

HOUSE BILL NO. 364

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/30/02
Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to capital projects for deferred maintenance, replacement,
2 modification, and expansion of state facilities; relating to leases to secure financing for
3 those projects; relating to the issuance of certificates of participation to finance those
4 projects for certain capital facilities owned by the state; giving notice of and approving
5 the entry into, and the issuance of certificates of participation in, lease-financing
6 agreements for those projects; and providing for an effective date."

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

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

10 FINDINGS AND INTENT RELATED TO SEC. 2 OF THIS ACT. (a) The
11 legislature finds that

12 (1) as a result of long-standing budget constraints, many state-owned
13 buildings, including office structures, pioneers' homes, prisons, and other facilities, have

1 accumulated a considerable backlog of deferred maintenance; these facilities are in serious
2 need of repair, major maintenance, and modification to maintain and extend their useful lives;

3 (2) in 1998, the Legislative Deferred Maintenance Task Force determined that
4 deferred maintenance on state-owned buildings, not including University of Alaska buildings,
5 totaled over \$169,000,000; because of budget constraints, little money has been provided in
6 the last several years to address deferred maintenance in state-owned buildings other than
7 university buildings; with the lack of money, facilities have continued to deteriorate,
8 increasing the deferred maintenance total to over \$200,000,000; and

9 (3) the magnitude of the expenditures required to accomplish these essential
10 facility repairs is too great to accommodate in a single year's capital budget, and that an
11 alternative financing approach must be used to accomplish the necessary projects; the
12 financing of the necessary projects will be the first major step in eliminating the deferred
13 maintenance backlog.

14 (b) The legislature intends to provide the required investment in deferred maintenance
15 capital projects for state-owned facilities described in sec. 2 of this Act.

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

18 DEFERRED MAINTENANCE AND FINANCING PLAN; LEASE OF
19 FACILITIES; USE OF PROCEEDS. (a) The Department of Administration shall implement
20 the plan that has been developed by the office of management and budget to undertake and
21 finance deferred maintenance for capital facilities owned by the state. The plan has identified
22 the deferred maintenance capital projects to be addressed under the plan, determined the
23 estimated total costs of each project, and established priorities among the projects based on
24 available resources and emergent need. The implementation of the plan shall include the
25 issuance of certificates of participation by the state bond committee under sec. 5 of this Act
26 and may provide for the payment of all costs of the issuance and the appointment of trustees.

27 (b) The costs of the deferred maintenance capital projects identified in the plan
28 described in (a) of this section shall be financed through lease-financing agreements under
29 sec. 5 of this Act. The cost of all necessary architectural, engineering, and other consulting
30 services, inspection and testing, administrative and relocation expenses, site acquisition, on-
31 and off-site utilities, related improvements, and other costs incurred in connection with the

1 deferred maintenance capital projects are a part of the costs of the projects.

2 (c) In order to implement or secure the financing for the deferred maintenance capital
3 projects identified in the plan described in (a) of this section, the Department of
4 Administration may lease all or some of those facilities, or other capital facilities owned by
5 the state, and may enter into ground leases and lease agreements with respect to capital
6 facilities of the state. The term of any ground lease of land owned by the state may extend for
7 a term of up to 10 years beyond the term of the lease-financing agreements under sec. 5 of this
8 Act. The terms of any lease entered into under this subsection may not permit the mortgage
9 of any fee interest in public land or otherwise permanently deprive the state of its equity
10 interest in public land and the improvements constructed on that public land.

11 (d) The net proceeds, exclusive of the cost of other capital projects identified in sec. 3
12 of this Act and cost of issuance, capitalized interest, and interest earnings, derived from the
13 lease-financing agreements authorized in sec. 5 of this Act shall be used for the deferred
14 maintenance capital projects identified in the plan described in (a) of this section.

15 (e) The supreme court may delegate its authority under AS 22.05.025 regarding court
16 facilities to the Department of Administration for the purpose of facilitating the financing of
17 deferred maintenance projects under this section.

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

20 OTHER CAPITAL PROJECTS IN STATE-OWNED FACILITIES; LEASE OF
21 FACILITIES; USE OF PROCEEDS. (a) The costs of capital projects for the replacement,
22 modification, and expansion of certain state-owned facilities as described in (b) of this section
23 shall be financed through lease-financing agreements under sec. 5 of this Act. The cost of all
24 necessary architectural, engineering, and other consulting services, inspection and testing, and
25 administrative and relocation expenses, site acquisition, on- and off-site utilities, related
26 improvements, and other costs incurred in connection with these capital projects are a part of
27 the costs of those projects.

