts to satisfy their participating share be within 36 months of passage of the funding bill. This requirement has, on several occasions, become a challenge (e.g., GR 03-003 Tuluksak (waiver request), GR12-007 Arctic Village Remediation (project delay), GR 16-016 Kivalina (partial funding)).

This bill introduces new language which identifies two exceptions in regards to the participating share: one existing regarding the amount (subsection d), and an extension in time to meet this requirement (new subsection g). The bill requires a district to apply in writing to request an extension and to demonstrate good cause for the requested extension.

The stated time period for meeting the current requirement of within 36 months seems to establish the legislative intent that the participating share need not be provided at grant initiation, but can occur over the course of a project. In instances where projects experience a legitimate delay in participation that did not jeopardize the project, this legislation would give the commissioner the authority to extend the date when necessary.


Alaska State Legislature

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Special Committee on Arctic, Economic Development
and Tourism, Chair
Resources Committee, Vice Chair
Community and Regional Affairs Committee
Special Committee on Energy

Representative Dean Westlake

TO: Representative Harriet Drummond, House Education Committee Chair
FROM: Representative Dean Westlake 
DATE: March 14, 2017
SUBJECT: Answers to committee questions from hearing on March 10, 2017

Chairwoman Drummond,

Below are the answers to two questions that were unanswered during the March 10th hearing.

Question 1: "Do you know what the current outstanding balance is for that 5%?"

A: Tim Mearig, manager of the school Facilities group in the DEED, used 5% in previous communication as a term of art to illustrate "a very small percentage" of projects that this amendment could potentially apply to. After further discussion, it is clear less than 5% of grant recipients have experienced difficulties meeting their participating share timeline.

As for the current outstanding balance for the active projects that would be encapsulated in this category, there are two school projects: Kachemak Selo in the Kenai Peninsula Borough (appropriated in 2016 for \$10,867,503) and Kivalina in the Northwest Arctic Borough (appropriated in 2015 for \$43,237,400), which totals \$54,104,903.

Question 2: "Is school construction able to begin without the local share being in hand, or does the department require that the district have the local share fully within their control before construction can begin on a school?"

A: Yes, work on projects can occur without a grant recipient having met their participating share requirement. Typically this work is planning, site investigation, and design but it could, under some circumstances, include construction.

For further questions, please contact myself or my staff Elizabeth Rexford at 465-3473.



Northwest Arctic Borough

163 Lagoon Street
P O Box 1110 Kotzebue, Alaska 99752
(907) 442-2500 Fax (907) 442-2930
www.nwabor.org

To Whom It May Concern,

The Northwest Arctic Borough endorses House Bill 135 titled, "An Act relating to school district participation in the school construction grant program." As presented in the bill, "The commissioner may extend the time allowed for a district to provide the required participating share if the district applies to the commissioner in writing to request an extension and demonstrates good cause for the requested extension."

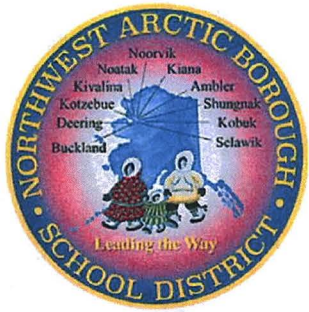
The Kivalina Replacement School project is an example of why this exception is needed. In April 2015, the legislature appropriated partial grant funding for the Kivalina Replacement School; thus starting the clock to secure our local share. A grant agreement has not been executed for reasons beyond the control of the Borough and District. First, for FY 2016 a moratorium was placed on approval of the grant pending legislative consideration of the balance of funding. Secondly, the project cannot begin until an access road is constructed as a separate project. The road development is proceeding in conjunction with DOT/PF, but it is not scheduled to be complete before the three-year deadline for the match expires. Without an approved grant agreement, it is difficult to apply for other grant funds that could be used as part of the local share.

House Bill 135 will delegate to the Department discretion in extraordinary circumstances to allow projects such as Kivalina Replacement School to move forward without the potential of having to forfeit appropriated funding, and to continuing managing risk to the State and local entities and support the improvement of educational conditions for the children of Alaska.

In closing, we would like to thank Representatives Westlake, Kito and Gara for sponsoring this important bill.

Sincerely,

Clement Richards, Sr.
Mayor



NORTHWEST ARCTIC BOROUGH SCHOOL DISTRICT

Ambler · Buckland · Deering · Kiana · Kivalina · Kobuk · Kotzebue · Noatak · Noorvik · Selawik · Shungnak
PO Box 51 · Kotzebue, Alaska 99752 · Phone (907) 442-1800

February 24, 2017

Representative Harriet Drummond
House Education Committee
House of Representatives
Juneau, Alaska 99801-1182

Dear Madam Chair,

The Northwest Arctic Borough School District wholeheartedly endorses House Bill 135, a bill addressing the participation in the school construction grant program allowing the Commissioner of Education to grant an extension of the time limitation for the identification of the required local participating share of grant funding.

Currently, the statutes require that the local match be identified within three years of the approval of the legislative appropriation of grant funding. There is no provision for the consideration of exceptional circumstances that warrant additional time to secure the match. This bill recognizes that such situations may occur from time to time and allows Boroughs and Districts to justify and petition the Commissioner for an extension. Without such an extension, there is a potential that a critically needed school project might be forced to forfeit the State appropriation when all that is needed is more time to secure additional local funding sources.

The existing State regulations for administration of the school construction grant program protect the State's interests and assure the local match is provided. The Department releases grant funding to recipients only after specific milestone conditions are met. The payments are a percentage of only the State share of the project amount and in addition, 5% of the state share is withheld until the source of the local match is identified. There is not a danger of the State over reimbursing a project.

Not only is the State facing restricted funding, so are local governments. Incorporating some flexibility into the provision for local match will allow local governments more time to fund their share of the cost of a greatly needed school facility upgrade.

MISSION: To provide a learning environment that inspires and challenges students and employees to excel
VISION: To graduate all students with the knowledge, skills, and attitudes necessary for a successful future

Admittedly, the Northwest Arctic has a project that would benefit from this bill and the Kivalina Replacement School project is a perfect example of why a provision for exceptions is needed. In April 2015, the legislature appropriated partial grant funding for the Kivalina Replacement School. At that time the clock started ticking to secure the local share. However, the grant agreement has not yet been executed for several reasons beyond the control of the Borough and District. For FY 2016 a moratorium was placed on approval of the grant pending legislative consideration of the balance of funding.

Another complication is construction of the project cannot begin until an access road is constructed as a separate project. The road development is proceeding in conjunction with DOT/PF, but it is not scheduled to be complete before the three-year deadline for the match expires. Without an approved grant agreement, it is difficult to apply for other grant funds that could be used as part of the local share.

House Bill 135 will delegate to the Department discretion in extraordinary circumstances to allow projects such as Kivalina Replacement School to move forward without the potential of having to forfeit appropriated funding, and to continuing managing risk to the State and local entities and support the improvement of educational conditions for the children of Alaska.

Respectfully yours.



Dr. Annmarie O'Brien
Superintendent

cc: Senator Olson
Representative Westlake