

SENATE CS FOR CS FOR HOUSE BILL NO. 149(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 4/27/01

Referred: Rules

Sponsor(s): REPRESENTATIVES CHENAULT, Scalzi

A BILL

FOR AN ACT ENTITLED

1 "An Act expressing legislative intent regarding correctional facility space; relating to
2 correctional facility space; authorizing the Department of Corrections to enter into an
3 agreement to lease facilities for the confinement and care of prisoners within the Kenai
4 Peninsula Borough; and providing for an effective date."

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

6 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
7 to read:

8 LEGISLATIVE INTENT. It is the intent of the legislature to secure additional
9 correctional facility space through a privately operated correctional facility in Alaska. The
10 legislature expects the Department of Corrections to contract with the Kenai Peninsula
11 Borough for private prison services similar to those currently purchased for medium-security
12 Alaska prisoners in a private prison outside the state. The legislature anticipates a privately
13 operated correctional facility will bring competitive management styles and operations to
14 Alaska. The legislature expects that the initial per diem cost at a private facility (excluding

1 costs related to major medical, prescription medication, and transportation of prisoners and
 2 other services excluded in contracts for Alaska prisoner care and custody in private facilities
 3 outside the state but including the capital costs for construction of the facility, including debt
 4 service) will be 18 - 20 percent less than the current average per diem rate for all state
 5 facilities as reported to the federal government for reimbursement purposes; should be
 6 approximately \$89 in current dollars; and, from the passage of this Act, should be adjusted
 7 annually for changes in the cost of operations as measured by an appropriate cost-of-living
 8 index.

9 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
 10 read:

11 **AUTHORIZATION TO LEASE CORRECTIONAL FACILITY SPACE WITH**
 12 **THIRD-PARTY CONTRACTOR OPERATION.** (a) The Department of Corrections may
 13 enter into an agreement with the Kenai Peninsula Borough to lease space within a correctional
 14 facility located within the Kenai Peninsula Borough that will house persons who are
 15 committed to the custody of the commissioner of corrections. The agreement must provide
 16 that the state agrees to lease the space for a minimum of 20 years.

17 (b) The agreement to lease entered into under this section is predicated on and must
 18 provide for an agreement between the Kenai Peninsula Borough and one or more private
 19 third-party contractors under which private, for profit or nonprofit third-party contractors
 20 construct and operate the facility by providing for custody, care, and discipline services for
 21 persons held by the commissioner of corrections under authority of state law. The
 22 commissioner of corrections shall require in the agreement with the Kenai Peninsula Borough
 23 that the Kenai Peninsula Borough procure one or more private third-party operators through a
 24 competitive procurement process. A municipality exercising its powers under
 25 AS 29.35.010(15) for procurement of land, design, construction, and operation of a facility,
 26 that follows its municipal ordinances and resolutions and procurement procedures, satisfies
 27 the procurement requirements of this subsection.

28 (c) The authorization given by (a) of this section is subject to the following
 29 conditions:

30 (1) the lease must have a minimum of 800 prison beds, and the lease payments
 31 must be sufficient to cover

1 (A) the cost for the development and construction of the facility; and

2 (B) the operating costs for a minimum of 800 prison beds in the
3 facility for a period of five years, less a reasonable period to achieve full occupancy;

4 (2) the agreement to lease must contain terms providing that the commissioner
5 of corrections may direct the Kenai Peninsula Borough to terminate its contract with a private
6 third-party contractor operating the facility in accordance with the provisions of (b) of this
7 section if the commissioner finds that the private third-party contractor has failed to provide
8 or cause to be provided the degree of custody, care, and discipline required by terms of the
9 lease agreement;

10 (3) the commissioner may not enter into the lease if the commissioner finds
11 that the Kenai Peninsula Borough is unable to provide or cause to be provided a degree of
12 custody, care, and discipline similar to that required by the laws of the state.

13 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
14 read:

15 **APPLICABILITY.** The provisions of AS 33.30.031(a) do not apply to an agreement
16 to lease a correctional facility in accordance with the provisions of sec. 2 of this Act. This
17 applicability section does not affect the authority of the commissioner of corrections to
18 designate the correctional facility to which a prisoner is assigned.

19 * **Sec. 4.** Section 4, ch. 15, SLA 1998, and sec. 6, ch. 35, SLA 1999, are repealed.

20 * **Sec. 5.** This Act takes effect June 1, 2001.