

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 86 / 2

395 S COMM 10 : LOCAL GOVERNMENT STUDY 1979

17.0(E) SELECTION OF DESIGN PROFESSIONAL BY DOT/PF WITH SCHOOL DISTRICT PARTICIPATION<sup>1</sup>

17.1(B) Utilizing School District's Scope of Work, description; DOT/PF, Division of General Design and Construction advertises for consultant

17.2(B) Project Manager appoints selection Selection Committee

17.3(B) Project Manager arranges meeting with selection committee

17.4(B) Selection Committee evaluates consultant firm(s) proposals

17.5(B) Project Manager tabulates scores and informs director of highest 3 firms in order of priority.

17.6(B) Project Manager request for authority to negotiate contract

17.7(B) Negotiate contract with consultant

17.8(B) Finalize Contract

Project Manager advertises for bids in Juneau, Anchorage, Fairbanks and other appropriate locations. The advertisement must make known the criteria for selection of consultant(s).

Selection Committee is chosen. It must be composed of a minimum of three persons and must include one member from the school district, the project manager and a representative from facility procurement policy division.

Project Manager arranges meeting and instructs selection committee members on evaluation procedures

Each member of the selection committee evaluates the consultant proposals, independently on the forms provided.

The project manager tabulates scores and transmits selection committee's evaluations to the division director who requests authority to negotiate from his Deputy Commissioner.

Upon receipt of the Commissioner's approval on the Authority to Enter Contract Negotiations form, Project Manager negotiates contract with Consultant Firm(s) and both parties sign contract.

The original and two copies of the executed consultant contract and the date necessary to support the consultant's fee shall be transmitted to the Commissioner.

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<sup>1</sup>See DOT/PF "Consultant Selection - Design and Construction Project." (P&P # )

18.0(A) MATERIALS TO BE SUBMITTED TO THE ARCHITECT BY THE FACILITY COORDINATOR

Assemble all materials prepared by the School District including: Scope of Work, Educational Specifications Educational Program, special requirements of the district and any other materials the school district has developed regarding the project.

18.1(A) District Facility Coordinator assembles all materials received by the District from appropriate agencies<sup>1</sup>

Assemble all materials from the Council on the Arts and State agencies including: codes, regulations, design standards and, if the School District has elected to utilize DOT/PF School Prototype Study, a copy of the study.

18.2(A) District Facility Coordinator assemble all materials provided by the State agencies and Alaska State Council on the Arts regarding art work requirements and names of person(s) who will be selecting Artist(s) and Art Work<sup>2</sup>

Transmit all of the above to A/E with a clear statement of work scope, schedule, and budget so that he will prepare work plan required in Section 4 of his contract, and Step 19 in this manual.

18.3(A) If school district has elected to utilize DOT/PF School Prototype Study, district Facility Coordinator obtains copy from DOT/PF and transmits to A/E with appropriate information filled out in "checklist" by district.<sup>3</sup>

18.4(A) District Facility Coordinator transmits all material to A/E with appropriate instructions for use of all materials.

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<sup>1</sup>See Contract document Appendix B

<sup>2</sup>See Alaska State Council on the Arts, Art Work in Public Facilities Regulations.

<sup>3</sup>See Rural School Prototype Study, Vol.I & II

18.0(B) MATERIAL TO BE SUBMITTED TO THE ARCHITECT BY THE PROJECT MANAGER

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Assemble all materials prepared by the School District including: Scope of Work, Educational Specifications, Educational Program, Special requirements of the district and any other materials the school district has developed regarding the project.

18.1(B) DOT/PF Project Manager assembles all program materials received from school district

Assemble all materials from State agencies including codes, regulations, design standards and, if the School District has elected to utilize DOT/PF School Prototype Study, a copy of the study.

18.2(B) DOT/PF Project Manager assembles all materials from appropriate State regulatory agencies and all DOT/PF design standards.

Assemble all materials from the Alaska State Council on the Arts regarding "Art in Public Places" requirements and the names of those person(s) who will be selecting the artist and Artwork.

18.3(B) DOT/PF Project Manager assembles all materials regarding "Art in Public Places" Requirements.

18.4(B) If School District has elected to utilize Rural School Prototype, DOT/PF Project Manager assembles all district prepared items of "Checklist", a copy of Vol. I & II.

Transmit all of the above to A/E with a clear statement of work scope, schedule, and budget so that he will prepare work plan required in Section 4 of his contract, and Step 19 in this manual.

18.5(B) DOT/PF Project Manager transmits all assembled materials to A/E with appropriate instructions for use of all materials.

19.0(A) DESIGN PHASES UNDER GRANT PROCUREMENT

19.1(A) Consultant firm prepares schedule and work plan documents for district approval

19.2(A) Consultant prepares schematic design documents

19.3(A) District requests LCCA from DOT/PF on design option prepared by consultant.

19.4(A) District selects design option and instructs consultant.

19.5(A) Consultant prepares design development documents.

19.6(A) District facility coordinator reviews for compliance with required standards, codes and regulations.

19.7(A) Consultant submits copies of documents to all regulatory agencies for review and approval.

19.8(A) District facility coordinator reviews regulatory agency reports and requires consultant to modify design, if necessary.

19.9(A) District prepares certification that documents meet all regulatory agency requirements and sends to Grant Administrator and also authorizes

19.10(A) Consultant prepares construction contract documents.

19.11(A) District repeats Steps 19.6-19.9.

The design professional (Consultant) submits schedule and work plan documents to grantee facility coordinator for review and authorization to proceed with next phase of design work.

Utilizing the prototype analysis material, if so directed, the design professional produces schematic design(s) utilizing school district's program statement and preliminary educational specification material.

Both the costs of constructing and the costs of operating and maintaining a facility over its lifetime (i.e., life cycle cost) are to be criteria in the evaluation process. DOT/PF maintains an office which will produce Life Cycle Cost estimates for the various design options proposed. The School District or Department of Education must request these estimates from DOT/PF prior to making a final selection of a design option.

There are many possible criteria that can be used to select the desired design option from those produced by the design professional. Some of these criteria might be:

1. How well do the options meet the space and functional requirements of the educational programs involved?
2. Does the design conform to what criteria the community has requested?
3. How cost effective, in terms of manpower, will the school be to operate and maintain.
4. What are the differences in costs of constructing, operating, and maintaining each option.

Grantee Facility Coordinator reviews for compliance with all DOT/PF standards, generic space standards, assignable/non-assignable space ratios, and prepares a report to submit to Grant Administration and Department of Education.

Grantee's design professional submits copies of drawings to all regulatory agencies: DOT/PF, D.O.E., D.E.C., DHSS, and DPS (Fire Marshall) for review and approval. (DOT/PF reviews for compliance in the areas of barrier-free design regulations, energy conservation requirements and art work regulations.

Design professional obtains all letters of approval/disapproval received from regulatory agencies and sends copies to the grantee's facility coordinator. .

When all regulatory agencies issue approval, grantee facility coordinator drafts letter for authorized signatory to sign which authorizes the design professional to proceed with next phase of document preparation.

Grantee submits a letter of certification to DOT/PF stating that the documents meet all regulatory agency requirements and all DOT/PF contractual requirements.

19.0(B) DESIGN PHASES UNDER DOT/PF PROCUREMENT

19.1(B) Consultant firm prepares schedule and work plan documents for district review and DOT/PF approval.

19.2(B) Consultant prepares schematic design documents

19.3(B) DOT/PF prepares LCCA on each design option prepared by consultant

19.4(B) With District, DOT/PF selects design option and instructs consultant to proceed with next phase.

19.5(B) Consultant prepares design development documents.

19.6(B) DOT/PF project manager reviews design documents for compliance with required standards, codes and regulations

19.7(B) Consultant submits copies of documents to all regulatory agencies for review and approval.

19.8(B) DOT/PF project manager reviews regulatory agency reports and requires consultant to modify, design, if necessary.

19.9(B) Consultant prepares construction contract documents.

19.10(B) District repeats Steps 19.6-19.9.

The design professional (consultant) submits schedule and work-plan-documents to DOT/PF. After department prepares LCCA on each option design, the department and the school district review the documents. The Department receives concurrence from the school district and issues approval of a design development option and authorizes preceeding with the next design phase.

General Design and Construction review documents for compliance with DOT/PF design standards, generic space standards, assignable/non-assignable space ratios, and school districts program scope.

Design professional submits copies of documents to all regulatory agencies: DOT/PF, DOE, DEC, DH&SS, DPS (Fire Marshall) for review and approval (DOT/PF reviews for compliance in the areas of barrier-free design regulations, energy conservation requirements, and art work regulations)

The design professional obtains all letters of approval/ disapproval received from regulatory agencies and sends copies to DOT/PF project manager

When all regulatory agency reports are received and approved, DOT/PF reviews and directs the design professional to proceed with next phase of document preparation.

- 20.0 FINAL PROGRAM STATEMENT<sup>1</sup>
- 20.1 Prepare final program statement
- 20.2 Review and approval by School Board and local community steering committee.
- 20.3 Review and approval by Department of Education.
- 20.4 D.O.E. approval of final construction documents<sup>2</sup>

The final program statement must be reviewed and approved by the school district board, with local community steering committee participation, and then by the Department of Education.

This document will be used by the architect to prepare final interior layout in projects.

Before construction contract bids are invited for the project, the final working documents must be submitted to the Commissioner of the Department of Education at least 15 working days before the bid invitation is made. Included with the documents should be a letter signed by the superintendent requesting the Department's review and approval of submitted documents.

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<sup>1</sup>See Section E, Guide to Planning Educational Facilities (CEFP); Sections IV and V, A Guide to the Development of Program Statements and Educational Specifications, Small High School Planning Study: Program and Space Guidelines (D.O.E.)

<sup>2</sup>See Procedures For Review and Approval School Building Plans, D.O.E. June, 1978.

21.0(A) CONSTRUCTION CONTRACT BID

21.1(A) Advertise for bids

21.2(A) Receive bids, publicly read, evaluate and tabulate bids

The School District's facility coordinator (or design professional if part of contract) advertises for construction contract as per the requirements of AS 35.15.030 and DOT/PF procedures and sets a fixed time for receipt of bids.

School district receives bids and reads them publicly at the designated time and place.

Evaluate bids for:

- 1. relative cost/benefit (when applicable to bid technique)
- 2. compliance with bid request
- 3. compliance with project budget.

Facility Coordinator then tabulates bids.

21.0(B) CONSTRUCTION CONTRACT BID

21.1(B) Advertises for bids

21.2(B) Receive bids, publicly reads evaluates and tabulates bids

DOT/PF advertises for construction contract as per AS 35.15.030 and DOT/PF procedures, and sets a fixed time for receipt of bids.

DOT/PF receives bids and reads them publicly at the designated time and place

Evaluate bids for:

1. relative cost/benefit (when applicable to bid technique)
2. compliance with the bid request
3. compliance with project budget

DOT/PF tabulates bids.

22.0(A) BID EVALUATION AND RECOMMENDATIONS

- 22.1(A) The Grantee Facility Coordinator reviews the bids received, and evaluates responsiveness of the bidder(s).
- 22.2(A) At the request of the School District, DOT/PF prepares final LCC analysis for use in bid evaluation, if appropriate to bid technique chosen.
- 22.3(A) Grantee Facility Coordinator prepares budget adjustment form, if necessary, for submission to authorized signatory with a recommendation for bid award.

The Facility Coordinator makes evaluation of low bidder. When the basis for bid has been the submittal of proposed design by the contractor, the School District should obtain a final LCC analysis on the design to check if the design conforms to the performance and cost objectives of the project and to aid in evaluating the various construction bids it receives. This cost estimate can be prepared by DOT/PF, at the request of the School District. The cost estimates will detail, more accurately, the life cycle cost (LCC) including energy use efficiency, of the proposed facility than was available during the evaluation of the design options.

If adequate funds are available for construction contract award, Grantee Facility Coordinator prepares a letter for authorized signatory to send to DOT/PF Grant Administrator, certifying that adequate funds are available within the budget to award the construction contract and requesting Commissioner concurrence (enclose copy of budget or budget adjustment form) and bid tabulation for record purposes.

DOT/PF Grant Administrator prepares a letter of concurrence/non-concurrence and transmits letter to Commissioner's office with a copy of Grantee's request. It is signed and forwarded to the Grantee.

22.0(B) BID EVALUATION AND RECOMMENDATION  
DOT/PF PROCUREMENT

22.1(B) The Project Manager(s) review the bid received, evaluates proposals, if any, and evaluates responsiveness of bidder(s)

22.2(B) Preparation of final L.C.C.A.

22.3(B) Project Manager(s) prepares: budget adjustment form, if necessary, and a letter for the director's signature; to send to the Deputy Commissioner, Design and Construction.

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For 22.2(B) explanation on LCC Analysis see 22.2(A)

DOT/PF Project Manager prepares letter for director's signature to send to Deputy Commissioner, Design and Construction. Enclose budget or budget adjustment form to show availability of funds and requests issuance of contract award notification.

23.0(A) CONTRACT PROCEDURES AND AWARD

23.1(A) Facility Coordinator transmits notice of award to contractor.

23.2(A) Facility Coordinator prepares contract

23.3(A) Contractor reviews and signs contract

23.4(A) School District facility coordinator sends copy of Contractors Estimated Pay Schedule to DOT/PF.

23.5(A) DOT/PF Grant Administrator drafts contract Appendix "H", (Grant Facility Procurement Contract)

23.6(A) Facility Coordinator reviews contract contract, bid and performance bonds, and fire and liability insurance policies for compliance.

School District facilities coordinator transmits notice of award to contractor and prepares construction contract utilizing DOT/PF form and procedures, and transmits three (3) copies to contractor for signature

Contractor reviews, signs, and transmits the contract to the facility coordinator along with required bid and performance bonds, proof of fire and liability insurance, and estimated pay schedule.

Facility coordinator sends copy of Contractor's estimated pay schedule to DOT/PF Grant Administrator requesting adjustment of schedule for advance payment (Appendix "H", Grant Facility Procurement Contract), if necessary.

If all Contract requirements are met, Facility Coordinator forwards contract to authorized signatory for signature

After contract is signed, Facility Coordinator returns fully executed copy to contractor with notice to proceed and sends record copy of contract to DOT/PF Grant Administrator.

23.0(B) CONTRACT PROCEDURES AND AWARD

23.1(B) DOT/PF Commissioner's Office sends notice of award to contractor

23.2(B) Division of General Design & Construction prepares construction contract and sends three (3) copies to contractor for signature.

23.3(B) Contractor reviews and signs contract

23.4(B) DOT/PF reviews contract, bid and performance bonds, and fire and liability insurance policies for compliance with contract requirements.

23.5(B) General Design and Construction sends contract to Commissioner for signature.

Upon receipt of the notice of award and the contract, the contractor reviews contract, and signs it. Transmits contract to DOT/PF, Commissioner's office along with all required bid and performance bonds, fire and liability insurance policies and estimated pay schedule.

DOT/PF reviews performance and bid bonds, fire and liability insurance policies, and contract for compliance with requirements.

If requirements are met, contract is signed and the fully executed contract and notice to proceed signed by DOT/PF Commissioner are sent to the contractor.

24.0(A) CONSTRUCTION INSPECTION

School District Facility Coordinator and/or design professional (as contracted) performs construction inspections for compliance with contract documents.

Work to be accomplished includes, but is not limited to:

Field orders  
May recommend change orders  
Preparation of field reports

24.0(B) CONSTRUCTION INSPECTION

Perform same duties as above but DOT/PF performs work.

25.0(A) PROJECT ADMINISTRATION

25.1(A) Facility Coordinator performs project administration

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Facility Coordinator performs project administration including the preparation of monthly status reports and sending them to DOT/PF Grant Administrator for review, preparation of certifications of compliance for grantee's authorized signatory and, if necessary, may recommend change order which may not exceed 90% of the construction contingency.

Facility Coordinator reports status of art work selection to the grant administrator.

25.0(B) PROJECT ADMINISTRATION

25.1(B) Construction Manager performs project administration

DOT/PF Construction Manager performs project administration including the preparation of monthly status reports and sending them to the school district, if necessary, may recommend change orders not to exceed 90% of construction contingency.

Ascertain that the superintendent or designee(s) has chosen artist and artwork required in AS 35.27.010-030, and send copy of status report on art work to Alaska State Council on the Arts.

26.0(A) CONCURRENT WITH STEP 25.0(A), DOT/PF  
GRANT ADMINISTRATOR REVIEWS MONTHLY  
STATEMENTS, REVIEWS CERTIFICATIONS OF  
COMPLIANCE AND, IF DISCREPANCIES OCCUR  
WHICH CANNOT BE RESOLVED, MAY REQUEST  
A TECHNICAL OR FINANCIAL AUDIT OF THE  
PROJECT.

26.1(A) Send record copy of status report on  
artist and artwork selection to  
Alaska State Council on the Arts

26.0(B) Concurrent with Step 25.0(B) school  
district superintendent reviews monthly  
project status reports

27.0(A) FINAL INSPECTION

School District facility coordinator makes request for DOT/PF, D.O.E., and all appropriate regulatory agencies participation.

School District, DOT/PF, D.O.E. and appropriate regulatory agencies perform final inspection.

27.0(B) FINAL INSPECTION

Perform same duties as above, but DOT/PF makes the request to all agencies and school district.

28.0(A) PAYMENT OF CONSTRUCTION COMPLETION RESERVE

28.1(A) School Facility Coordinator submits to Grant Administrator, request for payment of construction completion reserve.

28.2(A) IXI/PF performs final project audit before payment of construction completion reserve.

28.0(B) PAYMENT OF CONSTRUCTION COMPLETION RESERVE

28.1(B) DOT/PF Construction Manager submits request  
for project closeout to Financial Review  
Officer

28.2(B) DOT/PF performs project closeout activity

29.0(A) OWNERSHIP OF FACILITY

If School District has not chosen to own the facility, upon final acceptance of the project, the School District, must obtain a facility use permit from the Department of Education.

The School District must maintain the facility in conformance with DOT/PF criteria<sup>1</sup>.

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<sup>1</sup>See DOT/PF Procedures Manual, Section XIII for facility maintenance criteria.

30.0(A) WARRANTY INSPECTION PERIOD

30.1(A) School District performs warranty inspections during the one-year period following project acceptance.

The School District obtains contractor repair or replacement as required by these inspection reports.

School District may budget for Design Professional assistance for this task.

30.0(B) WARRANTY/INSPECTION PERIOD

30.1(B) DOT/PF (with school board staff participation, if desired by school district) performs warranty inspections during the one-year period following project acceptance.

DOT/PF obtains contractor repair or replacement as required by these inspections.

DOT/PF may budget for design professional for this task

### 31.0 POST OCCUPANCY EVALUATION

It is important for all parties involved to have the benefit of some "hindsight" evaluation of the process they have just been through. The purpose of the post-occupancy evaluation is for all parties to discuss the problems and solutions that worked for or against efforts to produce useful cost efficient buildings. The School District, D.C.E., and DOT/PF will utilize this information to improve it's planning and facility procurement process for future projects.

School District, DOT/PF, D.O.E., the architect and his consultants participate in a post-occupancy evaluation, and prepare a report for use by DOT/PF and the School District.

DOT/PF performs an energy audit using guidelines being developed by the energy agency.

In conjunction with the School District and the architect, DOT/PF prepares a final life cycle costing report for inclusion in the State's data base system.

To Gene  
Fr his  
Rural sub  
file

# Rural School Construction

Southwest Alaska Empire, Juneau, Alaska, Friday, March 30, 1979 —PAGE ELEVEN

## Costs Are High

**EDITOR'S NOTE**—Given a little remedial work, educators say Alaska's rural high school program can bring its grades up to snuff. But a recent university study said so far, the program has flunked. This is the last in a three-part series that takes a look at fledgling high schools in the bush.

By MARY LENZ  
Associated Press Writer  
MCGRATH (AP) — In Takotna, Iditarod School District officials said, a one-room school

cost \$160,000. In Talaida, a one-room school cost more than \$500,000 and had to be closed when four students moved and enrollment dipped below minimum requirements.

A recent report issued by the University of Alaska-Fairbanks, Center for Cross Cultural Studies criticized the transplant of educational concepts and curriculum designed for urban areas with little thought to bush conditions or the native way of life.

