

**CS FOR HOUSE BILL NO. 543(FIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 4/18/96

Referred: Rules

Sponsor(s): HOUSE TRANSPORTATION COMMITTEE

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to state airports and air navigational facilities."**

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

3 \* **Section 1.** FINDINGS AND STATEMENT OF PURPOSE. (a) The legislature finds  
4 that

5 (1) it often takes considerable commitment, time, and resources for a lessee  
6 to establish a fully developed revenue-producing business or noncommercial enterprise on  
7 leased land on an airport owned and operated by the state;

8 (2) a developed business or noncommercial enterprise by an airport lessee  
9 produces a stable long-term flow of revenue to the local community and the state in the form  
10 of income from jobs created and taxes paid;

11 (3) a developed business by an airport lessee usually has established a positive  
12 reputation with its clientele that enhances future tourism and commerce in this state;

13 (4) a developed business by an airport lessee is better positioned to generate  
14 more federal passenger entitlement money for the airport and the state;

15 (5) a developed business or noncommercial enterprise on an airport land lease

1 generally maximizes the use of the airport infrastructure, and this maximization makes the  
2 airport's operation more economical; and

3 (6) providing a right and option to lessees of airport land to continue to lease  
4 the land will encourage and enhance compliance with state law and airport leases, and this  
5 compliance will benefit the overall operations of the state airport system.

6 (b) It is the purpose of the legislature to preserve and establish, for qualifying land  
7 lessees who are in compliance with state law and airport leases, a right, consistent with sound  
8 airport planning, to continue to lease the land in order to continue their businesses and  
9 noncommercial enterprises and in order to promote a strong aviation industry in this state with  
10 long-term benefits to local communities, the airports, and the state.

11 \* **Sec. 2.** AS 02.15.090 is amended to read:

12 Sec. 02.15.090. OPERATION AND USE PRIVILEGES. (a) In operating an  
13 airport or air navigation facility owned or controlled by the state, the department may  
14 enter into contracts, leases, and other arrangements covering periods not exceeding 55  
15 years with a person, municipality, or the United States, granting the privilege of using  
16 or improving an airport or air navigation facility or a portion of it or space in it for  
17 commercial, governmental, or other public purposes, including private **aviation uses**  
18 [PLANE TIE DOWN]; or conferring the privilege of supplying goods, commodities,  
19 services, or facilities at an airport or air navigation facility. The department may  
20 establish the terms and conditions and fix the charges, rentals, and fees for the  
21 privileges or services that are reasonable and uniform for the same class of privilege  
22 or service. Charges, rentals, or fees authorized by this subsection may be fixed for the  
23 international airports by order of the commissioner or by negotiated or competitively  
24 offered contract. Notwithstanding AS 37.10.050(a), the fixing of charges, rentals, or  
25 fees as permitted under this subsection is not subject to the adoption of regulation  
26 provisions of AS 44.62 (Administrative Procedure Act). The terms, conditions,  
27 charges, rentals, and fees shall be established with due regard to the property and  
28 improvements used and the expense of operation to the state. However, use of state  
29 land and buildings by the Alaska Wing, Civil Air Patrol and its squadrons shall be  
30 permitted without rental charges. The department shall provide for public notice and  
31 an opportunity to comment before a charge, rental, or fee is fixed by order of the

1 commissioner as permitted under this subsection. The public may not be deprived of  
2 its rightful, equal, and uniform use of the airport, air navigation facility, or a portion  
3 of them.

4 (b) The department may by contract or other arrangement, upon a  
5 consideration fixed by it, grant to a qualified municipality or person for a reasonable  
6 period of time the privilege of operating, as agent of the state or otherwise, an airport  
7 owned or controlled by the state. A municipality or person granted that privilege may  
8 not operate the airport other than as a public airport or enter into any contract, lease  
9 or other arrangement in connection with the operation that the department may not  
10 have undertaken under [(a) OF] this section.

11 \* **Sec. 3.** AS 02.15.090 is amended by adding new subsections to read:

12 (c) Notwithstanding the right of the public to rightful, equal, and uniform use  
13 under (a) of this section, before the expiration of a land lease, including the  
14 termination of a lease in holdover status, entered into under this section, the lessee may  
15 apply for a new lease, or for an extended term under the existing lease, for the same  
16 land. The commissioner shall approve the application for a new land lease or an  
17 extended term under this section without offering the land to other persons for leasing  
18 if

19 (1) the lessee is in compliance with the terms and conditions of the  
20 existing or holdover lease; and

21 (2) the continued use of the leasehold is consistent with written airport  
22 operation policies and is in the state's best interest.

23 (d) A land lessee owns title to the permanent improvements that the lessee  
24 constructed or purchased during the term of the lease, unless the lease expressly  
25 provides that the state is the owner of the permanent improvements.

26 (e) At the expiration, termination, or cancellation of a land lease entered into  
27 under this section,

28 (1) a lessee who owns the improvements under (d) of this section shall  
29 continue to own the permanent improvements that the lessee constructed or purchased  
30 on a leasehold if the lessee is granted under (c) of this section a new lease or an  
31 extended term for the same land;

1 (2) a lessee may sell the permanent improvements owned by the lessee  
2 to a succeeding lessee of the same land;

3 (3) at the option of the lessee, the permanent improvements owned by  
4 the lessee may be sold by the state at public auction with the proceeds from the sale  
5 of the improvements going to the lessee, less administrative costs of the auction and  
6 obligations owed under the lease to the state; the successful bidder has the same right  
7 to enter into a new lease under (c) of this section without the department offering the  
8 land to other persons for leasing;

9 (4) after notice by the department, the permanent improvements owned  
10 by the lessee shall be removed at the lessee's sole expense if

11 (A) the permanent improvements do not comply with written  
12 airport operational policies or are not in the state's best interest;

13 (B) the permanent improvements are not sold under (e)(2) or (3)  
14 of this section; or

15 (C) the department makes written findings that the permanent  
16 improvements are a hazard to the public health and safety;

17 (5) title to the permanent improvements vests in the department if the  
18 state purchases or otherwise contracts for the ownership of the permanent  
19 improvements, or if the lessee abandons the permanent improvements.