28 (b) The capital projects to be financed as described in (a) of this section are

29 (1) University of Alaska, capital projects to comply with the Americans with
30 Disabilities Act;

31 (2) Office of the Governor, capital projects for state agencies to comply with

1 the Americans with Disabilities Act;

2 (3) Department of Administration, veterans' housing;

3 (4) Department of Military and Veterans' Affairs, a Southeast Alaska joint
4 readiness center and student activities center in Juneau, shared with the University of Alaska
5 Southeast;

6 (5) Department of Education and Early Development, land acquisition and
7 expansion planning for the state museum described in AS 14.57.010;

8 (6) Department of Public Safety, facility replacement in Ketchikan and hangar
9 construction in Anchorage and Juneau; and

10 (7) Department of Health and Social Services, renovation and expansion of the
11 youth detention facility in Nome.

12 (c) In order to implement or secure the financing for the capital projects identified in
13 (b) of this section, the Department of Administration may lease all or some of those facilities,
14 or other capital facilities owned by the state, and may enter into ground leases and lease
15 agreements with respect to capital facilities of the state. The term of any ground lease of land
16 owned by the state may extend for a term of up to 10 years beyond the term of the lease-
17 financing agreements under sec. 5 of this Act. The terms of any lease entered into under this
18 subsection may not permit the mortgage of any fee interest in public land or otherwise
19 permanently deprive the state of its equity interest in public land and the improvements
20 constructed on that public land.

21 (d) The net proceeds, exclusive of the cost of the deferred maintenance capital
22 projects identified in the plan described in sec. 2(a) of this Act and cost of issuance,
23 capitalized interest, and interest earnings, derived from the lease-financing agreements
24 authorized in sec. 5 of this Act shall be used for the capital projects identified in (b) of this
25 section.

26 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
27 read:

28 LEASE-FINANCING AGREEMENT PAYMENTS. (a) The lease payments owed
29 under a lease-financing agreement executed under sec. 5 of this Act are subject to annual
30 appropriation by the legislature.

31 (b) The legislature intends that money from the general fund will be sufficient to

1 make all lease payments; however, if that source of money is insufficient to make the
2 payments, the payments shall be made from any other valid source, subject to appropriation.

3 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 NOTICE OF THE ENTRY INTO AND FINANCING OF LEASE-FINANCING
6 AGREEMENTS. (a) Subject to annual appropriation and to the applicable conditions set out
7 in secs. 2 and 3 of this Act, the Department of Administration is authorized to enter into lease-
8 financing agreements for the deferred maintenance capital projects identified in the plan
9 described in sec. 2(a) of this Act and for the other capital projects identified in sec. 3(b) of this
10 Act.

11 (b) The state bond committee is authorized to provide for the issuance of certificates
12 of participation in one or more series in the aggregate principal amount of \$135,605,000, plus
13 costs of required reserves and costs of issuance, to pay the costs of the deferred maintenance
14 capital projects identified in the plan described in sec. 2(a) of this Act and of the other capital
15 projects identified in sec. 3(b) of this Act. The estimated total cost of construction,
16 acquisition, and equipping the projects is \$137,530,000, which shall be paid from the
17 proceeds of the lease-financing agreements and from interest earnings during construction.
18 The estimated aggregate annual amount of rental obligations under the lease-financing
19 agreements is \$12,825,000. The estimated total lease payments for the full term of the lease-
20 financing agreements is \$192,381,000. In this subsection, "cost of construction" includes
21 credit enhancement and underwriting expenses, rating agency fees, bond counsel fees,
22 financial advisor fees, printing fees, trustee fees, advertising fees, capitalized interest, interest
23 earnings used for lease payments, and other costs of issuance, and costs of required reserves.

24 (c) The state bond committee may contract for credit enhancement, underwriting,
25 credit ratings, bond counsel, financial advisor, printing, advertising fees, and trustee services
26 that the committee considers necessary in financing the deferred maintenance capital projects
27 identified in the plan described in sec. 2(a) of this Act and the other capital projects identified
28 in sec. 3(b) of this Act.

29 (d) The supreme court may delegate its authority under AS 36.30.085 to the
30 Department of Administration for the purpose of facilitating lease-financing agreements for
31 deferred maintenance projects, and the issuance of certificates of participation for those

1 projects, under this section.

2 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 NOTICE AND APPROVAL OF AGREEMENTS. Section 5 of this Act constitutes
5 the notice and approval required by AS 36.30.085.

6 * **Sec. 7.** This Act takes effect July 1, 2002.