Building concepts suitable for urban areas have also been transplanted and are, perhaps, the most glaring example of the faults cited in the report.

Asked why building costs were so high, one educator replied: "Because everybody is Alaska is turning a fast buck. The school in Takotna was developing major cracks two months after it was built. A good log cabin is much more suited to the environment."

Terry Chase, assistant super-

intendent of the Iditarod district headquartered at McGrath, says sometimes he thinks of school buildings as "mechanical monsters." But he denied that contractors were getting to the state.

"It's still pretty competitive. The lowest bidder gets the job," Chase said, "You have to realize the cost of building in rural Alaska is very high. In Talaida, all the building material had to be flown in by helicopter."

The report said new bush schools have often "inhibited rather than enhanced" the adaptability of study programs to bush conditions.

School officials interviewed said state codes geared for urban areas seem to be applied with little thought to bush conditions.

Chris Roust, Department of Education facilities coordinator in Juneau, said agencies object to making exceptions for rural areas because, among other things, that makes it more difficult to train agency employees.

Asked if that meant codes were written for the convenience of the agencies, he said: "I would believe so, yes."

Roust said the Department of Public Safety is proposing a new rule requiring sprinkler systems to be installed in schools. "In

some of these locations it's almost impossible to get drinking water, much less sufficient water to run a sprinkler system," Roust said.

Roust said there were no water or sewer facilities in Takotna and they had to be built.

"Water is required because you must have drinking fountains in the school," he said. "In many rural locations they have had to provide electrical power, generators and oil tanks."

"The proliferation of regulations is a problem," he said. "We're constantly making comments to regulatory agencies trying to get exceptions for rural

areas."

Educators have pointed out that it is somewhat difficult to hire, maintenance personnel for complex equipment from villages where electricity did not exist before the school was built. The teacher, who may know little about mechanics, has to fix everything from toilets to generators.

Roust said much of the problem lies in the fact that the state did not tell building designers what it wanted and "they assumed a scaled down version of a large city school was desired."

He said more recent designs have been "quite simple" and the

state is trying to insure that "a lot of the guidance comes from the local district rather than somebody in Anchorage or Juneau."

"I'm not saying the prices will be coming down but we believe since there isn't a lot of other construction going on in the state we should get some pretty good prices." He said construction prices were quite high while the pipeline was being built.



# Educators Say Schools In Bush Need Upgrading

**EDITOR'S NOTE:** Given a little remedial work, educators say Alaska's rural high school program can bring its grades up to snuff. But a recent university study said so far, the program has flunked. This is the first of a three-part series that takes a look at fledgling high schools in the bush.

By MARY LENZ

Associated Press Writer

**ANCHORAGE (AP)** — Alaskan educators agree that the rural high school program is seriously flawed, but it seems to be the only alternative.

A report written by the Center for Cross Cultural Studies at the University of Alaska Fairbanks, said drastic changes must be made or "many small high schools are doomed to failure, along with a whole generation of young people."

The report cited high teacher turnover, low student achievement test scores and inadequate curriculum and called for major revisions to be made as quickly as possible.

Terry Chase, assistant superintendent and vocational education director of the Iditarod school district, is among educators who agree with criticisms voiced in the report but who say rural high schools have a lot to offer.

"We still have along way to go, but we are way ahead of anything we had in the past," he said. "The dropout percentage is by far lower than it was when students were required to live away from home."

In 1976, a consent decree was signed by the state to settle the Molly Hootch case, brought on behalf of 2,600 rural students.

Before that, the only way Alaska's rural teenagers could get to high school was by airplane.

Most of them were natives. Some went to boarding schools in Alaska's major towns, some were sent out of state and many were unable to cope with homesickness or living in an entirely different culture.

One educator said sending native children to faraway schools "wrecked a lot of lives."

Steve Hole of the Department of Education, said since the decree was signed, 30 new high schools housing 1,000 students have been built in rural communities. He said new high schools or additions to old facilities are under construction in 67 communities.

Hole said since many facilities are still under construction, the Education Department has no idea how much money will be spent on building rural schools. The last legislature appropriated \$65 million for the program, Hole said.

Both Chase and Marshall L. Lind, state commissioner of education, said they have no figures to prove it, but they believe costs of food, lodging and 24-hour care for students at boarding schools outweigh costs of building village schools.

"The program must be put in the perspective of the alternatives. We know what those are and they have not been proven to be successful," Lind said. "Give the schools a fair shake, some of them have only been operating for two years. You are not going to have an Anchorage West High School in every community in the state."

The report, a preliminary docu-

ment to be expanded later, said small schools should not try to copy programs of large, urban high schools.

Bob Juettner, city administrator of McGrath, was among researchers who worked on the report.

"Where the crunch comes is that the small high schools try to teach with two or three teachers what big schools teach with 30 or 40," he said.

He agreed that small schools can provide needed personal attention, "but how much can one teacher teach? After awhile, the kids get tired of seeing the same face and good teachers burn out, so you find lots of them gone after two years."

The good point of rural schools, he said is that "kids don't get lost in the shuffle, they feel more secure going to school at home."

Dr. Ray Barnhart, director of the group which produced the report, said it criticized aspects of rural education but was favorable to the small high schools as a concept.

He said staying with their family in their local community "helps students create an identity. We're not talking about the school only, but the whole environment. The smaller school is by far the most positive situation."

One of the chief criticisms was that rural high schools provide background for vocational education but not for students who want to go to college.

But Lind said studies have shown that students given a firm grasp of the basics can handle college no matter what size school they come from.

There were two issues related  
the Hootch case.

- 1) A CONSTITUTIONAL QUESTION  
WHICH IS UPON IN THE  
SCHEDULE PART, AND
- 2) THE QUESTION OF EQUAL  
PROTECTION. THE SETTLEMENT  
AGREEMENT CONTAINS THE  
PROVISIONS THE STATE HAS  
FOR MOST TO PERFORM.

THE CREATION OF REAR'S  
SCHOOL

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WHO PAYS FOR MAINT  
OF REAR SCHOOLS

DOE submits to the  
Legislature a report  
of the project re-  
quests made by the  
Regional School Board  
within first 10 days  
of the session

*Anchor*

*Anch Daily News*  
*3-31-79*

# Smith campaigns to cut Bush school funds

By **BILL WILSON**  
Daily News Staff Writer

Anchorage assemblyman Don Smith, mounting a statewide petition drive to head off state spending for the Molly Hootch rural education settlement, says it doesn't matter that the attorney general's office believes his initiative couldn't be legally enforced.

"I can't believe that what has been done can't be redone, that the wheel can't be reinvented," he said. "It's just that no one has been gutsy enough to stand up and fight it."

**ASSISTANT** attorney general Richard Burnham says the Hootch settlement, which mandates the building of schools in Bush villages having eight or more school-aged youth, is a consent decree and therefore can't be amended by the vagaries of public opinion.

"He wants to go back to the thing that generated the suit in the first place," Burnham said. "A petition can have no effect on an order of the court."

Smith, a representative of southern Anchorage and the Hillside, says he has mailed out 1,500 copies of his petition in the last three weeks and has received more than 1,500 signatures back.

"**THEY ARE** full of it," Smith says of his critics. "The rural legislators wanted a little pork barrel deal, they wanted a pound of flesh. They can say what they want to say, but if they hear the will of the people, they might change."

His petition reads:

"We the undersigned Alaskans strongly urge that a review and reevaluation be made of the rural high school construction program. We ask that all funds be frozen until a new plan is developed. The new plan should call for no school to accommodate less than 250 students, have only one high school in each rural education attendance area, require a study of the program's total life cycle costs and not allow the building of a high school where an already functioning high school exists."

**THIS WEEKEND**, Smith plans to mail additional copies of the petition to people who have already signed it and urge them to drum up more signatures.

Burnham and officials of the state

Department of Education laugh at Smith's estimate of \$700 million as the price associated with educating what he calls 2,300 students.

In the last two years, a \$59 million bond, which built schools in Kodiak, Cordova and Nome in addition to smaller Bush communities, and a \$110 million appropriation from the legislature have been poured into the rural school program.

**SMITH** favors a return to the regional school concept that was abandoned in 1972. Under his plan, students would be forced to "travel up or down the river a hundred or so miles if they didn't want to take the correspondence courses." At the regional schools, students would live in state-financed housing.

Bill Thompson, manager of the state Department of Education's management, law and finance office, says that even though the construction of numerous small bush schools requires a hefty initial investment, the total difference in cost between the rural construction program and taking the students away from their villages is about the same.

Thompson, who analyzed the comparative costs after the Hootch case was filed in 1972, said "it was a wash. Financially, it cost no more to educate a child at home than it does away from home." The difference, he says, is that under the Hootch settlement, a big dose of "up front money" is required, while under the

old plan, the costs mount over the course of the child's education.

**THOMPSON** also points to what he calls the "high social cost" of taking children away from their homes during their formative years, saying the drop-out rate was high and the process is tough on families.

"What kind of education can be offered to rural high school students with such small schools?" Smith says. "I do not want to see precious tax dollars wasted on such a program." Smith says that he will try to speak before the House Finance Committee April 19 to urge them to freeze rural education money. Should that fail, he vows an initiative drive to get his proposal on a statewide ballot.

# Municipality of Anchorage



ANCHORAGE ASSEMBLY

POUCH 6-650  
ANCHORAGE, ALASKA 99502  
(907) 274-2525

Assemblyman Don Smith  
Box 57 SRA  
Anchorage, Alaska 99507  
Phone: 344-1098 Home  
276-4325 Office

April 19, 1979

To Members of the Alaska Legislature

I'm urging that you consider freezing unspent Rural High School construction monies in order to give time for a review and re-evaluation of the program.

Why am I asking for such an action? My reason is that I do not believe that enough time and consideration was given to how the State of Alaska should attempt to solve the problem of education in rural Alaska.

I believe that Legislative action last year may have committed this State to a program which will not meet the needs of a small number of rural Alaskan High School Students and yet cost this State over a billion dollars within the next 20 years.

The out of court settlement of the Hootch case in my opinion can be delayed pending a reasonable review. The initial commitment on the part of the State was for \$20 million of the \$59 million dollar bond issue in 1976 to be used for construction of rural high schools. We should not allow the threat of further suit's or a continuation of the Hootch case to stop reasonable consideration of the consequences of building high schools in 126 villages in the State.

I think that we need to look at other alternatives besides just the construction of the traditional one room school house.

## CURRENT RURAL ELEMENTARY SCHOOL PROGRAM

I've talked with teachers and parents from rural Alaska who indicate to me that the current program for educating elementary children is not working. Are we structuring the curriculum for the uniqueness of rural Alaska so that children in grades K - 8

Representing South Anchorage



are capable of actually going on to High School? I've heard that there are inadequate books, programs that just won't work in the rural environment and that the problems are immense in getting qualified teachers and then being able to keep them.

#### QUALITY OF EDUCATION

Just what kind of high school education are you truly going to give in a classroom with 8 or 10 or for that matter 15 to 20 students? Do you really believe that students coming from this type of school will be capable of competing with other students when they go to college? How many native leaders do you think there will be in the future with this kind of high school training? I'm convinced that you will set back many of the advances that the Alaskan Native people have made in the past 20 years. Our rural high school students cannot receive the kind of training they will need in a school of 8 to 10 students. They need more than just the basics.

What about the recent University of Alaska study on Rural High School Education? Isn't that a warning flag that should be looked at. Remember, once this money is spent the program cannot be re-done. I've heard that the Hootch lawyers are now beginning to complain that the rural high school students are not going to be receiving the same kind of education that a student receives at West Anchorage High School -- of course not!

#### WHAT ARE THE COSTS?

Just what sort of committment has been made? While the figures are difficult to acquire, it's obvious that well over \$160 million has been committed to date. This breaks down as follows:

\$ 59 Million from the bond issue in 1976
96 million from chapter 134 SLA 1978
4.5 million from chapter 137 SLA 1978
1 million from chapter 113 SLA 1978
<u>\$160.5 million</u>

These monies are only for construction! Original estimates appear to be over 2 years old which means that with inflation the totals will be much higher in order to build schools in all 126 villages. I even understand that REAA officials are speculating that this program with all the money currently committed will need an additional \$250 million to be completed!

That's over \$400 million dollars in order to build schools in 126 villages for no more than 2,300 to 2,600 kids!

For most State projects there is a requirement for life-cycle cost estimates. Do you realize that this has never been done? What are the costs going to be to fly in fuel, buy costly electricity, repair the facilities, provide for staff including their accommodations? You can bet it will easily exceed the construction costs!

I've talked with architects, builders and contractors and they all have told me that there are tremendous problems in trying to build these type of facilities in rural Alaska and that construction costs will be out of sight. I'd suggest that you talk privately to some of these people and find out how they view this program. I've heard that some of the schools are even being designed with obvious deficiencies and will require additional money to complete.

#### WHO'S IN CHARGE?

You should try and find out information on this program. I've never seen such a mess! The Department of Education handles one part, the REAA's another and the Department of Transportation the other. I'm convinced from my attempts to gather information that no one knows what the other is doing. You'd think that it would be a simple matter to chart a specific school. How many kids, how many students each year for the next 5 to 8 years, design of the school, estimated costs, size, a schedule of when the school will be designed, bid and constructed, any over-runs, and on and on! Believe me, you won't get very far. I know that certain Legislators have tried to acquire information and have been given the run around.

#### WHAT KIND OF STAFFING WILL BE REQUIRED?

What will the staffing requirements be for these 126 schools? As noted in the appendix, I have a letter from a person in Eagle who cites the number of Teachers now in the Eagle School. Are we going to be structuring the schools like in Eagle, from one teacher for 28 students in 1971 to 5 certified teachers & 1 secretary for 35 students? You'd almost think so if any kind of program is to be offered. What kind of PTR are we contemplating for rural high schools? What sort of commitment will we have in terms of costs for these teachers and their accommodations?

Are we going to be doing away with the current correspondence study program? Will students be allowed at State expense as is done today to travel to a larger community and board in order to get a decent education?

What is the REAA program costing us and shouldn't there be

an analysis made of this commitment. I see REAA Board members staying in Anchorage for days at a time - wearing special jackets identifying them with a certain REAA. How much is this program costing? I've heard that the 21 superintendents are receiving salaries in the \$60,000 dollar range plus each REAA has their own large administrative staffs. Should consideration be given to combining some of these REAA's?

#### ALTERNATIVES

While Native Leaders have criticized the boarding school program, shouldn't consideration be given to building 8 or 10 high school centers in rural Alaska? These schools would then be much closer to the students homes and therefore would allow for more contact with families.

What about using our new satellite TV communication system? Maybe all we need is a small addition to the local grade school and some coordination through the grade school teacher to work with the students in their correspondence studies.

I'm sure that there are many other options that have not been adequately reviewed and could go a long way to solve the problem of rural Alaska high schools. They may not be the perfect answer to the problem but neither is just spending money and hoping that it will be the cure.

#### CONCERNS OF VILLAGES AND PARENTS

I understand that there have been numerous complaints in the Governor's office in Nome concerning this program. Parents have been complaining because there has not been adequate notice given nor no community input on just what kind of school is going to be built.

I have also been told that many villages, particularly in the lower kuskokwim, were interested in seeing some type of regional high school built in their region instead of the current program.

#### JUST WHAT ARE THESE FACILITIES TO BE USED FOR?

In my review of this program I looked at three plans for the different kinds of schools that are to be built. My first reaction was that they were glorified community centers! Each has a large gym with attached kitchen facilities. If the need is truly for classrooms, then why aren't we just flying out portable trailer units like Alyeska used on the pipeline and connect them to the existing grade schools? This would certainly not be the nicest facility but would meet the need of having a classroom for the rural high school student.

I think that while the buildings can be called high schools, we're really being asked to build 126 communities their own community center and as a second thought we're including a classroom or classrooms all under the guise of education!


#### CONCLUSION

We are still only a state of 400,000 people. There are lots of things we'd all like to have. The committment of over a possible 1 billion dollars for high schools for such a small number of students is insane! Life in rural Alaska is tough and will always be difficult. Reasonable people I'm sure wouldn't object to a program that set up a few more regional high schools or an expanded correspondance program, but the State shouldn't be asked to expend its limited resources on this program, one at best that will not work.

As you know, I started a modest petition drive about a month ago. With very little effort I have collected over 2,200 signatures asking that you halt this program. This program should be stopped immediately and be given a complete review and re-evaluation. Alaskans deserve to know exactly what is planned and what the total costs are going to be. Not just construction costs, but a breakdown of all costs for the next 20 years. Various options should also be made available.

As a second recommendation, I would like to suggest that a blue ribbon commission be formed that could participate in the analysis.

Thank you for taking the time to review this request.

  
Don Smith

Eagle, Alaska 99738  
April 7, 1979

Don Smith  
402 W. 3rd Avenue Suite 18  
Anchorage, Alaska 99501

Dear Mr. Smith,

While in Anchorage last week, it was with great joy I learned some one was finally concerned enough to do some thing about "run away spending in bush schools". I am appalled over the sudden increases with the new organization of Rural Regional School Districts.

In 1971, Eagle had one teacher with 28 students grades 1-8.

In 1978-79 Eagle has 35 students grade 1-12 with five certified teachers plus a secretary.

Eagle is located in the Gateway Regional School District, which has approx. 550-570 students the last time I asked, with an operating budget of 2 million dollars and a construction budget of 2.5 million dollars. Of course there is now an office building for a superintendent, ass't. superintendent, home studies coordinator who flies in to visit his students at regular intervals, a building personnel for construction plus several office staff. This structure was superimposed upon the already existing adm. personnel in the schools, such as principals, asst. principals and head teachers. It appears the major increases in the operating budget have gone for administrative personnel, and their per diem and travel.

Eagle has a mixed school of Indian and Causasian since it serves th e two communities. If I could get any inkling that the quality of education had improved, I might be less concerned. At \$3,636 per student, not including construction budget, which would more than double the cost per student, students could attend the best schools in the country.

Godd luck! If there is anything which I can do from this rural setting, please let me know. Attached are a few of suggestions for change which I have listed.

Sincerely,

## ALASKA REGIONAL RURAL SCHOOL DISTRICTS

How can one get hold of this FISCAL EXTRAVAGANZA RIP-OFF? Perhaps you already have some answers; one knows it is twice as difficult to cut back and to prevent budget explosion. I should think the urban area residents would be truly concerned, as they carry the taxation load while funds are limited for their schools. Only a few of these rural residents pay any taxes and many receive funds through other programs in order to live here, yet demand all the 1st class services.

1. Appeal the HOOTCH case - I believe there is enough evidence that the education received in small high schools does not counter balance the need for students to leave a community for high school, nor remain home and take correspondence courses. Presently a H.S. diploma does not indicate any achievement level. Need to set up specific academic standards to receive a H.S. diploma.

I believe a precedent has been set for rural services in the health services for which the state has been responsibility. In the small ~~urban~~ bush communities, emergency services and minor illnesses cared for (elementary schools); in the Regional Centers which would be Tok in our case, more diagnostic treatment available (high school) and higher medical centers only provided in large cities which would Fairbanks in our case (university settings).

2. Alaska Education Department interpretation of the HOOTCH case: Much could be done within this court decision without this financial explosion. Let the legislators take the reins and put down some fiscal ceilings under which they must operate.

3. Ceiling on administrative costs; money seems to flow like water; biggest job seems to get it all spent.

4. Ceiling on central administration staff per number of students. Outrageous to have a superintendent plus asst. superintendent when each of the schools already has a principal or head teacher depending on size. Why is a secretary necessary when two certified teachers H.S. only have 10 - 12 students between them? Lets get originality in staffing such cases.

5. If a community with less than 30 or 40 (?) students wishes a high school program, allow the state to provide a teacher and the local community provide the building and utilities; Eagle School grade 1-8 was provided in this manner 1899 - 1940's.

6. Correspondence courses - decide if the state or school district has this responsibility rather than duplicating as now occurs. Students living in Eagle, three miles from present school have elected to use correspondence courses - some under state supervision and others under school district. A good basic education can be received with home study, if ability and interest is there. Some correspondence students in Alaska (1-12 grades) have graduated from college Magnum-Cum-Laude.

7. Halt building programs when other community buildings are available. Fancy buildings do not mean good educational programs; lets look inside the classrooms.

8. Better supervision of necessary rural buildings; Eagle's last school bldg, a multi-purpose building cost over \$200 a square foot and is a night mare of problems. I have been told this is more than the Kennedy Center in Wash. D.C. cost. We have been building in same community for the past seven years and know this is not necessary.

9. School Board Duplication - Presently every school has a school board (5 members) plus a Regional School Board with a representative from each of the areas. That is similar in an urban area to a school board from each class room and a school board for each individual school (many urban schools have more enrollment than the entire Gateway Regional School District has.)

No salary, but much cost involved in travel and pre diem. Ceiling put on such costs as our Regional School Board voted to send members to numerous outside meetings, plus all members to a southeastern meeting when one could have attended and reported back. It is unfortunate not to find citizens more responsible for fiscal matters; in light of their actions, regulations are required.

10/ Term "certified teacher" seems to have lost most of its meaning, except for receiving large salaries. Univ. of Alaska has so watered down its programs to meet native inabilities that it has lost its credibility. I support their effort to provide programs for the 15% of our population (native) but not at the expense of the rest of the 85% of our population. LET'S STOP THIS SELL OUT TO ALASKA NATIVES - NO ONE IS HELPING THEM BY THIS TREND. I know - I live here with them and they are my friends.

One can now become a "certified teacher" via correspondence thru the Univ. of Alaska if one has worked as a teacher's aide in the rural school. This was intended for natives, but also applies to caucasians. Many of our native population have the ability and could meet all the standards set up for the "Caucasian population" and should share the benefits. Those in the "watered-down" programs, should be identified as such and receive benefits accordingly.

11. OPENING UP MORE ALASKA RURAL LAND could set us up for sky rocketing costs unless guide lines are set up on costly bush services, prior to opening of land. Historically, people have cried for land, to get into the wilderness; then they do get there, they begin to demand all types of services be provided to them on the spot by the state - education, roads, health and welfare to mention just a few.

I admire a family wishing to live out in rural Alaska, who educates their children via correspondence course and provides own health care and transportation *and welfare.*

THE STATE NEEDS TO SET UP SPECIFIC GUIDELINES FOR THESE RURAL SERVICES BEFORE THEY CONTINUE ON THEIR "BIG LAND GIVE AWAY PROGRAM."

# PETITION TO THE LEGISLATURE

We the undersigned Alaskans strongly urge that a review and re-evaluation be made of the Rural High School Construction Program. We ask that all funds be frozen until a new plan is developed. The new plan should:

1. Call for no school to accomodate less than 250 students.
2. Have only one High School in each Rural Education Attendance Area.
3. Require a study of the programs total life-cycle costs.
4. Not allow the building of a High School where an already functioning High School exists

Should the Legislature not take action this session it is our intention to promote and circulate an initiative petition to place this question on the 1980 election ballot.

*PLEASE WRITE CLEARLY!*

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be itemized as allocations within the bill for the general appropriations act. (Executive Order No. 39 § 2 (1977))

Sec. 44.42.055. State public facilities plan. (a) The commissioner shall develop and annually revise a statewide comprehensive facility procurement plan for public facilities of the state and its municipalities.

(b) In developing and annually revising the facility procurement plan, the commissioner shall

(1) request and receive on an annual basis from all state agencies a projection of the anticipated facility needs of the agency for the next annual capital improvement program;

(2) consult with officials and representatives of municipalities, the federal government, interested corporations and other organizations concerning public facility needs in the state;

(3) develop specific facility procurement plans for projects in each of the following categories:

- (A) sewage transmission and treatment systems;
- (B) water transmission and treatment systems;
- (C) electrical generation and distribution systems;
- (D) health care and social services facilities;
- (E) educational facilities;
- (F) communications facilities and transportation facilities;
- (G) public safety and justice facilities;
- (H) recreational facilities; and
- (I) sanitation facilities;

(4) prepare recommendations to accommodate the various levels of service identified by state agencies and other parties with respect to the services described in (3) of this subsection, to include recommended

- (A) current and future facility needs;
- (B) space standards and design guidelines for the appropriate facility types;
- (C) maintenance and operations standards for the appropriate facility types;
- (D) construction techniques and contracting methods;
- (E) facility project budget requirements; and
- (F) the relative costs of identified alternatives (life cycle cost analysis);

(5) identify common public facility needs among the various user agencies; and

(6) submit its findings, plans and recommendations to the governor and to the appropriate state agency to facilitate the development of agency capital improvement budget requests.

(c) In the preparation and revision of the facility procurement plan, the commissioner may

(1) develop and adopt regulations for use in carrying out the purpose of (b) of this section; regulations may not be adopted under this section unless approval is received from appropriate program agencies;

(2) make recommendations on the total capital improvement program to affected state agencies, local governments, and other interested parties and organizations, and to the divisions of budget and management and policy development and planning.

(d) In this section, "public facility"

(1) means a capital improvement within one of the categories described in (b) of this section which is constructed

(A) for subsequent occupancy or operation by the state, a public corporation of the state, the University of Alaska, a political subdivision, or a regional educational attendance area;

(B) by a political subdivision or any private party with the assistance of financial support provided by the state if funds appropriated or paid by way of a grant or loan in advance of construction of the facility, or any part of it, are 50 per cent or more of the estimated costs of construction of the facility;

(2) does not include projects constructed with the proceeds of one or more loans issued by a loan program administered by the Department of Commerce and Economic Development. (§ 14 ch 168 SLA 1978)

be itemized as allocations within the bill for the general appropriations act. (Executive Order No. 39 § 2 (1977))

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# Alaska Statutes

## Title 35. Public Buildings, Works, and Improvements.

### Chapter

- 05. Administration (§§ 35.05.010 — 35.05.050)
- 07. State Participation in Flood Control Projects (§ 35.07.010)
- 10. Public Works (§§ 35.10.010 — 35.10.200)
- 15. Construction Procedures (§§ 35.15.010 — 35.15.120)
- 20. Acquisition and Disposition of Property (§§ 35.20.010 — 35.20.070)
- 25. General Provisions (§§ 35.25.010 — 35.25.020)
- 27. Art Works in Public Buildings and Facilities (§§ 35.27.010 — 35.27.030)

### Chapter 05. Administration.

#### Section

- 10. Planning and construction
- 20. Rules and regulations
- 30. Duties of department

#### Section

- 40. Powers of department
- 50. Federal aid

**Sec. 35.05.010. Planning and construction.** The department is responsible for the planning and construction of public works. (§ 1 art III title I ch 152 SLA 1957)

*Revisor's note.* — The following executive order signed by Governor William A. Egan was transmitted to the legislature on January 22, 1962. It was not disapproved by the legislature during the 1962 session and therefore became law under the provisions of § 23 art III of the state constitution and AS 21.30.130.  
"EXECUTIVE ORDER NO. 14.  
Pursuant to Section 23, Article III, Constitution of the State of Alaska, I

hereby reassign from the Department of Public Works to the Department of Fish and Game the function of constructing, maintaining, and operating vessels predominantly utilized by the Department of Fish and Game. I consider this transfer of function necessary for efficient administration.  
"Dated at Juneau, Alaska, this 30 day of June, 1961."

**Sec. 35.05.020. Rules and regulations.** The department shall adopt rules and regulations which it considers necessary to carry out the purpose of this title. (§ 1 art III title I ch 152 SLA 1957)

*Cross reference.* — As to regulations concerning prequalification of contractors, see notes to AS 35.15.050.

Publication of regulations concerning

bidding and letting of contracts in Administrative Code. — See same catchline in note to AS 35.15.050.

**Sec. 35.05.030. Duties of department.** The department has the following powers and duties: (1) direct approved public works planning and construction; (2) employ assistants and employees; (3) certify and approve vouchers; (4) prepare a departmental budget; (5) review the annual public works program. (§ 2 art IV title I ch 152 SLA 1957)

**Sec. 35.05.040. Powers of department.** The department may (1) acquire property; (2) exercise the power of eminent domain; (3) take immediate possession of real property, or any interest in it under a declaration of taking or by other lawful means; (4) acquire rights-of-way for present or future use; (5) dispose of excess property or property rights; (6) accept and dispose of federal funds or property available for public works construction, maintenance, or equipment; (7) enter into contracts or agreements relating to public works with the federal government and political subdivisions, and also enter into contracts with a foreign government if approved by the federal government; (8) exercise any other power necessary to carry out the purpose of this title; (9) lease or grant land or any interest in land to the Alaska State Housing Authority on terms and conditions prescribed by the department; (10) procure directly materials, labor and contractual services for planning, designing and constructing public facilities of the state. (§ 2 art III title I ch 152 SLA 1957; am § 15 ch 99 SLA 1965; am § 3 ch 216 SLA 1975)

*Cross reference.* — See Editor's note to Article 6 of AS 35.10.

*Effect of amendment.* — The 1976 amendment added (10).

**Sec. 35.05.050. Federal aid.** Legislative assent to federal aid for Alaska, including aid given to Alaska through a department or agency of the federal government, is given. The department may apply for, contract, and do all things necessary to cooperate with the United States Government for the construction of public works under federal acts. (§ 1 art II title III ch 152 SLA 1957)

### Chapter 07. State Participation in Flood Control Projects.

#### Section

- 10. State assumption of nonfederal flood control project costs

*Revisor's note (1971).* — In ch. 129, SLA 1971, AS 35.07 appeared as AS 35.30.

**Sec. 35.07.010. State assumption of nonfederal flood control project costs.** To the extent that funds are made available by the legislature, the state shall assume 99 per cent of the nonfederal costs of

planning, land acquisition, construction and maintenance of flood control projects authorized within the state by the United States before or after June 6, 1971, except that the state shall assume the full share of nonfederally funded costs with respect to those facilities which are primarily state responsibilities, including but not limited to highways and roads, parks and recreation, and fish and game facilities. The state shall participate in federal flood control projects under this section only as to those projects authorized and approved by the Department of Public Works. (§ 1 ch 129 SLA 1971)

## Chapter 10. Public Works.

### Article

1. Public Works Planning and Construction (§§ 35.10.010 — 35.10.080)
2. Boat Harbor, Dike, Jetty, and Breakwater Facilities (§§ 35.10.090 — 35.10.120)
3. Financial Provisions (§§ 35.10.130 — 35.10.135)
4. Prohibitions and Penalties (§§ 35.10.140 — 35.10.150)
5. Public Facility Procurement Policy (§§ 35.10.160 — 35.10.200)

### Article 1. Public Works Planning and Construction.

Section	Section
10. Standard plans and specifications and limitation on cost	40. Failure of contractor to perform work
15. Architectural barrier regulations: enforcement	50. Duty of department to examine and report on existing public buildings
20. Consultation with municipal planning commissions	60. Inspection and testing of materials
25. Compliance with local building codes	70. Research on public works
30. Inspection and supervising public works construction	80. Statement of work authorized, completion schedule, and recommendations

**Sec. 35.10.010. Standard plans and specifications and limitation on cost.** The department shall prepare and adopt plans and specifications and determine standards for the construction of each public work. Each public work shall be limited in cost to the amount of the appropriation made for that purpose. The plans and specifications may be amended from time to time as the department considers advisable. This section does not apply to the construction of school buildings in incorporated cities, unless the construction is done in whole or in part with state funds, or to the construction of school buildings when the construction amounts to less than \$2,000. (§ 1 art III title III ch 152 SLA 1957)

Am. Jur. reference. — 43 Am. Jur., Public Works and Contracts, § 1 et seq.

**Sec. 35.10.015. Architectural barrier regulations: enforcement.** (a) The Department of Public Works shall prepare, promulgate and enforce regulations governing the construction of public buildings and facilities by or for the state, including the University of Alaska, and its political

subdivisions, whether financed in whole or in part by federal funds, to insure that the public buildings and facilities are accessible to, and usable by, the physically handicapped, aged or infirm. The regulations of the department shall conform to a standard comparable to the applicable provisions of federal law or regulation and to the publication entitled "American Standard Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped" or any amendments to this publication as approved by the American Standards Association, Incorporated, under the sponsorship of the National Society for Crippled Children and Adults and the President's Committee on Employment of the Physically Handicapped.

(b) The department shall develop and maintain an inventory of all public buildings and facilities with respect to their compliance with the regulations adopted under (a) of this section. The department shall make an annual report to the governor and the legislature describing work performed in the preceding calendar year to upgrade public buildings and facilities to conform with the regulations. In addition, the department shall develop cost estimates and recommended priorities for the upgrading of public buildings and facilities that do not conform with the regulations adopted under (a) of this section and shall include these estimates and the recommended priorities in the annual report to the governor and the legislature.

(c) In this section, "public facilities" includes vessels owned by the state and operated by the division of marine transportation of the Department of Public Works as a part of the Alaska marine highway system. All ferries owned or operated by the state shall be equipped with elevators or other passenger lifting equipment, ramps, or other facilities and devices to ensure that these vessels are accessible to and usable by physically handicapped, aged or infirm passengers. In this subsection, "accessible to and usable by" means that a physically handicapped, aged or infirm passenger can board, disembark and move between decks and about the public areas aboard a state ferry with personal comfort and with safety to himself, other passengers and members of the crew. (§ 1 ch 119 SLA 1966; am § 1 ch 48 SLA 1972; am §§ 1, 2 ch 249 SLA 1976)

Effect of amendments. — The 1972 amendment inserted "including the University of Alaska" in the first sentence of present subsection (a).

The 1976 amendment, in the first sentence of present subsection (a), substituted "shall prepare, promulgate and enforce" for "is responsible for preparing and promulgating," inserted "whether financed in whole or in part by federal funds" and added "aged or infirm" to the end of the sentence. The amendment also substituted "to a standard comparable to the applicable provisions of federal law or regulation and" for "as far as it is feasible"

in the second sentence of present subsection (a), and added subsections (b) and (c).

Editor's note. — Section 3, ch. 249, SLA 1976, provides: "After June 25, 1976, no ferry may be constructed, lengthened, completely renovated, or purchased for use or entered into service by the division of marine transportation of the Department of Public Works as a part of the Alaska marine highway system that does not include adequate facilities and devices to ensure that the vessel is accessible to and usable by physically handicapped, aged or infirm passengers. Some staterooms and all

restrooms, indoor passageways, outdoor weather decks, and other public areas aboard the vessel shall be so designed and constructed as to permit access and use by physically handicapped, aged or infirm passengers, including but not limited to those persons occupying a wheelchair."

Section 4, ch. 249, SLA 1976, provides: "After June 25, 1976, no public building or

facility in the state may be planned, designed, financed, constructed, opened to public use, or otherwise placed in operation unless it meets the standards established under AS 35.10.015, as amended by sec. 1 of this Act."

Legislative committee report. — For report on ch. 119, SLA 1966, see 1966 House Journal, p. 889.

**Sec. 35.10.025. Compliance with local building codes.** A public building shall be built in accordance with applicable local building codes including the obtaining of required permits. This section applies to all buildings of the state and corporate authorities of the state. (§ 1 ch 89 SLA 1968)

**Sec. 35.10.030. Inspection and supervising public works construction.** The department shall supervise and inspect the construction of public works and shall see that the work performed in constructing, repairing, altering or improving public works is in accordance with the drawings and specifications for them, that the interests of the state are fully protected, and that no person, firm, or corporation employed on any work performs the work in any other or different manner than is provided by the contract and the plans and specifications. (§ 3 art III title III ch 152 SLA 1957)

**Sec. 35.10.040. Failure of contractor to perform work.** If a contractor or person in charge of the construction of a public building in the state fails to perform the work in a good and workmanlike manner and does not perform the work in accordance with the plans and specifications of the contract, the department shall direct what legal action, if any, shall be taken. (§ 4 art III title III ch 152 SLA 1957)

Am. Jur. reference. — 43 Am. Jur., Public Works and Contracts, § 48.

**Sec. 35.10.050. Duty of department to examine and report on existing public buildings.** The department shall, from time to time, examine all existing public buildings and report the condition of each and any necessary additional construction which is needed on them. (§ 4 art III title III ch 152 SLA 1957)

**Sec. 35.10.060. Inspection and testing of materials.** The department may inspect and test materials, supplies, equipment and machinery used by a contractor constructing or maintaining public works, and may develop methods and procedures for inspection and testing. (§ 5 art III title III ch 152 SLA 1957)

**Sec. 35.10.070. Research on public works.** The department may gather, investigate and compile information concerning the use, construction and maintenance of public works, the practices and methods of efficient organization, financing and such other information, data and statistics of the state and the extent of natural resources of building materials in the state. The department shall disseminate this information, together with recommendations it considers advisable. (§ 6 art III title III ch 152 SLA 1957)

**Sec. 35.10.080. Statement of work authorized, completion schedule, and recommendations.** Not later than February 1 of each year, the department shall prepare a statement showing the public works authorized within the past six-year period and the completion schedule as of that date, together with recommendations regarding the need for additional public works construction, if any. (§ 7 art III title III ch 152 SLA 1957)

#### Article 2. Bont Harbor, Dike, Jetty, and Breakwater Facilities.

Section	Section
90. Application for federal funds	110. Contracting with communities for local participation
100. Determining need and priority of projects	120. Leasing marine or harbor facilities

**Sec. 35.10.090. Application for federal funds.** The department shall apply in the name of the state, as applicant, to the appropriate federal agency for the construction or assistance in the construction of boat harbor, dike, jetty or breakwater harbor facilities where the facilities are necessary, feasible and appropriate to the local economy. (§ 1 art IV title III ch 152 SLA 1957)

**Sec. 35.10.100. Determining need and priority of projects.** The department shall prepare the preliminary determination of need for each such project and its feasibility and appropriateness through representations and data submitted to it by the residents of each community desiring a project, and from other information available to it. The department shall approve and make the final determination of those projects, and their order or priority for which application is made. (§ 2 art IV title III ch 152 SLA 1957)

**Sec. 35.10.110. Contracting with communities for local participation.** The department may contract with a community for the participation of the community either in the financing of projects or, instead of local financial participation, to contract with the community for its installing necessary piling, floats, and related equipment and facilities whether at the community's direct expense or through local volunteer labor, after completion of the basic boat harbor, dike, jetty, or breakwater facilities. (§ 3 art IV title III ch 152 SLA 1957)

**Sec. 35.10.120. Leasing marine or harbor facilities.** The department may lease for a period up to 50 years or may sell for a nominal sum to an incorporated city, public utility district, or other incorporated area marine or harbor facilities constructed or rebuilt with territorial funds or state funds or with territorial or state and federal matching funds. The intent of this section is to allow cities, public utility districts, and other incorporated areas to lease or purchase marine or harbor facilities so that they may enforce municipal ordinances on them and legally assess fees to meet maintenance costs. (§ 1 ch 162 SLA 1955)

Revisor's note. — All other sections in this title have a common source, ch 152 SLA 1957. This section is all of ch 162 SLA 1955.

### Article 3. Financial Provisions.

#### Section

- 130. Construction within appropriations and limits imposed by legislature
- 135. Public facility planning fund

**Sec. 35.10.130. Construction within appropriations and limits imposed by legislature.** Each public work shall be constructed in a completed manner within the appropriation and limits imposed by the legislature. (§ 1 art V title III ch 152 SLA 1957)

**Sec. 35.10.135. Public facility planning fund.** There is established within the Department of Administration, Division of Budget and Management a public facility planning fund. The fund is a capital fund and consists of (1) money appropriated by the legislature, (2) money reimbursed to it from the proceeds of the sales of general obligation bonds and revenue bonds issued for projects and (3) money reimbursed to it from appropriations for any projects; for which money from the fund has been spent. The fund is available for expenditure, on a reimbursable basis, only for the purposes of providing working capital for facility program planning and for facility procurement planning as specified in this chapter. All expenditures from the fund are subject to an independent audit which shall be made annually and reported to the governor and the legislature. (§ 1 ch 57 SLA 1973; am § 1 ch 58 SLA 1976)

Effect of amendment. — The 1976 amendment rewrote this section.

Editor's note. — Section 3, ch. 58, SLA 1976, provides: "The fund balances remaining in the state operated schools advance planning revolving fund established in sec. 13, ch. 147, SLA 1974 and in the Department of Public Works public facility procurement planning fund established in sec. 2, ch. 216, SLA 1975 and

in the state capital improvement advance planning fund established in sec. 1, ch. 57, SLA 1973 are transferred as of the effective date of the Act to the public facility planning fund established in sec. 1 of this Act."

Legislative committee report. — For report on ch. 58, SLA 1976 (CSHB 624 am S), see 1976 House Journal, p. 557.

### Article 5. Public Facility Procurement Policy.

#### Section

- 160. Findings and purpose
- 170. Duties of department
- 180. Physical facility procurement and planning policies

#### Section

- 190. Coordination by department
- 200. Definitions

Editor's note. — Section 2, ch. 216, SLA 1975, provides: "There is within the Department of Public Works a public legislature for the purpose of providing procurement planning working capital and is available on a reimbursable basis for procurement planning. The fund shall be used by the commissioner to develop facility procurement planning methodologies for submission for review by the legislature by January 1, 1976. The

facility procurement planning fund. The fund is a working capital reserve fund and consists of money appropriated by the commissioner shall prepare a report delineating the various procurement policies which shall govern the expenditures of capital funds by the state and shall delineate the amounts of preplanning funds necessary for the implementation of these policies."

**Sec. 35.10.160. Findings and purpose.** The legislature finds that since the needs of the state for physical facilities of all kinds are diverse the planning, design and construction of public facilities should be executed in accordance with facility procurement policies development by the Department of Public Works and reviewed annually by the legislature. (§ 1 ch 216 SLA 1975)

Legislative committee report. — For am S), see 1975 House Journal, p. 894; 1975 report on ch. 216, SLA 1975 (SCS CSHB 429 Senate Journal, p. 1370.

**Sec. 35.10.170. Duties of department.** In addition to other duties prescribed by statute, the department shall

(1) develop facility procurement policies for the planning, design, construction, maintenance and operation of public facilities of the state;

(2) develop and maintain an inventory of physical facilities currently owned or occupied by the state;

(3) make projections of future public facility needs of the state, analyze facilities needed, and establish methodology for program planning and facilities project planning, design and construction, based upon

(A) a justification of the level of service anticipated by the program agency, utilizing population projections and estimates approved by the governor;

(B) consideration of the geographical area to be served by the facility and relevant data concerning the agency's existing public facilities in that area;

(C) the date by which the services are to be provided;

(D) alternative program methods for providing the services; and  
(E) pertinent data requested by the department in accordance with procedures developed under § 180 of this chapter;  
(am § 1 ch 168 SLA 1978)

(4) engage in experimental projects as necessary relating to any available or future method of facility procurement, design or construction and any method of improving existing design, planning and construction techniques;

(5) develop life cycle costs of public facilities of the state;

(6) develop life cycle costing methodologies for the following special purposes:

(A) budget forecasting to support facility program planning and analysis,

(B) systematic cost estimating to forecast planning, design and construction,

(C) budget forecasting to support development of annual maintenance and operating strategies and life cycle cost plans,

(D) alternative methods of space acquisition and space equalization which will maximize the effectiveness of public funds;

(7) apply for and accept, on behalf of the state, grants from the federal government or an agency of it or from another state foundation, corporation, association or individual for any of the functions or purposes of the department and may expend any of the money received under this section for any of the functions or purposes. (§ 1 ch 216 SLA 1975)

**Sec. 35.10.180. Physical facility procurement and planning policies.** (a) The department shall develop and keep current by periodic revision physical facility procurement and planning policies for rural schools, public buildings, and other state facilities, and shall develop regulations and guidelines for the implementation of these policies.

(b) In developing and revising these policies the department shall seek public review and evaluation by any reasonable means and shall

(1) consult and cooperate with officials of the federal government, local governments, other political subdivisions of the state and other interested persons regarding physical facility procurement planning;

(2) request and receive from an agency or other unit of the state government the assistance and data needed to carry out the requirements of this section.

(c) The commissioner shall submit copies of proposed policies and plans annually, within 10 days after the legislature convenes, to the legislature. The legislature may approve, reject or modify the policies and plans by concurrent resolution. If the legislature fails to act during the legislative session, the policies and plans are approved. (§ 1 ch 216 SLA 1975)

**Sec. 35.10.190. Coordination by department.** (a) The department shall coordinate the procurement of physical facilities for the state to insure the greatest cost savings of planning, design and contractual techniques.

(b) When the state or an agency of the state determines that a public facility is to be constructed or renovated, it shall, unless exempted by regulations of the department, submit to the department an application for a certificate that the proposed facility complies with adopted facility procurement policies. The department may reject the application but if it does so it shall state in writing the reasons for the rejection. If a written statement that the application is rejected does not issue within 30 days after receipt of the application by the department, unless the department and the applicant have agreed upon an extension of time for consideration, the certificate of compliance shall not be required. Except as provided otherwise by regulation or by this section, no public facility of the state may be constructed or renovated by the state unless a certificate that the facility complies with adopted facility procurement has been issued. (§ 1 ch 216 SLA 1975)

**Sec. 35.10.200. Definitions.** In §§ 160 — 200 of this chapter,

(1) "life cycle costs" means analytic techniques which provide data to describe the first cost of procurement of public facilities and the maintenance cost, operation cost and occupancy cost of the facilities;

(2) "policies" includes but is not limited to budget accounting and cost planning techniques, facility design techniques, and contractual techniques for the procurement of labor, materials and contractual services;

§ 35.15.010 PUBLIC BUILDINGS, WORKS AND IMPROVEMENTS § 35.15.030

## Chapter 15. Construction Procedures.

Section	Section
10. Construction by department	90. Use of appropriated funds
30. Advertisement, bids, contracts, and informal bids	110. Title to site and completion of project
80. Local control of state public works projects	120. Definitions

**Sec. 35.15.010. Construction by department.** (a) Except as provided in AS 44.33.300, it shall be the general policy of the department to require the construction of all public works under bid contract. However, when the estimated cost of a construction project is less than \$100,000, or when it appears to be in the best interests of the state, the department may perform the work, notwithstanding any other provisions of law. A complete record shall be kept by the commissioner or his designee of all transactions entered into under this section including names of employees involved in the transactions.

(b) Construction or professional services in connection with the construction of a public work performed by the department under (a) of this section which have an estimated cost exceeding \$5,000 may not be performed by the department unless the commissioner determines, in writing, that the cost to the state will be less than that incurred as a result of a formally advertised or negotiated contract. The determination of the commissioner shall be supported by findings of fact which shall set out enough facts and circumstances to clearly justify the determination. The determinations and findings shall be maintained as a permanent record of the department.

(c) In this section, "professional services" means architectural, engineering, or land surveying services. (§ 1 art III title IV ch 152 SLA 1957; am § 5 ch 277 SLA 1976; am § 1 ch 143 SLA 1977; am § 4 ch 104 SLA 1978)

Cross reference. — For provisions requiring consistency with local government plans and ordinances before commencing construction of a public project, see AS 35.30.010 et seq.

**Effect of amendments.**

The 1977 amendment, in present

subsection (a), substituted "\$100,000" for "\$20,000" in the second sentence and added the third sentence.

The 1978 amendment added subsections (b) and (c).

**Sec. 35.15.020. Request for public bids.** The department may request bids and award contracts for construction work. The department may require the contractor to furnish equipment, labor, materials, and supplies for the project, or it may elect to furnish the materials and supplies. If the department elects to provide materials and supplies for a project, it shall make the election at the time it adopts the construction program. The department shall request bids for the total of the materials and supplies for a project according to the class, type, and nature of the materials and supplies, and may award a contract upon the basis it considers efficient and economical, whether upon the basis of delivery to the construction project directly or to a central storehouse or storehouses maintained by the department. Those materials and supplies so purchased by the department may be delivered to the project site without expense to the contractor, or it may sell them to the contractor at cost and make the materials and supplies a part of the construction cost. (§ 3 art III title IV ch 152 SLA 1957)

**Sec. 35.15.030. Advertisement, bids, contracts, and informal bids.**

When the estimated cost of any construction under this chapter exceeds \$100,000, the department shall, except as provided in § 10 of this chapter and in AS 44.33.300, proceed to advertise, request bids, and award the contract in the manner provided in §§ 40 and 50 of this chapter. When any proposed construction contract is for a sum less than \$100,000, it is discretionary with the department whether the contract is advertised and awarded in accordance with §§ 40 and 50 of this chapter. In all events the department shall request informal bids from as many contractors as can be requested conveniently. A complete record shall be kept by the commissioner or his designee of all transactions entered into under this section including names of employees involved in the transactions. (§ 4 art III title IV ch 152 SLA 1957; am § 31 ch 71 SLA 1972; am § 6 ch 277 SLA 1976; am § 2 ch 143 SLA 1977)

**Effect of amendments.**

The 1977 amendment substituted "under this chapter exceeds \$100,000" for "exceeds \$20,000" in the first sentence,

substituted "\$100,000" for "\$20,000" in the second sentence, and added the fourth sentence.

**Sec. 35.15.040. Procedures for the award of contracts.** (a) If federal funds are used, the award of the contract shall comply with federal law and the rules and regulations promulgated under it and with state law to the extent it is consistent with federal law.

(b) In all other cases, the award of the contract shall comply with this title, and AS 37.05, and the rules and regulations promulgated under them and which are consistent with this title. (§ 5 art III title IV ch 152 SLA 1957)

**Sec. 35.15.050. Award of contracts.** The department shall award the contract to the lowest responsible bidder, or it may reject all bids. If no satisfactory bid is received, the department may readvertise the project. The department shall make the award in compliance with applicable federal law and the regulations promulgated under it, with this title, and in compliance with AS 37.05, and the rules and regulations promulgated under it, where they are not in conflict with this title and federal law. (§ 6 art III title IV ch 152 SLA 1957)

The purpose of this section and the Fiscal Procedures Act (AS 37.05) is not only to protect the state and the public purse from uneconomic contracts let because of failure to request competitive bids and because of possible favoritism, but also to insure that contractors are insured a certain amount of "fair play" in dealing with the state government and in competing with one another for state contracts. 1959 Op. Atty. Gen., No. 27.

The department has authority to require contractors to set up a system of prequalification of contractors as a prerequisite for bidding on state construction projects. 1959 Op. Atty. Gen., No. 27.

And under such system to require contractors to furnish periodic and

great use to the portion of the public interested in dealing and contracting with the state. 1959 Op. Atty. Gen., No. 27.

financial statement. — 1959 Op. Atty. Gen., No. 27.

Without following the Administrative Procedure Act. — The department would not be required to follow the Administrative Procedure Act (AS 44.62) in adopting regulations to implement a program of prequalification of contractors. 1959 Op. Atty. Gen., No. 27.

Publication of regulations concerning bidding and letting of contracts in Administrative Code. — A policy of publishing regulations concerning bidding and letting of contracts in the Administrative Code is consistent with the Alaska Administrative Procedure Act, since these regulations are regulations in which an important portion of the public has a vital interest and since they are of

Am. Jur. reference. — 43 Am. Jur., Public Works and Contracts, §§ 41 to 50.

Sec. 35.15.060. Prior contracts unaffected. Sections 10 -- 60 of this chapter do not apply to contracts entered into before April 1, 1957. (§ 8 art III title IV ch 152 SLA 1957)

Sec. 35.15.080. Local control of state public works projects. (a) A municipality or, if the public work is an educational facility, a regional educational attendance area established under AS 14.08 may, by resolution of its governing body, request the assumption of all of the department's responsibilities relating to the planning and construction of a public works project of the state which is to be located within the boundaries or operating area of the municipality or regional educational attendance area and which would otherwise be constructed in the manner provided in § 10 of this chapter. After receipt of the request, the department

(1) shall provide for the assumption by the municipality or regional educational attendance area of all of the department's responsibilities relating to the planning, design and construction of an educational facility;

(2) may provide by agreement for transfer to and assumption by the municipality of the department's responsibilities relating to the planning, design, and construction of a public works project, unless the commissioner determines that assumption of responsibilities by the municipality is not practicable or not in the best interests of the state.

(b) If the commissioner of transportation and public facilities determines that assumption of responsibilities by a municipality under (a)(2) of this section is not practicable or not in the best interests of the state, he shall notify the governing body of the municipality of his finding and specify reasons for it. If the governing body requests reconsideration of the decision, he shall hold a hearing in the municipality within 30 days following mailing of the request. Following the hearing, he may affirm, modify or reverse his initial decision and shall specify in writing the reasons.

(c) A municipality may request joint assumption of responsibilities with the department relating to the planning, design and construction of a public works project. A regional educational attendance area may request joint assumption of responsibilities with the department relating to the planning, design and construction of an educational facility. Two or more municipalities or regional educational attendance areas may by mutual agreement provide for cooperative assumption of responsibilities relating to the planning and construction of a public works project. If two or more municipalities or regional educational attendance areas request assumption of responsibilities for a project and meet the standard of practicability set out in (a)(2) of this section, the commissioner shall determine which municipality or regional educational attendance area is best able to direct planning, design, and construction of the project and enter into an agreement with that municipality or regional educational attendance area, or provide for joint or cooperative administration, as the parties may agree or the commissioner may determine. Decisions of the commissioner under this subsection are final.

(d) Provisions of this title governing planning, design, and construction of public works by the department, and regulations adopted under the provisions, govern the administration of projects assumed by a municipality or regional educational attendance area under this section. For that purpose the provisions supersede any conflicting provisions of ordinance or charter of a municipality.

(e) An organized borough may plan and construct public works under this section and make an agreement with the department for that purpose irrespective of restrictions of other provisions of law on the acquisition and exercise of borough powers. Borough exercise of the power conferred under this subsection does not preclude exercise by a city of the borough of the same power within the city.

(f) To carry out the purpose of this section, the commissioner of transportation and public facilities shall adopt regulations relating to the application for and the making and the conditions of agreements and the local assumption of responsibilities for the planning, design and construction of public works under this section. He shall include in grant contracts terms and conditions requiring a regional school board and its contractors to adhere to the provisions of AS 36.05.010 with respect to the payment of wage rates on construction projects, and AS 36.10.010 with respect to employment preference, and may require different terms in agreements for different projects to meet local conditions and unique requirements and to assure compliance with the public facilities procurement policies developed by the department under AS 35.10.160 — 35.10.200. If necessary, the commissioner may require as a condition of an agreement approval of the agreement by the federal government. Regulations adopted, amended or repealed by the department under this section which relate to educational facilities shall be developed in conjunction with the Alaska Association of School Boards and the Alaska Association of School Administrators and reviewed by those associations before final action on the regulations is taken by the department.

(am §§ 6, 7 ch 147 SLA 1978)

**Effect of amendment.** — The 1978 amendment, effective July 1, 1978, in subsection (a), inserted "all of" near the middle of the first sentence and in the second sentence, inserted the item (2) designation, added item (1), and inserted "transfer to and," deleted "or regional educational attendance area" following "assumption by the municipality" and "or area" following "of responsibilities by the municipalities," and substituted "a public works project" for "the public works project," all in item (2). The amendment also deleted the former third sentence of subsection (a), which read "The parties may by mutual agreement provide for joint or cooperative assumption of responsibilities by the department and the municipality or regional educational attendance area," and

inserted "for the planning, design and construction of public works" in the first sentence, inserted the language beginning "shall include in grant contracts" and ending "with respect to employ-

in the first sentence of subsection (b), substituted "commissioner of transportation and public facilities" for "commissioner of public works" and "under (a)(2) of this section" for "or regional educational attendance area under this section" and deleted "or area" following "body of the municipality." In subsection (c), the amendment added the present first through third sentences, inserted "(a)(2) of" in the present fourth sentence, and substituted "municipality or regional educational attendance area" for "subdivision or area" in the present fourth sentence. In subsection (f), the amendment substituted "commissioner of transportation and public facilities" for "commissioner of public works" in the first sentence, in-

serted "with respect to employment preference, and" in the second sentence, and added the fourth sentence.

As the rest of the section was not affected by the amendment, it is not set out.

**Sec. 35.15.090. Use of appropriated funds.** Upon assumption by a municipality or regional educational attendance area of the department's responsibilities under § 80(a)(1) of this chapter, or upon execution of an agreement under § 80(a)(2) of this chapter, state funds appropriated for a public works project which is the subject of the assumption or the agreement shall be transferred to a special account in the state treasury. A municipality or regional educational attendance area administering the project under the assumption or agreement may draw on the account for costs of the project, under fiscal control of the department. If an agreement provides for joint or cooperative administration of the project, payment of costs shall be made to the party incurring the costs. (§ 1 ch 57 SLA 1976; am § 8 ch 147 SLA 1978)

**Effect of amendment.** — The 1978 amendment, effective July 1, 1978, added the first sentence, substituted "§ 80(a)(2)" for "§ 80" and inserted "the assumption or" in the language beginning "Upon assumption by a municipality" and ending "§ 80(a)(1) of this chapter, or" to the beginning of the first sentence, and inserted "assumption or" in the second sentence.

**Sec. 35.15.100. Responsibility of department.** When a municipality or regional educational attendance area has assumed responsibility for a public works project in accordance with §§ 80 — 120 of this chapter, the department is relieved of responsibility to the extent it is assumed by the municipality or regional educational attendance area. The department may provide technical assistance on the responsibility assumed if requested to do so by the municipality or area and shall be reasonably compensated for that assistance from the account established under § 90 of this chapter. (§ 1 ch 57 SLA 1976)

**Sec. 35.15.110. Title to site and completion of project.** (a) Before advertisement for bids or construction contract negotiations, the department shall approve both the project site and the land interest in the site, except that, if the project involves construction of an educational facility, title or sufficient interest determined acceptable by the department to an approved site for a school building shall be vested in the municipality, the regional educational attendance area or the state before advertisement for bids or initiation of construction contract negotiations.

(am § 1 ch 62 SLA 1978; am § 9 ch 147 SLA 1978)

**Effect of amendments.** — The first 1978 amendment, effective June 10, 1978, rewrote subsection (a), which formerly read "Title acceptable to the department to a suitable project site shall be vested in the state before work is begun on the site."

The second 1978 amendment, effective July 1, 1978, added the exception to the end of subsection (a).

As the rest of the section was not affected by the amendments, it is not set out.

(b) Responsibility for maintenance of the project shall be established in the original contract agreement. The department shall participate in the final inspection of the project and approve of the final documents on the project. (§ 1 ch 57 SLA 1976)

**Sec. 35.15.120. Definitions. In §§ 80 — 120 of this chapter**

(1) "construction" or any derivative of the term "construct" means, in addition to the meaning given in AS 35.25.020, selecting and acquiring a project site and necessary rights-of-way and easements, providing for and connecting to utilities, and building, supervising and inspecting the public works project;

(2) "governing body" means in the case of a municipality, its assembly or council, and, in the case of a regional educational attendance area, its regional school board;

(3) "municipality" means a general law or home rule city or organized borough, including but not limited to a unified municipality organized under AS 29.68.240 — 29.68.440. (§ 1 ch 57 SLA 1976)

**Chapter 20. Acquisition and Disposition of Property.**

Section	Section
10. Acquisition of land, rights-of-way, and materials by purchase or eminent domain	50. Authority to purchase property for the purpose of exchange
20. Declaration of taking	60. Sale of obsolete equipment and material
30. Acquisition of excess lands	70. Vacating of lands or rights in land
40. Authority to condemn or acquire publicly owned property for the purpose of exchange	

**Sec. 35.20.010. Acquisition of land, rights-of-way, and materials by purchase or eminent domain.** The department, on behalf of the state and as part of the cost of constructing or maintaining a public work, may purchase, acquire, take over, or condemn under the right and power of eminent domain land in fee simple or easements which it considers necessary for present public use, either temporary or permanent, or which it considers necessary and reasonable for the public use. By the same means, the department may obtain material including clay, gravel, sand, or rock, or the land necessary to obtain the material, and the necessary land or easements to provide access to it. The department may acquire the land or material notwithstanding the fact that the title to it is in the state or a department, agency, commission or institution of the state. (§ 1 art I title IV ch 152 SLA 1957)

This section and AS 35.20.020 grant to the Department of Public Works eminent domain powers, as well as the right to employ a declaration of taking in eminent domain proceedings. Tallman v. State, Sup.

Ct. Op. No. 862 (File No. 1612), 506 P.2d 679 (1973).

Am. Jur. reference. — 18 Am. Jur., Eminent Domain, § 1 et seq.

**Sec. 35.20.020. Declaration of taking.** A declaration of taking, in the form of an order signed by the commissioner of the department, declaring that the real property, or an interest in it, or any easement is necessary for the public use of the state is sufficient to vest title in the

state. However, a declaration of taking is not effective until eminent domain proceedings have been instituted in the proper court, and a copy of the declaration of taking is filed in the office of the recorder located in the recording district where the land is located. The department may pay or have paid, from the appropriate fund, into court the amount it considers represents a reasonable valuation for the lands, easement or materials taken. (§ 1 art I title IV ch 152 SLA 1957)

This section and AS 35.20.010 grant to the Department of Public Works eminent domain powers, as well as the right to employ a declaration of taking in eminent domain proceedings. Tallman v. State, Sup. Ct. Op. No. 862 (File No. 1612), 506 P.2d 679 (1973).

**Sec. 35.20.030. Acquisition of excess lands.** When a part of a parcel of land is taken and the remainder is in such shape or condition as to be of little value to its owner, or gives rise to claims or litigation concerning severance or other damage, the department may acquire the whole parcel and may sell the remainder or exchange it for other property needed for public works. (§ 2 art I title IV ch 152 SLA 1957; added by § 3 ch 122 SLA 1960)

**Sec. 35.20.040. Authority to condemn or acquire publicly owned property for the purpose of exchange.** When property which is devoted to or held for another public use for which the power of eminent domain may be exercised is taken for purposes set out in this title, the department may, with the consent of the person or agency in charge of the other public use, condemn the real property to be exchanged for the real property so taken. This section shall not limit the authorization of the department to acquire, other than by condemnation, property for those purposes in any other manner. (§ 2 art I title IV ch 152 SLA 1957; added by § 3 ch 122 SLA 1960)

**Sec. 35.20.050. Authority to purchase property for the purpose of exchange.** When the commissioner formally declares that it is in the best public interest of the state to do so, the department may acquire by purchase or otherwise privately or publicly owned land or an interest in it for the purpose of exchanging it for privately or publicly owned land which the department is authorized by law to acquire. (§ 2 art I title IV ch 152 SLA 1957; added by § 3 ch 122 SLA 1960)

**Sec. 35.20.060. Sale of obsolete equipment and material.** The department may sell, exchange or otherwise dispose of obsolete machinery, equipment and material no longer needed, required or useful for construction or maintenance purposes. Money derived from the sale of the property shall be credited to the fund from which the purchase was originally made. (§ 3 art IV title IV ch 152 SLA 1957)

**Sec. 35.20.070. Vacating of lands or rights in land.** The department may vacate land, or part of it, or rights in land acquired for public work

purposes by executing and filing a deed in the appropriate recording district. Upon vacating, title reverts to the persons, heirs, successors, or assigns in whom it was vested at the time of the taking. The department may transfer land considered no longer necessary for public works purposes to the Department of Natural Resources for disposal. The proceeds of disposal by the Department of Natural Resources shall be credited to the funds from which the purchase was originally made. (§ 4 art IV title IV ch 152 SLA 1957)

## Chapter 25. General Provisions.

### Section

- 10. Purpose and intent
- 20. Definitions

**Sec. 35.25.010. Purpose and intent.** The purpose of this title is to establish a public works department capable of carrying out a public works planning and construction program which will provide public buildings necessary to efficient government, and boat harbors, jetties, dikes and breakwaters necessary to the economy of Alaska communities, all of which is to the advantage and benefit of the general welfare of the public. (§ 2 art I title I ch 152 SLA 1957; am § 32 ch 71 SLA 1972)

**Effect of amendment.** — The 1972 amendment substituted "department" for "division" near the beginning of this section. Legislative committee report. — For report on ch. 71, SLA 1972 (HCSSB 383 am H), see 1972 House Journal, p. 898.

**Sec. 35.25.020. Definitions.** In this title, unless the context otherwise requires,

(1) "construction" or any derivative of the term "construction" means construction, reconstruction, alteration, improvement or major repair;

(2) "department" means the Department of Public Works;

(3) "excess lands" means lands acquired for the state in excess of land required for a public work, when the remaining portion of a parcel of land acquired is left in a shape or condition as to be of little or no value to its owner, or to give rise to claims or litigation concerning severance or other damage;

(4) "maintenance" means the preservation of each type of facility as nearly as possible in its original condition as constructed, or as improved;

(5) "public building" means a building owned or controlled and held by the state for government or public use;

(6) "public works" means all fixed works constructed or maintained by the Department of Public Works or any of its divisions, and includes but is not limited to work on a public building, boat harbor, jetty, dike, breakwater, or airport. (§ 3 art I title I ch 152 SLA 1957; am §§ 1, 2 ch 122 SLA 1960; am § 1 ch 96 SLA 1962)

## Chapter 27. Art Works in Public Buildings and Facilities.

### Section

- 10. Purpose
- 20. Art requirements for public buildings and facilities

### Section

- 30. Definitions

**Sec. 35.27.010. Purpose.** The state recognizes its responsibility to foster culture and the arts and the necessity for the viable development of its artists and craftsmen. The legislature declares it to be a state policy that a portion of appropriations for capital expenditures be set aside for the acquisition of works of art to be used for state buildings and other public facilities. (§ 1 ch 54 SLA 1975)

**Legislative committee report.** — For report on ch. 54, SLA 1975 (CSHB 133 [Finance]), see 1975 Senate Journal, p. 939.

**Sec. 35.27.020. Art requirements for public buildings and facilities.**  
(a) Plans for public buildings and facilities constructed after June 30, 1975 and for remodeling or renovation after June 30, 1975 where the total cost of the remodeling or renovation is \$250,000 or more shall contain provisions for the inclusion of works of art including but not limited to sculptures, paintings, murals, or objects relating to Native art.

(b) The department, before preparing plans and specifications for public works and facilities, shall consult with the Alaska State Council on the Arts regarding the desirability of inclusion of works of art.

(c) At least one per cent or, in the case of a rural school facility, at least one-half of one per cent of the construction cost of a building or facility approved for construction by the legislature after the enactment date of this chapter will be reserved for the following purposes: the design, construction, mounting and administration of works of art in the public building or public facility.

(d) Public buildings and facilities with an overall construction cost of less than \$250,000 are exempt from the requirements of this chapter unless inclusion of works of art in their design and construction is specifically authorized by the department.

(e) The artist who executes these works of art shall be selected by the architect for the department with the approval of the department, after consultation with the Alaska State Council on the Arts and the principal user of the public buildings or facilities. (§ 1 ch 54 SLA 1975)

(f) The artist who executes these works of art in the public schools shall be selected by the superintendent of a school district in which a public school is to be built with the approval of the school board. Should the department find in the best interest of the state that the selection of the artist who executes these works of art by the superintendent may result in a cost overrun to the state or delay of construction, the department shall make the selection of the artist in consultation with the superintendent.

(g) The architect, superintendent, department, and the Alaska State Council on the Arts shall encourage the use of state cultural resources in these art works and the selection of Alaska resident artists for the commission of these art works.  
(am §§ 1, 2 ch 96 SLA 1977)

**Effect of amendment.** — The 1977 amendment substituted "or, in the case of a rural school facility, at least one-half of one percent of the construction cost" for "of the overall construction cost" in subsection (c) and added subsections (f) and (g).  
As the rest of the section was not affected by the amendment, it is not set out.

**Sec. 35.27.030. Definitions.** In this chapter

(1) "department" means the Department of Public Works;

(2) "public facilities" includes schools, office buildings, court buildings and other facilities which are designed for substantial public use, as well as the vessels of the state ferry system.

(3) "construction cost" is that cost expended for the actual construction of the facility, exclusive of the costs of land acquisition, site investigation, design services, administrative costs, equipment purchases and any other costs not specifically incurred within the construction contract or contracts awarded for the construction of the facility. (§ 1 ch 54 SLA 1975; am §§ 3, 4 ch 96 SLA 1977)

**Effect of amendment.** — The 1977 amendment inserted "schools, office buildings, court buildings and other facilities which are designed for substantial public use" in paragraph (2) and added paragraph (3).

**Chapter 30. Consistency With Local Government Plans and Ordinances.**

Section	Section
10. Review and approval by local planning authorities	30. Waiver
20. Compliance with municipal ordinances	40. Definitions

**Cross reference.** — As to construction procedures, see AS 35.15.010 et seq.

**Sec. 35.30.010. Review and approval by local planning authorities.**

(a) Except as provided in (b) of this section, before commencing construction of a public project,

(1) if the project is located in a municipality, the department shall submit the plans for the project to the planning commission of the municipality for review and approval;

(2) if the project is located within two miles of a village, the department shall submit the plans to the village council for review and comment.

(b) Prior approval by a municipal planning commission may not be required before the commencement of construction of a highway or local service road if

(1) the Department of Transportation and Public Facilities and the municipality have entered into agreement for the planning of the project under AS 19.20.060 or 19.20.070 and the plans for the project are completed in accordance with the terms of that agreement;

(2) the municipality has adopted a municipal master highway plan under AS 19.20.080 and the highway or local service road is consistent with the plan adopted; or

(3) the Department of Transportation and Public Facilities has entered into agreement with the municipality for the planning of transportation corridors under AS 19.10.280 and the plans for the project are completed in accordance with the provisions of that agreement.

(c) If final disapproval by resolution of the governing body of the affected municipality or village is not received within 90 days from the date the project was submitted to the municipality or village, the department may proceed with the project. (§ 3 ch 143 SLA 1977)

**Sec. 35.30.020. Compliance with municipal ordinances.** A department shall comply with local planning and zoning ordinances and other regulations in the same manner and to the same extent as other landowners. (§ 3 ch 143 SLA 1977)

**Sec. 35.30.030. Waiver.** If a department clearly demonstrates an overriding state interest, waiver of local planning authority approval and the compliance requirement may be granted by the governor. The governor shall issue specific findings giving reasons for granting any waiver under this section. (§ 3 ch 143 SLA 1977)

**Sec. 35.30.040. Definitions.** In this chapter

(1) "department" means the Department of Transportation and Public Facilities, and the University of Alaska;

(2) "public project" means a public building or other structure, public work, or other facility, highway, or local service road constructed or maintained by a department; the term includes the acquisition by purchase or agreement of land and rights in land for materials and the extraction or removal of materials necessary for completion of a highway under AS 19.05.080 — 19.05.120;

(3) "village" means an unincorporated community of the unorganized borough where at least 25 people reside as a social unit. (§ 3 ch 143 SLA

**Sec. 37.05.150. Funds and accounts.** The accounting system shall be in accordance with accepted principles of governmental (fund) accounting and shall include both budgetary and property accounts. The system shall provide records showing at all times by funds, accounts, and other pertinent classifications the amounts appropriated, the estimated revenues, actual revenues or receipts, the amounts available for expenditure, the total expenditures, the unliquidated obligations, actual balances on hand, and the unencumbered balances of appropriations for each state agency. (§ 3 art III ch 82 SLA 1955; am § 5 ch 186 SLA 1957)

**Sec. 37.05.155. Special funds.** (a) The following funds shall be treated for accounting purposes as accounts in the general fund:

- (1) FICA administration fund (AS 39.30.050);
- (2) special revolving fund — surplus property (AS 44.71.030(c));
- (3) Repealed by § 49 ch 32 SLA 1971.
- (4) second injury fund (AS 23.30.040);
- (5) the vocational rehabilitation small business enterprises revolving fund (AS 23.15.130);
- (6) fishermen's fund (AS 23.35.060).

(b) There shall be created in the general fund for each of the funds designated in (a) of this section a reserve equal to the excess of revenues received by each fund over expenditures made from that fund. (§ 1 ch 5 SLA 1968; am § 49 ch 32 SLA 1971)

*Legislative committee report.* — For report on ch. 32, SLA 1971 (HB 111 am), see 1971 House Journal, p. 138.

*"General fund".* — The general fund is not specifically created by statute. Its existence is noted in this section which provides that certain enumerated funds shall be treated for accounting purposes as accounts in the general fund. 1969 Op. Att'y Gen., No. 5.

The general fund in Alaska consists of money received from state taxes and

licenses and money received from non-tax or license sources, such as oil and gas royalty payments. 1969 Op. Att'y Gen., No. 5.

All public moneys and revenue coming into the state treasury constitute the general fund of the state. 1969 Op. Att'y Gen., No. 5.

Quoted in *Thomas v. Rosen*, Sup. Ct. Op. No. 1504 (File No. 3073), 569 P.2d 793 (1977).

**Sec. 37.05.157. General fund; "reserve for capital outlay" account.** (a) There is created within the general fund the "reserve for capital outlay" account.

(b) Twenty-five per cent of the annual receipts paid the state from mineral lease bonuses and rentals for state land and royalties derived from minerals produced on state land shall be allocated to the reserve for capital outlay account.

(c) The proceeds of the reserve for capital outlay account are subject to annual appropriation by the general appropriation act. (§ 10 ch 168 SLA 1978)

**Sec. 37.05.158. General fund; "reserve for energy facilities development" account.** (a) There is created within the general fund the "reserve for energy facilities development" account.

(b) Five per cent of the annual receipts paid the state from mineral lease bonuses and rentals for state land and royalties derived from minerals produced on state land shall be allocated to the reserve for energy facilities development account.

(c) The proceeds of the reserve for energy facilities development account shall be subject to annual appropriation by the legislature. Plans for expenditures from the account shall be submitted by the governor in accordance with the Executive Budget Act (AS 37.07) as part of his annual budget presentation. (§ 11 ch 168 SLA 1978)

**Sec. 37.05.160. Property records.** The Department of Administration shall direct the use of inventory records by all state agencies to show all fixed and movable property of the state. The records shall be based on a physical inventory and charged with all subsequent purchases and shall be reduced by all property traded in, condemned, or disposed of. The accuracy of the property record shall be verified periodically by actual inspection of the property by the department. The state agencies may be required to take physical inventory of properties annually and at other times as the department directs. (§ 4 art III ch 82 SLA 1955; am § 5 ch 186 SLA 1957)

**Sec. 37.05.170. Obligations.** No payment may be made and no obligation incurred against any fund unless the Department of Administration certifies that its records disclose that there is a sufficient unencumbered balance available in the fund and that an appropriation or expenditure authorization has been made for the purpose for which it is intended to incur the obligation. (§ 5 art III ch 82 SLA 1955; am § 5 ch 186 SLA 1957)

*Am. Jur. and ALR references.* — 42 Am. Jur., Public Funds, § 56.

Power of state to incur indebtedness for relief of distress due to unemployment or other unusual conditions, 73 ALR 609; 87 ALR 371.

Power of board or officials to depart from literal requirements in respect of deposits or loans of public funds in their control. 104 ALR 623.

**Sec. 37.05.180. Two-year limitation on payment of warrants.** No warrant upon the state treasury is paid unless presented at the office of the commissioner of revenue within two years of the date of its issuance. All warrants not presented within that time are considered paid and money held at the expiration of that time in a special fund or account for the payment of the warrant shall be transferred to the general fund, except where transfer is prohibited by the federal government for state participation in a federal program. (§ 3 ch 130 SLA 1951; am § 1 ch 128 SLA 1960; am § 1 ch 7 SLA 1961)

(D) alternative program methods for providing the services; and  
(E) pertinent data requested by the department in accordance with procedures developed under § 180 of this chapter;  
(am § 1 ch 168 SLA 1978)

(4) engage in experimental projects as necessary relating to any available or future method of facility procurement, design or construction and any method of improving existing design, planning and construction techniques;

(5) develop life cycle costs of public facilities of the state;

(6) develop life cycle costing methodologies for the following special purposes:

(A) budget forecasting to support facility program planning and analysis,

(B) systematic cost estimating to forecast planning, design and construction,

(C) budget forecasting to support development of annual maintenance and operating strategies and life cycle cost plans,

(D) alternative methods of space acquisition and space equalization which will maximize the effectiveness of public funds;

(7) apply for and accept, on behalf of the state, grants from the federal government or an agency of it or from another state foundation, corporation, association or individual for any of the functions or purposes of the department and may expend any of the money received under this section for any of the functions or purposes. (§ 1 ch 216 SLA 1975)

Sec. 35.10.180. Physical facility procurement and planning policies. (a) The department shall develop and keep current by periodic revision physical facility procurement and planning policies for rural schools, public buildings, and other state facilities, and shall develop regulations and guidelines for the implementation of these policies.

(b) In developing and revising these policies the department shall seek public review and evaluation by any reasonable means and shall

(1) consult and cooperate with officials of the federal government, local governments, other political subdivisions of the state and other interested persons regarding physical facility procurement planning;

(2) request and receive from an agency or other unit of the state government the assistance and data needed to carry out the requirements of this section.

(c) The commissioner shall submit copies of proposed policies and plans annually, within 10 days after the legislature convenes, to the legislature. The legislature may approve, reject or modify the policies and plans by concurrent resolution. If the legislature fails to act during the legislative session, the policies and plans are approved. (§ 1 ch 216 SLA 1975)

Sec. 35.10.190. Coordination by department. (a) The department shall coordinate the procurement of physical facilities for the state to insure the greatest cost savings of planning, design and contractual techniques.

(b) When the state or an agency of the state determines that a public facility is to be constructed or renovated, it shall, unless exempted by regulations of the department, submit to the department an application for a certificate that the proposed facility complies with adopted facility procurement policies. The department may reject the application but if it does so it shall state in writing the reasons for the rejection. If a written statement that the application is rejected does not issue within 30 days after receipt of the application by the department, unless the department and the applicant have agreed upon an extension of time for consideration, the certificate of compliance shall not be required. Except as provided otherwise by regulation or by this section, no public facility of the state may be constructed or renovated by the state unless a certificate that the facility complies with adopted facility procurement has been issued. (§ 1 ch 216 SLA 1975)

Sec. 35.10.200. Definitions. In §§ 160 — 200 of this chapter,

(1) "life cycle costs" means analytic techniques which provide data to describe the first cost of procurement of public facilities and the maintenance cost, operation cost and occupancy cost of the facilities;

(2) "policies" includes but is not limited to budget accounting and cost planning techniques, facility design techniques, and contractual techniques for the procurement of labor, materials and contractual services;

§ 35.15.010 PUBLIC BUILDINGS, WORKS AND IMPROVEMENTS § 35.15.030

## Chapter 15. Construction Procedures.

Section	Section
10. Construction by department	90. Use of appropriated funds
30. Advertisement, bids, contracts, and informal bids	110. Title to site and completion of project
80. Local control of state public works projects	120. Definitions

Sec. 35.15.010. Construction by department. (a) Except as provided in AS 44.33.300, it shall be the general policy of the department to require the construction of all public works under bid contract. However, when the estimated cost of a construction project is less than \$100,000, or when it appears to be in the best interests of the state, the department may perform the work, notwithstanding any other provisions of law. A complete record shall be kept by the commissioner or his designee of all transactions entered into under this section including names of employees involved in the transactions.

be itemized as allocations within the bill for the general appropriations act. (Executive Order No. 39 § 2 (1977))

Sec. 44.42.055. State public facilities plan. (a) The commissioner shall develop and annually revise a statewide comprehensive facility procurement plan for public facilities of the state and its municipalities.

(b) In developing and annually revising the facility procurement plan, the commissioner shall

(1) request and receive on an annual basis from all state agencies a projection of the anticipated facility needs of the agency for the next annual capital improvement program;

(2) consult with officials and representatives of municipalities, the federal government, interested corporations and other organizations concerning public facility needs in the state;

(3) develop specific facility procurement plans for projects in each of the following categories:

- (A) sewage transmission and treatment systems;
- (B) water transmission and treatment systems;
- (C) electrical generation and distribution systems;
- (D) health care and social services facilities;
- (E) educational facilities;
- (F) communications facilities and transportation facilities;
- (G) public safety and justice facilities;
- (H) recreational facilities; and
- (I) sanitation facilities;

(4) prepare recommendations to accommodate the various levels of service identified by state agencies and other parties with respect to the services described in (3) of this subsection, to include recommended

- (A) current and future facility needs;
- (B) space standards and design guidelines for the appropriate facility types;
- (C) maintenance and operations standards for the appropriate facility types;
- (D) construction techniques and contracting methods;
- (E) facility project budget requirements; and
- (F) the relative costs of identified alternatives (life cycle cost analysis);

(5) identify common public facility needs among the various user agencies; and

(6) submit its findings, plans and recommendations to the governor and to the appropriate state agency to facilitate the development of agency capital improvement budget requests.

(c) In the preparation and revision of the facility procurement plan, the commissioner may

(1) develop and adopt regulations for use in carrying out the purpose of (b) of this section; regulations may not be adopted under this section unless approval is received from appropriate program agencies;

(2) make recommendations on the total capital improvement program to affected state agencies, local governments, and other interested parties and organizations, and to the divisions of budget and management and policy development and planning.

(d) In this section, "public facility"

(1) means a capital improvement within one of the categories described in (b) of this section which is constructed

(A) for subsequent occupancy or operation by the state, a public corporation of the state, the University of Alaska, a political subdivision, or a regional educational attendance area;

(B) by a political subdivision or any private party with the assistance of financial support provided by the state if funds appropriated or paid by way of a grant or loan in advance of construction of the facility, or any part of it, are 50 per cent or more of the estimated costs of construction of the facility;

(2) does not include projects constructed with the proceeds of one or more loans issued by a loan program administered by the Department of Commerce and Economic Development. (§ 14 ch 168 SLA 1978)

development, management and operation of integrated, intermodal transportation systems. The purpose of this department is to evaluate, plan, design, construct, manage, operate and maintain all state transportation modes and systems, relying on analysis of the relative advantages of different modes and systems and considering their social, economic, and environmental consequences."

Section 8, Executive Order No. 39 (1977), effective July 1, 1977, provides: "All litigation, hearings, investigations and other proceedings pending under a law amended or repealed by this Order, or in connection with functions transferred by this Order, continue in effect and may be continued and completed notwithstanding a transfer or amendment or repeal provided for in this Order. Certificates, orders, and regulations issued or adopted under authority of a law amended or repealed by this Order remain in effect for the term issued, until revoked, vacated, or otherwise modified under the provisions of this Order. All contracts, rights, liabilities, and obligations created by or under a law amended or repealed by this Order, and in effect on the effective date of this Order, remain in effect notwithstanding this Order's taking effect. Records, equipment, and other property or agencies of the state whose functions are transferred under this Order shall be transferred commensurate with the provisions of this Order."

Section 9, Executive Order No. 39 (1977), effective July 1, 1977, provides: "(a) The Department of Transportation and Public Facilities is vested with the duties and powers formerly held by the Department of Public Works relating to planning, construction, maintenance and operation of

transportation facilities, including state ferries, airports and water and harbor facilities, and for design and construction of buildings and appurtenant structures, and specifically including all powers and duties formerly held by the Department of Public Works under AS 02, AS 30.05, AS 30.15, AS 35, AS 41.20 and AS 44.65.

"(b) The Department of Transportation and Public Facilities is vested with the duties and powers formerly held by the Department of Highways relating to planning, construction, maintenance and operation of state transportation facilities including state highways, roads, bridges, traffic signs and signals, the supervision and maintenance of state automotive and mechanical equipment, the control of outdoor advertising visible from state highways and all other duties and powers of the Department of Highways, and specifically including powers and duties formerly held by the Department of Highways under AS 19, AS 28.01, AS 28.05, and AS 44.57."

Section 10, Executive Order No. 39 (1977), effective July 1, 1977, provides: "The commissioner of transportation and public facilities shall replace the commissioner of highways on the state Geographic Board, the Alaska Toll Bridge Authority, and all other boards and commissions."

Section 12, Executive Order No. 39 (1977), effective July 1, 1977, provides: "During Fiscal Year 1978, all appropriation items made for that fiscal year and prior years for the Department of Highways and the Department of Public Works may, upon approval of the governor, be appropriately transferred to implement the purposes of this Order."

Sec. 44.42.010. Commissioner of transportation and public facilities. The principal executive officer of the Department of Transportation and Public Facilities is the commissioner of transportation and public facilities. (Executive Order No. 39 § 2 (1977))

Sec. 44.42.020. Powers and duties. (a) The department shall

- (1) plan, design, construct and maintain all state modes of transportation and transportation facilities, communication facilities, and all docks, floats, breakwaters, buildings and similar facilities;
- (2) study existing transportation modes and facilities and communication facilities in the state to determine how they might be improved or whether they should continue to be maintained;
- (3) study alternative means of improving transportation and

communication in the state with regard to the economic costs of each alternative and its environmental and social effects;

(4) develop a comprehensive, long-range intermodal transportation plan for the state;

(5) study alternatives to existing modes of transportation in urban areas and develop plans to improve urban transportation;

(6) cooperate and coordinate with and enter into agreements with federal, state and local government agencies and private organizations and persons in exercising its powers and duties;

(7) manage, operate, and maintain state transportation facilities, communication facilities, and all docks, floats, breakwaters and buildings, including all state highways, vessels, railroads, pipelines, airports, and aviation facilities;

(8) study alternative means of transportation in the state, considering the economic, social, and environmental impacts of each alternative;

(9) coordinate and develop state and regional transportation systems, considering deletions, additions, and the absence of alterations;

(10) develop facility program plans for transportation and communication facilities and state buildings, docks and breakwaters required to implement the duties set out in this section, including but not limited to (A) functional performance criteria; and (B) schedules for completion;

(11) supervise and maintain all state automotive and mechanical equipment, aircraft, and vessels, except vessels and aircraft used by the Department of Fish and Game or the Department of Public Safety; and

(12) supervise aeronautics and communications inside the state, under AS 02.10.

(13) complete and maintain a current inventory of public facilities, including a projection of the serviceability of the facilities and projections of replacements and additions to facilities needed to provide the level of services programmed by the various user agencies, for municipalities with populations of less than 12,000 and for unincorporated communities, and perform those duties on a cooperative basis with larger municipalities.

(b) The department may

(1) engage in experimental projects relating to available or future modes of transportation and any means of improving existing transportation facilities and service and communication;

(2) exercise the power of eminent domain, including the declaration of taking as provided in AS 09.55. (Executive Order No. 39 § 2 (1977); am § 13 ch 168 SLA 1978)

Effect of amendment. — The 1978 amendment added paragraph (13) to subsection (a).

Sec. 44.12.030. Regulations. The department may adopt regulations under the Administrative Procedure Act (AS 44.62) to implement, interpret, or make more specific its powers and duties. (Executive Order No. 39 § 2 (1977))

Sec. 44.42.040. Departmental organization. The commissioner shall establish regions within the state. The functions of the department within each region shall be performed, to the maximum extent feasible, through a regional office. Each regional office shall be directed by a regional transportation and public facilities director appointed by the commissioner. (Executive Order No. 39 § 2 (1977))

Sec. 44.42.050. State transportation plan. (a) The commissioner shall develop annually a comprehensive, intermodal, long-range transportation plan for the state. In developing and revising the state plan, the commissioner shall consider means and costs of improving existing modes and facilities, state and federal subsidies, and the costs and benefits of new transportation modes and facilities. The commissioner shall also consider the recommendation of the Alaska Transportation Planning Council. The plan shall be submitted to the governor for his review and approval and submitted by the governor to the legislature.

(b) In developing and revising the plan, the commissioner shall seek public review and evaluation by any reasonable means and may

(1) consult and cooperate with officials and representatives of the federal government, other governments, interstate commissions and authorities, local agencies and authorities, interested corporations and other organizations concerning problems affecting transportation in the state; and

(2) request from an agency or other unit of the state government or of a political subdivision of it, or from a public authority, the assistance and data that may be necessary to enable the commissioner to carry out his responsibilities under this section; every such entity shall provide the assistance and data requested.

(c) Copies of the plan, as revised, shall be kept on file as a public document in the office of the commissioner and at each regional office of the department.

(d) The plan shall include a description of projects planned for design and construction for the following two years. The description is in addition to the long-range plan required by (a) of this section and by AS 19.10.140. The description shall include an itemization of the estimated cost for each project and the total cost of all projects. The commissioner shall propose and forward to the governor for his review and approval and inclusion, as approved, in the capital budget a construction program which includes the projects to be undertaken during the following two years, including recommended project priorities. Funds for transportation construction projects and necessary contingencies shall

be itemized as allocations within the bill for the general appropriations act. (Executive Order No. 39 § 2 (1977))

Sec. 44.42.055. State public facilities plan. (a) The commissioner shall develop and annually revise a statewide comprehensive facility procurement plan for public facilities of the state and its municipalities.

(b) In developing and annually revising the facility procurement plan, the commissioner shall

(1) request and receive on an annual basis from all state agencies a projection of the anticipated facility needs of the agency for the next annual capital improvement program;

(2) consult with officials and representatives of municipalities, the federal government, interested corporations and other organizations concerning public facility needs in the state;

(3) develop specific facility procurement plans for projects in each of the following categories:

(A) sewage transmission and treatment systems;

(B) water transmission and treatment systems;

(C) electrical generation and distribution systems;

(D) health care and social services facilities;

(E) educational facilities;

(F) communications facilities and transportation facilities;

(G) public safety and justice facilities;

(H) recreational facilities; and

(I) sanitation facilities;

(4) prepare recommendations to accommodate the various levels of service identified by state agencies and other parties with respect to the services described in (3) of this subsection, to include recommended

(A) current and future facility needs;

(B) space standards and design guidelines for the appropriate facility types;

(C) maintenance and operations standards for the appropriate facility types;

(D) construction techniques and contracting methods;

(E) facility project budget requirements; and

(F) the relative costs of identified alternatives (life cycle cost analysis);

(5) identify common public facility needs among the various user agencies; and

(6) submit its findings, plans and recommendations to the governor and to the appropriate state agency to facilitate the development of agency capital improvement budget requests.

(c) In the preparation and revision of the facility procurement plan, the commissioner may

(1) develop and adopt regulations for use in carrying out the purpose of (b) of this section; regulations may not be adopted under this section unless approval is received from appropriate program agencies;

(2) make recommendations on the total capital improvement program to affected state agencies, local governments, and other interested parties and organizations, and to the divisions of budget and management and policy development and planning.

(d) In this section, "public facility"

(i) means a capital improvement within one of the categories described in (b) of this section which is constructed

(A) for subsequent occupancy or operation by the state, a public corporation of the state, the University of Alaska, a political subdivision, or a regional educational attendance area;

(B) by a political subdivision or any private party with the assistance of financial support provided by the state if funds appropriated or paid by way of a grant or loan in advance of construction of the facility, or any part of it, are 50 per cent or more of the estimated costs of construction of the facility;

(2) does not include projects constructed with the proceeds of one or more loans issued by a loan program administered by the Department of Commerce and Economic Development. (§ 14 ch 168 SLA 1978)

Sec. 44.42.060. Grants to the department. The commissioner may apply for and accept, on behalf of the state, grants from the federal government or an agency of it, or from another state, a foundation, or any person, for any of the functions or purposes of the department. (Executive Order No. 39 § 2 (1977))

Sec. 44.42.070. Limitation on transportation facilities. The department shall consult with the appropriate officials of other departments regarding environmental risks and economic and social considerations that may arise by reason of the location, design, construction or reconstruction of a transportation facility. (Executive Order No. 39 § 2 (1977))

Sec. 44.42.080. Capital projects funds. There is created within the department the following capital projects funds:

- (1) educational, cultural, and related facilities;
- (2) transportation and related facilities;
- (3) public institutions and related facilities;
- (4) public safety, justice, and related facilities;
- (5) health, and related facilities;
- (6) natural resource development facilities;
- (7) general purpose facilities. (§ 15 ch 168 SLA 1978)

Sec. 44.42.900. Definitions. In this chapter, unless the context requires otherwise,

(1) "commissioner" means the commissioner of the Department of Transportation and Public Facilities;

(2) "department" means the Department of Transportation and Public Facilities;

(3) "transportation" or "transportation mode" includes, but is not limited to, the following means of conveyance or travel, including their related or auxiliary structures, facilities or services: air, rail, water, highway and pipeline. (Executive Order No. 39 § 2 (1977))

## Chapter 43. Department of Public Works.

### Section

10—30. [Repealed]

Editor's note. — Section 1, Executive Order No. 39 (1977), effective July 1, 1977, provides: "FINDINGS AND PURPOSE. As governor, I find that the diverse transportation needs of the state would best be served by the creation of a single department for the planning, study, development, management and operation of integrated, intermodal transportation systems. The purpose of this department is to evaluate, plan, design, construct, manage, operate and maintain all state transportation modes and systems, relying on analysis of the relative advantages of different modes and systems and considering their social, economic, and environmental consequences."

Section 8, Executive Order No. 39 (1977), effective July 1, 1977, provides: "All litigation, hearings, investigations and other proceedings pending under a law amended or repealed by this Order, or in connection with functions transferred by this Order, continue in effect and may be continued and completed notwithstanding a transfer or amendment or repeal provided for in this Order. Certificates, orders, and regulations issued or adopted under authority of a law amended or repealed by this Order remain in effect for the term issued, until revoked, vacated, or otherwise modified under the provisions of this Order. All contracts, rights, liabilities, and obligations created by or under a law amended or repealed by this Order, and in effect on the effective date of this Order, remain in effect notwithstanding this Order's taking effect. Records, equipment and other property of agencies of the state whose functions are transferred under this Order shall be transferred commensurate with the provisions of this Order."

Section 9, Executive Order No. 39 (1977), effective July 1, 1977, provides: "(a) The Department of Transportation and Public Facilities is vested with the duties and powers formerly held by the Department of Public Works relating to planning, construction, maintenance and operation of transportation facilities, including state ferries, airports and water and harbor facilities, and for design and construction of buildings and appurtenant structures, and specifically including all powers and duties formerly held by the Department of Public Works under AS 02, AS 30.05, AS 30.15, AS 35, AS 41.20 and AS 44.65.

"(b) The Department of Transportation and Public Facilities is vested with the duties and powers formerly held by the Department of Highways relating to planning, construction, maintenance and operation of state transportation facilities including state highways, roads, bridges, traffic signs and signals, the supervision and maintenance of state automotive and mechanical equipment, the control of outdoor advertising visible from state highways and all other duties and powers of the Department of Highways, and specifically including powers and duties formerly held by the Department of Highways under AS 19, AS 28.01, AS 28.05, and AS 44.57."

Section 12, Executive Order No. 39 (1977), effective July 1, 1977, provides: "During Fiscal Year 1978, all appropriations items made for that fiscal year and prior years for the Department of Highways and the Department of Public Works may, upon approval of the governor, be appropriately transferred to implement the purposes of this Order."

development, management and operation of integrated, intermodal transportation systems. The purpose of this department is to evaluate, plan, design, construct, manage, operate and maintain all state transportation modes and systems, relying on analysis of the relative advantages of different modes and systems and considering their social, economic, and environmental consequences."

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transportation facilities, including state ferries, airports and water and harbor facilities, and for design and construction of buildings and appurtenant structures, and specifically including all powers and duties formerly held by the Department of Public Works under AS 02, AS 30.05, AS 30.15, AS 35, AS 41.20 and AS 44.65.

"(b) The Department of Transportation and Public Facilities is vested with the duties and powers formerly held by the Department of Highways relating to planning, construction, maintenance and operation of state transportation facilities including state highways, roads, bridges, traffic signs and signals, the supervision and maintenance of state automotive and mechanical equipment, the control of outdoor advertising visible from state highways and all other duties and powers of the Department of Highways, and specifically including powers and duties formerly held by the Department of Highways under AS 19, AS 28.01, AS 28.05, and AS 44.57."

Section 10, Executive Order No. 39 (1977), effective July 1, 1977, provides: "The commissioner of transportation and public facilities shall replace the commissioner of highways on the state Geographic Board, the Alaska Toll Bridge Authority, and all other boards and commissions."

Section 12, Executive Order No. 39 (1977), effective July 1, 1977, provides: "During Fiscal Year 1978, all appropriation items made for that fiscal year and prior years for the Department of Highways and the Department of Public Works may, upon approval of the governor, be appropriately transferred to implement the purposes of this Order."

Sec. 44.42.010. Commissioner of transportation and public facilities. The principal executive officer of the Department of Transportation and Public Facilities is the commissioner of transportation and public facilities. (Executive Order No. 39 § 2 (1977))

Sec. 44.42.020. Powers and duties. (a) The department shall

- (1) plan, design, construct and maintain all state modes of transportation and transportation facilities, communication facilities, and all docks, floats, breakwaters, buildings and similar facilities;
- (2) study existing transportation modes and facilities and communication facilities in the state to determine how they might be improved or whether they should continue to be maintained;
- (3) study alternative means of improving transportation and

communication in the state with regard to the economic costs of each alternative and its environmental and social effects;

(4) develop a comprehensive, long-range intermodal transportation plan for the state;

(5) study alternatives to existing modes of transportation in urban areas and develop plans to improve urban transportation;

(6) cooperate and coordinate with and enter into agreements with federal, state and local government agencies and private organizations and persons in exercising its powers and duties;

(7) manage, operate, and maintain state transportation facilities, communication facilities, and all docks, floats, breakwaters and buildings, including all state highways, vessels, railroads, pipelines, airports, and aviation facilities;

(8) study alternative means of transportation in the state, considering the economic, social, and environmental impacts of each alternative;

(9) coordinate and develop state and regional transportation systems, considering deletions, additions, and the absence of alterations;

(10) develop facility program plans for transportation and communication facilities and state buildings, docks and breakwaters required to implement the duties set out in this section, including but not limited to (A) functional performance criteria; and (B) schedules for completion;

(11) supervise and maintain all state automotive and mechanical equipment, aircraft, and vessels, except vessels and aircraft used by the Department of Fish and Game or the Department of Public Safety; and

(12) supervise aeronautics and communications inside the state, under AS 02.10.

(13) complete and maintain a current inventory of public facilities, including a projection of the serviceability of the facilities and projections of replacements and additions to facilities needed to provide the level of services programmed by the various user agencies, for municipalities with populations of less than 12,000 and for unincorporated communities, and perform those duties on a cooperative basis with larger municipalities.

(b) The department may

(1) engage in experimental projects relating to available or future modes of transportation and any means of improving existing transportation facilities and service and communication;

(2) exercise the power of eminent domain, including the declaration of taking as provided in AS 09.55. (Executive Order No. 39 § 2 (1977); am § 13 ch 168 SLA 1978)

Effect of amendment. — The 1978 amendment added paragraph (13) to subsection (a).

Sec. 44.42.030. Regulations. The department may adopt regulations under the Administrative Procedure Act (AS 44.62) to implement, interpret, or make more specific its powers and duties. (Executive Order No. 39 § 2 (1977))

Sec. 44.42.040. Departmental organization. The commissioner shall establish regions within the state. The functions of the department within each region shall be performed, to the maximum extent feasible, through a regional office. Each regional office shall be directed by a regional transportation and public facilities director appointed by the commissioner. (Executive Order No. 39 § 2 (1977))

Sec. 44.42.050. State transportation plan. (a) The commissioner shall develop annually a comprehensive, intermodal, long-range transportation plan for the state. In developing and revising the state plan, the commissioner shall consider means and costs of improving existing modes and facilities, state and federal subsidies, and the costs and benefits of new transportation modes and facilities. The commissioner shall also consider the recommendation of the Alaska Transportation Planning Council. The plan shall be submitted to the governor for his review and approval and submitted by the governor to the legislature.

(b) In developing and revising the plan, the commissioner shall seek public review and evaluation by any reasonable means and may

(1) consult and cooperate with officials and representatives of the federal government, other governments, interstate commissions and authorities, local agencies and authorities, interested corporations and other organizations concerning problems affecting transportation in the state; and

(2) request from an agency or other unit of the state government or of a political subdivision of it, or from a public authority, the assistance and data that may be necessary to enable the commissioner to carry out his responsibilities under this section; every such entity shall provide the assistance and data requested.

(c) Copies of the plan, as revised, shall be kept on file as a public document in the office of the commissioner and at each regional office of the department.

(d) The plan shall include a description of projects planned for design and construction for the following two years. The description is in addition to the long-range plan required by (a) of this section and by AS 19.10.140. The description shall include an itemization of the estimated cost for each project and the total cost of all projects. The commissioner shall propose and forward to the governor for his review and approval and inclusion, as approved, in the capital budget a construction program which includes the projects to be undertaken during the following two years, including recommended project priorities. Funds for transportation construction projects and necessary contingencies shall

be itemized as allocations within the bill for the general appropriations act. (Executive Order No. 39 § 2 (1977))

Sec. 44.42.055. State public facilities plan. (a) The commissioner shall develop and annually revise a statewide comprehensive facility procurement plan for public facilities of the state and its municipalities.

(b) In developing and annually revising the facility procurement plan, the commissioner shall

(1) request and receive on an annual basis from all state agencies a projection of the anticipated facility needs of the agency for the next annual capital improvement program;

(2) consult with officials and representatives of municipalities, the federal government, interested corporations and other organizations concerning public facility needs in the state;

(3) develop specific facility procurement plans for projects in each of the following categories:

(A) sewage transmission and treatment systems;

(B) water transmission and treatment systems;

(C) electrical generation and distribution systems;

(D) health care and social services facilities;

(E) educational facilities;

(F) communications facilities and transportation facilities;

(G) public safety and justice facilities;

(H) recreational facilities; and

(I) sanitation facilities;

(4) prepare recommendations to accommodate the various levels of service identified by state agencies and other parties with respect to the services described in (3) of this subsection, to include recommended

(A) current and future facility needs;

(B) space standards and design guidelines for the appropriate facility types;

(C) maintenance and operations standards for the appropriate facility types;

(D) construction techniques and contracting methods;

(E) facility project budget requirements; and

(F) the relative costs of identified alternatives (life cycle cost analysis);

(5) identify common public facility needs among the various user agencies; and

(6) submit its findings, plans and recommendations to the governor and to the appropriate state agency to facilitate the development of agency capital improvement budget requests.

(c) In the preparation and revision of the facility procurement plan, the commissioner may

(1) develop and adopt regulations for use in carrying out the purpose of (b) of this section; regulations may not be adopted under this section unless approval is received from appropriate program agencies;

(2) make recommendations on the total capital improvement program to affected state agencies, local governments, and other interested parties and organizations, and to the divisions of budget and management and policy development and planning.

(d) In this section, "public facility"

(1) means a capital improvement within one of the categories described in (b) of this section which is constructed

(A) for subsequent occupancy or operation by the state, a public corporation of the state, the University of Alaska, a political subdivision, or a regional educational attendance area;

(B) by a political subdivision or any private party with the assistance of financial support provided by the state if funds appropriated or paid by way of a grant or loan in advance of construction of the facility, or any part of it, are 50 per cent or more of the estimated costs of construction of the facility;

(2) does not include projects constructed with the proceeds of one or more loans issued by a loan program administered by the Department of Commerce and Economic Development. (§ 14 ch 168 SLA 1978)

Sec. 44.42.060. Grants to the department. The commissioner may apply for and accept, on behalf of the state, grants from the federal government or an agency of it, or from another state, a foundation, or any person, for any of the functions or purposes of the department. (Executive Order No. 39 § 2 (1977))

Sec. 44.42.070. Limitation on transportation facilities. The department shall consult with the appropriate officials of other departments regarding environmental risks and economic and social considerations that may arise by reason of the location, design, construction or reconstruction of a transportation facility. (Executive Order No. 39 § 2 (1977))

Sec. 44.42.080. Capital projects funds. There is created within the department the following capital projects funds:

- (1) educational, cultural, and related facilities;
- (2) transportation and related facilities;
- (3) public institutions and related facilities;
- (4) public safety, justice, and related facilities;
- (5) health, and related facilities;
- (6) natural resource development facilities;
- (7) general purpose facilities. (§ 15 ch 168 SLA 1978)

Sec. 44.42.900. Definitions. In this chapter, unless the context requires otherwise,

(1) "commissioner" means the commissioner of the Department of Transportation and Public Facilities;

(2) "department" means the Department of Transportation and Public Facilities;

(3) "transportation" or "transportation mode" includes, but is not limited to, the following means of conveyance or travel, including their related or auxiliary structures, facilities or services: air, rail, water, highway and pipeline. (Executive Order No. 39 § 2 (1977))

## Chapter 43. Department of Public Works.

Section

10-30. [Repealed]

Editor's note. — Section 1, Executive Order No. 39 (1977), effective July 1, 1977, provides: "FINDINGS AND PURPOSE. As governor, I find that the diverse transportation needs of the state would best be served by the creation of a single department for the planning, study, development, management and operation of integrated, intermodal transportation systems. The purpose of this department is to evaluate, plan, design, construct, manage, operate and maintain all state transportation modes and systems, relying on analysis of the relative advantages of different modes and systems and considering their social, economic, and environmental consequences."

Section 8, Executive Order No. 39 (1977), effective July 1, 1977, provides: "All litigation, hearings, investigations and other proceedings pending under a law amended or repealed by this Order, or in connection with functions transferred by this Order, continue in effect and may be continued and completed notwithstanding a transfer or amendment or repeal provided for in this Order. Certificates, orders, and regulations issued or adopted under authority of a law amended or repealed by this Order remain in effect for the term issued, until revoked, vacated, or otherwise modified under the provisions of this Order. All contracts, rights, liabilities, and obligations created by or under a law amended or repealed by this Order, and in effect on the effective date of this Order, remain in effect notwithstanding this Order's taking effect. Records, equipment and other property of agencies of the state whose functions are transferred under this Order shall be transferred commensurate with the provisions of this Order."

Section 9, Executive Order No. 39 (1977), effective July 1, 1977, provides: "(a) The Department of Transportation and Public Facilities is vested with the duties and powers formerly held by the Department of Public Works relating to planning, construction, maintenance and operation of transportation facilities, including state ferries, airports and water and harbor facilities, and for design and construction of buildings and appurtenant structures, and specifically including all powers and duties formerly held by the Department of Public Works under AS 02, AS 30.05, AS 30.15, AS 35, AS 41.20 and AS 44.65.

"(b) The Department of Transportation and Public Facilities is vested with the duties and powers formerly held by the Department of Highways relating to planning, construction, maintenance and operation of state transportation facilities including state highways, roads, bridges, traffic signs and signals, the supervision and maintenance of state automotive and mechanical equipment the control of outdoor advertising visible from state highways and all other duties and powers of the Department of Highways, and specifically including powers and duties formerly held by the Department of Highways under AS 19, AS 28.01, AS 28.05, and AS 44.57."

Section 12, Executive Order No. 39 (1977), effective July 1, 1977, provides: "During Fiscal Year 1978, all appropriations items made for that fiscal year and prior years for the Department of Highways and the Department of Public Works may, upon approval of the governor, be appropriately transferred to implement the purposes of this Order."

**Sec. 37.05.305. Applicability to University of Alaska.** The commissioner of administration may delegate the performance of the functions under this chapter as they relate to the university to the Board of Regents of the University of Alaska and set out the criteria and guidelines which shall be followed. The commissioner shall direct necessary stipulations and exercise monitoring responsibility for conformance through the Board of Regents of the University of Alaska. (§ 5 ch 46 SLA 1977)

*Legislative committee report.* — For a report on ch. 46, SLA 1977 (HCSSB 261), see 1977 House Journal p. 1019.

**Sec. 37.05.310. Fiscal year.** The fiscal year of the state begins on July 1 of each year and ends at midnight on the following June 30. The accounts of the Department of Administration, the Department of Revenue, and all other state officers whose accounts are in any way connected with the treasury shall be kept, and all duties performed with reference to the beginning and ending of the fiscal year. (§ 12-4-1 ACLA 1949; am § 2 art VI ch 82 SLA 1955)

*Revisor's note.* — Section 12-4-1 ACLA 1949 was repealed and re-enacted by § 30, ch. 133, SLA 1951. Section 1, ch. 24, SLA 1953 repealed ch. 133, SLA 1951 and § 2, ch. 24, SLA 1953 re-enacted § 12-4-1 ACLA 1949 as it appeared in ACLA 1949.

**Sec. 37.05.320. Definitions.** In this chapter

(1) "fiscal year," "budget year," "accounting year," or similar term means a year beginning on July 1 of one calendar year and ending on June 30 of the following calendar year;

(2) "state agency," "agency," "department," or similar term means a department, officer, institution, board, commission, bureau, division, or other administrative unit forming the state government, and includes the Alaska Pioneers' Home and the University of Alaska;

(3) "handicapped individual" means an individual under a physical or mental disability which constitutes a substantial handicap to employment;

(4) "sheltered workshop" means a place where manufacture or handiwork is carried on, and which is operated for the primary purpose of providing remunerative employment to handicapped individuals. (§ 3 art I ch 82 SLA 1955; am § 1 ch 186 SLA 1957; am § 2 ch 92 SLA 1975; am § 6 ch 46 SLA 1977)

*Effect of amendments.* — The 1975 amendment added paragraphs (3) and (4). The 1977 amendment added "and the University of Alaska" to the end of paragraph (2).

*Legislative committee report.* — For a report on ch. 46, SLA 1977 (HCSSB 261), see 1977 House Journal, p. 1019.

**Sec. 37.05.330. Short title.** This chapter may be cited as the Fiscal Procedures Act. (§ 1 art I ch 8, SLA 1955)

**Chapter 07. Executive Budget Act.**

<b>Section</b>	<b>Section</b>
10. Statement of policy	80. Program execution
20. Responsibilities of the governor	90. Performance reporting
30. Responsibilities of the legislature	100. Proposed supplemental or deficiency appropriations
40. Division of budget and management	110. Interpretation of chapter
50. Agency program and financial plans	120. Definitions
60. Governor's recommendation	130. Short title
62. Capital budget	
70. Legislative review	

*Revisor's note (1970).* — In ch. 188, SLA 1970, AS 37.07 was incorrectly designated AS 37.35.

**Sec. 37.07.010. Statement of policy.** It is the purpose of this chapter to establish a comprehensive system for state program and financial management which furthers the capacity of the governor and legislature to plan and finance the services which they determine the state will provide for its citizens. The system shall include procedures for

(1) the orderly establishment, continuing review and periodic revision of the program and financial goals and policies of the state;

(2) the development, coordination and review of long-range program and financial plans that will implement established state goals and policies;

(3) the preparation, coordination and analysis, and enactment of a budget organized to focus on state services and their costs, that authorizes the implementation of policies and plans in the succeeding budget period;

(4) the evaluation of alternatives to existing policies, plans and procedures that offer potential for more efficient state services;

(5) the regular appraisal and reporting of program performance;

(6) public participation in the development of the annual budget, including opportunity for the public to review and comment upon the plans and programs of the Office of the Governor and all state agencies in the executive branch, the legislature, the judicial system, the University of Alaska and the public corporations of the state. (§ 1 ch 188 SLA 1970; am § 2 ch 168 SLA 1978)

*Cross reference.* — For constitutional provisions as to budget, see Alaska Const., art. IX, § 12.

*Effect of amendment.* — The 1978 amendment added paragraph (6).

Sec. 37.07.020. Responsibilities of the governor. (a) The governor shall prepare and submit to the legislature before the fourth legislative day a budget for the succeeding fiscal year which shall cover all estimated receipts, including all grants, loans, and money received from the federal government, and all proposed expenditures of the state government. The budget shall be accompanied by a general appropriation bill to authorize the proposed expenditures, and a bill or bills covering recommendations in the budget for new or additional revenues.

(b) In addition to the budget and general appropriation bill, the governor shall submit a capital improvements program and financial plan covering the succeeding six fiscal years.

(c) Proposed expenditures may not exceed estimated revenues for the succeeding fiscal year. The expenditures proposed in the six-year capital improvements program and financial plan shall not exceed the estimated revenues and bond authorizations passed and proposed. (§ 1 ch 188 SLA 1970; am § 3 ch 168 SLA 1978)

Effect of amendment. — The 1978 amendment rewrote this section.

Sec. 37.07.030. Responsibilities of the legislature. The legislature shall

(1) provide for a budget review function;

(2) analyze the comprehensive operating and capital improvements programs and financial plans recommended by the governor;

(3) adopt legislation to authorize implementation of the governor's comprehensive operating and capital improvements programs and financial plans or appropriate alternatives to those plans;

(4) provide for a post-audit function, to cover financial transactions, program accomplishment and compliance with legislative intent;

(5) adopt or revise the estimate or receipts required to balance the succeeding fiscal year's budget in order that proposed expenditures do not exceed estimated receipts for that fiscal year;

(6) adopt, revise, or initiate revenue measures in order to balance the succeeding fiscal year's budget and the capital improvements section of the budget for the succeeding six years. (§ 1 ch 188 SLA 1970; am § 4 ch 168 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "operating and capital improvements programs and financial plans" for "program and financial plan" in paragraphs (2) and (3), substituted "those plans" for "that plan" in paragraph (3), and added paragraphs (5) and (6).

Budgetary system established by

statutes implementing Constitution. — Statutory language implementing Alaska Const., art. IX, § 19, establishes a budgetary system in which all appropriations are made by legislative act. Municipality of Anchorage v. Frohne, Sup. Ct. Op. No. 1477 (File Nos. 3060, 8104), 568 P.2d 8 (1977).

Sec. 37.07.040. Division of budget and management. The budget and management division shall

(1) assist the governor in the preparation and explanation of the proposed comprehensive program and financial plan, including the coordination and analysis of state agency program goals and objectives, program plans and program budget requests;

(2) prepare for submission to the governor an annually updated six-year capital improvements program and the proposed capital improvements budget for the coming fiscal year, the latter to include individual project justification with documentation of estimated project cost;

(3) develop procedures to produce the information needed for effective policy decision making, including procedures to provide for the dissemination of information about plans, programs and program budget requests to be included in the annual budget and opportunity for public review and comment during the period of budget preparation;

(4) assist state agencies in their statement of goals and objectives, preparation of program plans, program budget requests and reporting of program performance; all documents forwarded by the division to a state agency containing instructions for the preparation of program plans and program budget requests and the reporting of program performance are public information after the date they are forwarded;

(5) administer its responsibilities under the program execution provisions of this chapter so that the policy decisions and budget determinations of the governor and the legislature are implemented;

(6) provide the legislative finance division with the budget information it may request;

(7) provide the legislative finance division with an advance copy of the governor's budget workbooks by the first Monday in January of each year, except that following a gubernatorial election year the advance copy shall be provided by the second Monday in January. (§ 1 ch 188 SLA 1970; am § 3 ch 95 SLA 1971; am § 1 ch 60 SLA 1972; am § 1 ch 16 SLA 1976; am § 5 ch 168 SLA 1978)

Effect of amendments. — The 1976 amendment added paragraph (7).

The 1978 amendment added the language beginning "including procedures to provide for the dissemination of information" to the end of paragraph (3), added the language beginning "all documents forwarded by the division" to the end of paragraph (4), and

deleted "the advance copy shall be provided on a confidential basis and shall be used only to prepare budget analysis documents which will be published and distributed following the delivery of the governor's budget message to the legislature" from the end of paragraph (7).

Sec. 37.07.050. Agency program and financial plans. (a) Each state agency, on the date and in the form and content prescribed by the division, shall prepare and forward to the division and the legislative finance division

(1) the goals and objectives of the agency program, together with proposed supplements, deletions and revisions;

(2) its proposed plans to implement the goals and objectives, including estimates of future service needs, planned methods of administration, proposed modification of existing program services and establishment of new program services, and the estimated resources needed to carry out the proposed plan;

(3) the budget requested to carry out its proposed plans in the succeeding fiscal year, including information reflecting the expenditures during the last fiscal year, those authorized for the current fiscal year, those proposed for the succeeding fiscal year, an explanation of the services to be provided, the number of total positions for all persons employed or under contract by the agency for personal services including those rendered for capital improvement projects, the need for the services, the cost of the services, and any other information requested by the division;

(4) a report of the receipts during the last fiscal year, an estimate of the receipts during the current fiscal year, and an estimate for the succeeding fiscal year;

(5) a statement of legislation required to implement the proposed programs and financial plans;

(6) an evaluation of the advantages and disadvantages of specific alternatives to existing or proposed program policies or administrative methods.

(b) The state agency proposals prepared under (a) of this section shall describe the relationships of their program services to those of other agencies, of other governments, and of nongovernmental bodies.

(c) The division shall assist agencies in the preparation of their proposals under (a) of this section. This assistance may include technical assistance, organization of materials, centrally collected accounting, budgeting and personnel information, standards and guidelines formulation, population and other required data, and any other assistance that will help the state agencies produce the information necessary for efficient agency management and effective decision-making by the governor and the legislature.

(d) If any state agency fails to transmit the program and financial information provided under (a) of this section on the specified date, the division may prepare the information.

(e) The division shall compile and submit to the governor-elect in any year when a new governor has been elected, not later than November 20, a summary of the program and financial information prepared by state agencies.

(f) Budget requests for boards and commissions and for those agency programs for the fiscal year following termination under AS 44.66.010 — 44.66.070 shall be prepared and submitted. The recommended appropriation request shall include:

(1) an identification of the objectives intended for the program and the problem or need which the activities and operations of the board, commission or program is intended to address;

(2) an assessment of the degree to which the original objectives of the program have been achieved expressed in terms of performance, effects, or accomplishments of the program and of the program or need which it was intended to address;

(3) a statement of the performance and accomplishments of the program in each of the last four completed fiscal years and of the costs incurred in the operation of the program;

(4) a statement of the number and types of persons affected by operation of the program;

(5) a summary statement, for each of the last three completed fiscal years, of the number of personnel employed in carrying out the program and a summary of the cost of personnel employed under contract in carrying out the program;

(6) an assessment of the effect of the program on the economy of the state;

(7) an assessment of the degree to which the overall policies of the program, as expressed in regulations adopted by the agency, board or commission and its decisions, meet the objectives of the legislature in establishing the program; and

(8) an analysis of the services and performance estimated to be achieved if the life of the agency, board or commission were to be continued.

(g) All goals and objectives, plans, programs, estimates, budgets and other documents forwarded to the division of budget and management by a state agency under this section are public information after the date they are forwarded. (§ 1 ch 188 SLA 1970; am § 4 ch 95 SLA 1971; am § 1 ch 97 SLA 1976; am § 5 ch 149 SLA 1977; am § 6 ch 168 SLA 1978)

*Effect of amendments.* — The 1976 amendment inserted the language beginning "the number of total positions" and ending "capital improvement projects" in paragraph (3) of subsection (a).

The 1977 amendment added subsection (f).

The 1978 amendment added subsection (g).

*Editor's note.* — Section 1, ch. 149, SLA 1977, provides: "The legislature finds that the substantial increase in the number of state agencies, boards and commissions, and the proliferation of rules and regulations which each has adopted have

contributed to a public disenchantment with the operation of state government, and that there is need for an effective and regular system of scrutiny of the programs and activities of all agencies, boards and commissions. The legislature further finds that the establishment of a system for periodic review by the public and the executive and legislative branches of certain state agencies, boards and commissions will help the governor and the legislature to determine the need for the continued existence of each of the agencies, boards and commissions."

**Sec. 37.07.060. Governor's recommendation.** (a) The governor shall formulate the operating and capital improvements programs and financial plans required to be recommended to the legislature by § 20

of this chapter after considering the state agency proposed program and financial plans, and other programs and alternatives that he considers appropriate. The plans shall include his recommended goals and policies, recommended plans to implement the goals and policies, recommended operating program for the succeeding fiscal year, recommended capital improvements program for the succeeding six fiscal years, and recommended revenue measures to support the programs.

(b) The governor shall present the proposed comprehensive operating and capital improvements programs and financial plans in a message to a joint session of the legislature before the fourth legislative day following the convening of the legislature in regular session. The message shall be accompanied by an explanatory report which summarizes recommended goals, plans, and appropriations. The report shall contain

(1) the coordinated program goals and objectives which the governor recommends to guide the decisions on the proposed program plans and budget appropriations;

(2) his operating program and budget recommendations for the succeeding fiscal year;

(3) his capital improvements program and budget recommendations for the succeeding fiscal year and capital improvements program for the succeeding six fiscal years which shall include

• (A) a description of each project, its estimated cost for the year construction is to start, and the source of financing;

• (B) a summary of projects previously authorized and not yet completed;

• (C) a summary, listed by agency, of all previously proposed projects which have been deferred beyond the six years covered by the plan and the year in which construction has been rescheduled to begin;

(D) a forecast of the debt structure of the state and the various debt ratios over the life of the state's bonds outstanding, bonds authorized and to be issued, and bond authorizations recommended in the plan;

(E) a description of additional revenue measures needed to finance the plan in lieu of debt;

(F) bond election bills to authorize the bonds required to fund the projects scheduled for the first three years of the plan;

(G) projections of population of the state and its regions and communities;

(H) economic data and projections necessary for the evaluation of the plan;

(4) a summary of state receipts in the last fiscal year, a revised estimate for the current fiscal year, and an estimate for the succeeding fiscal year;

(5) a summary of expenditures during the last fiscal year, those authorized for the current fiscal year, and an estimate for the succeeding fiscal year;

(6) any additional information which will facilitate understanding of the governor's proposed programs and financial plans by the legislature and the public. (§ 1 ch 188 SLA 1970; am § 7 ch 168 SLA 1978)

Effect of amendment. — The 1978 amendment rewrote this section.

Sec. 37.07.062. Capital budget. (a) The general appropriation bill required to be submitted to the legislature in § 20(a) of this chapter shall contain a separate section for capital outlays which is divided into subsections for each of the capital projects funds (AS 44.42.080) which lists, for each project, the (1) project identification number; (2) project title; (3) source of funding; (4) amount expended on the project during the preceding fiscal year, the amount authorized for the current fiscal year, and the amount proposed to be expended during the succeeding fiscal year; (5) estimated start for construction; (6) schedule of bond elections pertaining to the appropriation, including elections previously held. The total appropriation to each capital projects fund shall be reflected in the balance sheet of each fund as of June 30 of each fiscal year.

(b) Upon the effective date of the general appropriation bill, the amounts appropriated by the bill for capital outlay shall be paid into the appropriate capital project funds established under AS 44.42.080.

(c) The balance sheet of each capital projects fund (AS 44.42.080) shall, at the end of each fiscal year, contain the following items so as to reflect the status of each fund and that the appropriations to each fund are not based upon a fiscal year:

(1) cash with treasury — shows a normal debit balance;

(2) bonds authorized and unissued — shows a normal debit balance; these are assets of each fund and shall be sold in accordance with the election date of each authorization; the proceeds are expended on a first-in, first-out basis;

(3) bonds to be authorized — shows a normal debit balance; these shall be reflected in general obligation bond or revenue bond act proposals accompanying each year's capital improvements program revision; the general obligation bond act proposals are to provide funding for the three fiscal years following the general election date;

(4) general fund; reserve for capital outlay — shows a normal debit balance; this is the amount required by AS 37.05.157 to be included in the general appropriation bill as the reserve for capital outlay to cover the succeeding six-year planning period;

(5) general fund; other — shows a normal debit balance; additional appropriations from the general fund above those required by law for capital outlay;

(6) other funds — shows a normal debit balance; appropriations from other state funds for capital outlay;

- (7) federal aid — shows a normal debit balance; includes funds expected to be received from federal sources for capital projects;
- (8) expenditures, prior fiscal year — shows a normal credit balance;
- (9) encumbrances — shows a normal debit balance;
- (10) reserve for encumbrances — shows a normal credit balance;
- (11) fund balance — shows a normal zero balance.

(d) The annual financial report of the state shall contain the following statements for each capital projects fund:

- (1) balance sheet;
- (2) analysis of changes in bonds authorized and unissued;
- (3) analysis of changes in bonds to be authorized;
- (4) analysis of changes in funds to be provided by others;
- (5) statement of expenditures and encumbrances compared to appropriations. (§ 8 ch 168 SLA 1978)

**Sec. 37.07.070. Legislative review.** The legislature shall consider the governor's proposed comprehensive operating and capital improvements programs and financial plans, evaluate alternatives to the plans, make program selections among the various alternatives and determine, subject to available revenues, the level of funding required to support authorized state services. During each regular session of the legislature, legislative review of the plans shall be accomplished according to the following schedule:

→ (1) By the 45th legislative day, the legislature shall have established by concurrent resolution the total amount of state general funds that shall be available for appropriation for the budget year and the tentative allocation of the funds among program categories in both the operating and capital budgets. The resolution shall be introduced by the finance committee of the house in which the general appropriations bill was introduced.

→ (2) By the 90th legislative day, the house in which the general appropriations bill was introduced by the governor shall have calendared for second reading a version of the general appropriations bill. The bill shall be supported with documentation to explain the proposed appropriations and related statements of intent. In addition, a list of other appropriations or measures with fiscal implications pending before the legislature shall be included with the documentation for the calendared bill. (§ 1 ch 188 SLA 1970; am § 1 ch 66 SLA 1977; am § 9 ch 168 SLA 1978)

**Effect of amendments.** — The 1977 amendment added the second sentence of the introductory paragraph and paragraphs (1) and (2).

The 1978 amendment, in the introductory paragraph, substituted "operating and

capital improvements programs and financial plans" for "program and financial plan" in the first sentence and "the plans" for "the plan" in the first and second sentences.

**Sec. 37.07.080. Program execution.** (a) Except as limited by policy decisions of the governor, appropriations by the legislature, and other provisions of law, the several state agencies have full authority for administering their program service assignments and are responsible for their proper management.

(b) Each state agency shall prepare an annual plan for the operation of each of its assigned programs except for programs that are exempted from this requirement by the division. The operations plan shall be prepared in the form and content and be transmitted on the date prescribed by the division.

(c) The division shall

(1) review each operations plan to determine that it is consistent with the policy decisions of the governor and appropriations by the legislature, that it reflects proper planning and efficient management methods, that appropriations have been made for the planned purpose and will not be exhausted before the end of the fiscal year;

(2) approve the operations plan if satisfied that it meets the requirements under (1) of this subsection; otherwise, the division shall require revision of the operations plan in whole or in part;

(3) Repealed by § 1 ch 26 SLA 1976.

(d) No state agency may increase the salaries of its employees, employ additional employees, or expend money or incur obligations except in accordance with law and properly approved operations plan.

(e) Transfers or changes between objects of expenditures or between allocations may be made by the head of a state agency upon approval of the division. No transfers may be made between appropriations except as provided in (h) of this section.

(f) The division shall report quarterly to the governor and the legislature on the operations of each state agency, relating actual accomplishments to those planned and modifying, if necessary, the operations plan of any agency for the balance of the fiscal year.

(g) The governor may direct the withholding or reduction of appropriations to a state agency at any time during the fiscal year only if he determines that

(1) the planned expenditures can no longer be made due to factors outside the control of the state which make the expenditure factually impossible; or

(2) estimated receipts and surpluses will be insufficient to provide for appropriations.

(h) Appropriations may be revised on approval by the governor and the Legislative Budget and Audit Committee to allow for

(1) increase of an appropriation item based on additional federal or other program receipts;

(2) establishment of a new, permanent position not authorized in the appropriated operating budget; or

(3) reallocation between appropriation items. (§ 1 ch 188 SLA 1970; am §§ 1—3 ch 26 SLA 1976; am §§ 2, 3 ch 74 SLA 1977)

**Effect of amendments.** — The 1976 amendment deleted paragraph (3) of subsection (c) relating to modification or withholding of planned expenditures during the appropriation period and in subsection (e), substituted "Transfers or changes" for "Appropriation transfers or changes as" and "between allocations" for "activity areas within a program" in the first sentence, deleted the former second sentence, relating to appropriation transfers or changes between programs within an agency, and substituted "appropriations" for "agencies" in the present second sentence. The amendment also added subsection (g).

The 1977 amendment added "except as provided in (h) of this section" to the end of subsection (e) and added subsection (h).

**Editor's note.** — Section 5, ch. 26, SLA 1976, provides: "Notwithstanding the provisions of Section 2 of this Act, transfers between appropriations may be made as provided by law between appropriation items contained in Section 16(a) and (b) of Chapter 209, SLA 1975."

Section 4, ch. 74, SLA 1977 provides: "The requirement of approval by both the governor and the Legislative Budget and Audit Committee of revision of appropriations to the extent permitted in AS 37.07.080(h) is intended to provide a

degree of flexibility in administration of the budget provided both required approvals are obtained. It is not intended that these revisions may be made with the sole approval of the governor. If a court of competent jurisdiction invalidates the requirement of approval by the Legislative Budget and Audit Committee for revision as authorized in AS 37.07.080(h) (1), (2) or (3), the entire paragraph or paragraphs for which that requirement was invalidated shall be totally void and of no effect whatsoever. If that requirement is invalidated for the entire subsection AS 37.07.080(h), that entire subsection shall be totally void and of no effect whatsoever."

Section 5, ch. 74, SLA 1977 provides: "Executive Order No. 20 dated June, 1962 is repealed."

**Legislative committee report.** — For report on ch. 26, SLA 1976 (HB 760 am S), see 1976 House Journal, p. 388.

**Budgetary system established by statutes implementing Constitution.** — Statutory language implementing Alaska Const., art. IX, § 13, establishes a budgetary system in which all appropriations are made by legislative act. *Municipality of Anchorage v. Frohne*, Sup. Ct. Op. No. 1477 (File Nos. 3050, 3104), 568 P.2d 3 (1977).

**Sec. 37.07.090. Performance reporting.** (a) Each state agency shall submit a performance report to the division no later than September 1 for the preceding fiscal year. These reports shall be in the form prescribed by the division after consultation with the legislative finance division, and shall include

(1) an identification of the objectives intended for the program and the problem or need which the activities and operations of the board, commission or program is intended to address;

(2) an assessment of the degree to which the original objectives of the program have been achieved expressed in terms of performance, effects, or accomplishments of the program and of the program or need which it was intended to address;

(3) a statement of the performance and accomplishments of the program in each of the last four completed fiscal years and of the costs incurred in the operation of the program;

(4) a statement of the number and types of persons affected by operation of the program;

(5) a summary statement, for each of the last three completed fiscal years, of the number of personnel employed in carrying out the program and a summary of the cost of personnel employed under contract in carrying out the program;

(6) an assessment of the effect of the program on the economy of the state;

(7) an assessment of the degree to which the overall policies of the program, as expressed in regulations adopted by the agency, board or commission and its decisions, meet the objectives of the legislature in establishing the program; and

(8) an analysis of the services and performance estimated to be achieved if the life of the agency, board or commission were to be continued.

(b) The division shall summarize the performance reports and forward copies to each member of the legislature. (§ 1 ch 188 SLA 1970; am § 5 ch 95 SLA 1971; am § 6 ch 149 SLA 1977)

**Effect of amendment.** — The 1977 amendment deleted "statements concerning" following "legislative finance division, and shall include" in the second sentence of subsection (a) and substituted present paragraphs (1) through (8) for former paragraphs (1) through (4) in that sentence.

**Editor's note.** — Section 1, ch. 149, SLA 1977, provides: "The legislature finds that the substantial increase in the number of state agencies, boards and commissions, and the proliferation of rules and regulations which each has adopted have

contributed to a public disenchantment with the operation of state government, and that there is need for an effective and regular system of scrutiny of the programs and activities of all agencies, boards and commissions. The legislature further finds that the establishment of a system for periodic review by the public and the executive and legislative branches of certain state agencies, boards and commissions will help the governor and the legislature to determine the need for the continued existence of each of the agencies, boards and commissions."

**Sec. 37.07.100. Proposed supplemental or deficiency appropriations.** The governor from time to time may transmit to the legislature proposed supplemental or deficiency appropriations which in his judgment are necessary on account of laws enacted after the transmission of the budget, or are otherwise in the public interest. He shall accompany each proposal with a statement of the reasons for it, including the reasons for its omission from the budget. (§ 1 ch 188 SLA 1970)

**Budgetary system established by statutes implementing Constitution.** — Statutory language implementing Alaska Const., art. IX, § 13, establishes a budgetary system in which all

appropriations are made by legislative act. *Municipality of Anchorage v. Frohne*, Sup. Ct. Op. No. 1477 (File Nos. 3050, 3104), 568 P.2d 3 (1977).

**Sec. 37.07.110. Interpretation of chapter.** This chapter shall be construed as supplemental to all other state laws not in conflict with it. If a section or part of a section of this chapter is in conflict with federal requirements for a program for which federal grant-in-aid funds are

available, the section or part, to the extent of the conflict, is inoperative. (§ 1 ch 188 SLA 1970)

Sec. 37.07.120. Definitions. In this chapter

(1) "agency" means a department, officer, institution, board, commission, bureau, division, or other administrative unit forming the state government and includes the Alaska Pioneers' Home and the University of Alaska, but does not include the legislature or the judiciary.

(2) "division" means the division of budget and management, Office of the Governor;

(3) "fiscal year" means a year beginning on July 1 of one calendar year and ending on June 30 of the following calendar year;

(4) "appropriation" means a maximum amount available for expenditure by a state agency for a stated purpose set out in an appropriation act;

(5) "allocation" means an amount set out as a legislative guideline for expenditure by a state agency for a stated purpose within the total amount of an appropriation;

(6) "object of expenditure" means a line item of expenditure within an allocation or an appropriation. (§ 1 ch 188 SLA 1970; am § 4 ch 26 SLA 1976; am § 2 ch 97 SLA 1976; am § 7 ch 46 SLA 1977)

Effect of amendments. — The first 1976 amendment added paragraphs (4), (5), and (6).

The second 1976 amendment substituted "Office of the Governor" for "Department of Administration" at the end of paragraph (2).

The 1977 amendment inserted "and the University of Alaska" in paragraph (1).

Legislative committee reports. — For report on ch. 26, SLA 1976 (HB 760 am S), see 1976 House Journal, p. 388.

For a report on ch. 46, SLA 1977 (HCSSB 26i), see 1977 House Journal, p. 1019.

Sec. 37.07.130. Short title. This Act may be cited as the Executive Budget Act. (§ 1 ch 188 SLA 1970)

Chapter 10. Public Funds.

Article

- 1. Custodians of State Funds (§§ 37.10.010 — 37.10.040)
- 2. Accounting (§§ 37.10.050 — 37.10.060)
- 3. Investment and Deposit of State Funds (§§ 37.10.065 — 37.10.088)
- 4. Recovery of Money or Property Illegally Paid or Diverted (§§ 37.10.090 — 37.10.100)

Article I. Custodians of State Funds.

Section

- 10. Disbursements
- 20. Vouchers to be approved by administrative officer

Section

- 30. Responsibility of officer or employee approving or certifying voucher
- 40. Enforcement of liability

Sec. 37.10.010. Disbursements. The Department of Administration shall (1) disburse money only upon vouchers certified by the department, establishment, or agency concerned, or an officer or employee of it authorized in writing to certify the vouchers; (2) make an examination of vouchers necessary to ascertain whether they are in proper form, certified and approved, computed on the basis of the facts certified; and (3) be held accountable accordingly. (§ 12-3-1 ACLA 1949)

Cited in *Munson v. Territory of Alaska*, 16 Alas. 580 (1956).

Am. Jur., ALR and C.J.S. references. — 42 Am. Jur., Public Funds, § 1 et seq.; 43 Am. Jur., Public Securities and Obligations, § 48 et seq.

Power of state to incur indebtedness for relief of distress due to unemployment or other unusual conditions, 73 ALR 699; 87 ALR 371.

Power of board or officials to depart from literal requirements in respect of deposits or loans of public funds in their control, 104 ALR 623.

Prohibition to control the use, management and disbursement of public funds, 115 ALR 22; 159 ALR 634.

81 C.J.S. States §§ 168 to 176.

Sec. 37.10.020. Vouchers to be approved by administrative officer. A voucher arising from the conduct of an office or administration of the state shall be approved by the administrative officer before reference to the Department of Administration for payment. (§ 12-3-2 ACLA 1949)

Sec. 37.10.030. Responsibility of officer or employee approving or certifying voucher. The officer or employee approving or certifying a voucher

(1) is responsible for the existence and correctness of the facts recited in the certificate or stated on the voucher or its supporting papers and for the legality of the proposed payment under the appropriation or fund involved;

(2) shall give bond in the form and manner prescribed by AS 39.15.010 — 35.15.100 to the state, and approved by the Department of Administration, in an amount fixed by the head of the department, agency, or establishment concerned, under standards prescribed by the Department of Administration; the premium on the bond shall be paid from funds made available for the administrative costs of the department, agency, or establishment concerned; officers already bonded under other provisions of law for the faithful performance of their duties are not required to give additional bond; and

(3) shall be held accountable for and required to make good to the state the amount of an illegal, improper, or incorrect payment resulting from a false, inaccurate, or misleading certificate made by him, or a payment prohibited by law or which does not represent a legal obligation under the appropriation or fund involved. (§ 12-3-3 ACLA 1949)

Revisor's note. — Section 12-3-3 ACLA 1949 was repealed and re-enacted by § 38, ch. 133, SLA 1951. Section 1 ch. 24, SLA

1953 repealed ch. 133, SLA 1951 and § 2, ch. 24, SLA 1953 re-enacted § 12-3-3 ACLA 1949 as it appeared in ACLA 1949.

Article 3. Community Facilities Grants.

Section

300. Civic, convention and community recreation centers

STATE AID TO LOCAL GOVERNMENTS

Sec. 43.18.300. Civic, convention and community recreation centers. (a) Within the limits of legislative appropriations for the purpose, the state shall make matching grants to local governments or their nonprofit designee equal to 50 per cent of the estimated reasonable costs of land acquisition, planning, and construction of municipal civic, convention and community recreation centers and 50 per cent of the cost of feasibility studies relating to these facilities, in accordance with the provisions of this section.

(b) Grants for only one study and one project may be awarded to a local government under this section. Applications for grants shall be made in a form prescribed by the commissioner. A grant shall be allotted according to an agreement made between the commissioner on behalf of the state and the local government receiving the grant. The agreement may include any provision agreed upon by the parties and shall include in substance the following provisions:

(1) estimates of reasonable costs of a study or project as approved by the commissioner after consultation with the Department of Public Works;

(2) a schedule of grant disbursements, if, as determined by the commissioner, a grant is to be disbursed other than in one sum;

(3) agreement by the local government to

(A) proceed with and complete the proposed study or project expeditiously;

(B) not discontinue operation or dispose of all or part of a project for which it receives a grant without the approval of the commissioner;

(C) apply for, and make reasonable efforts to secure, federal assistance which may be available for the study or project, subject to any conditions the commissioner may require in order to maximize the amounts of that assistance received or to be received for all projects in the state;

(D) provide for payment of the local government's share of the cost of the study or project;

(4) agreement by the local government that, if federal assistance for a study or project becomes available to the local government which was not included in the calculation of the amount of a grant authorized and disbursed under this section, the value of the federal assistance shall be ascertained and subtracted from the total value of the project and the balance shall be equally divided between the state and local government;

(5) provision for alteration or modification of an approved study or project and for remedies in case of failure to perform the agreement between the parties or noncompliance with regulations promulgated by the commissioner under this section;

(6) provision for alteration or modification of an existing facility

which would have qualified under this section as a civic, convention or community recreation center at the time of initial construction if this section had been in effect and provision for remedies in case of failure to perform the agreement between the parties or noncompliance with regulations promulgated by the commissioner under this section.

(c) If funds appropriated by the legislature to provide grants under this section are not adequate to satisfy amounts required by approved grant applications, funds shall be allocated on the basis of priority established by the Department of Economic Development by regulations promulgated to carry out the provisions of this section.

(d) This section does not require that a local government receiving a grant for a feasibility study under this section must proceed with construction of a project, notwithstanding the project is determined to be feasible.

(e) The commissioner shall require in the negotiations and agreements with the local government that continued maintenance of the facility is the responsibility of the local government and the local government must show the feasibility of this before authorization of state funds.

(f) The commissioner shall provide an annual report to the legislature with respect to grants made under this section.

(g) The commissioner may promulgate regulations to carry out the purpose of this section.

(h) In this section

(1) "commissioner" means the commissioner of economic development;

(2) "local government" means a city of any class or a borough having power to implement the studies or projects for which grants are authorized in this section;

(3) "costs of construction" includes, in addition to costs directly related to the project, the sum total of all costs of financing and carrying out the project; these include, but are not limited to, the costs of all necessary studies, surveys, plans and specifications, architectural, engineering or other special services, acquisition of real property, site preparation and development, purchase, construction, reconstruction and improvement of real property and the acquisition of machinery and equipment as may be necessary in connection with the project; an allocable portion of the administrative and operating expenses of the grantee; the cost of financing the project, including interest on bonds issued to finance the project; and the cost of other items, including any indemnity and surety bonds and premiums on insurance, legal fees, fees and expenses of trustees, depositaries, financial advisors, and paying agents for the bonds issued as the issuer considers necessary; it does not include the cost of feasibility studies.

(am § 26 ch 168 SLA 1978)