

HOUSE BILL NO. 115

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Introduced: 1/26/05

Referred: Transportation, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to charges paid or collected by users or occupants of an airport facility**
2 **owned or controlled by the state."**

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

4 *** Section 1.** AS 02.15.090(a) is amended to read:

5 (a) In operating an airport or air navigation facility owned or controlled by the
6 state, the department may enter into contracts, leases, and other arrangements covering
7 periods not exceeding 55 years with a person, municipality, or the United States,
8 granting the privilege of using or improving an airport or air navigation facility or a
9 portion of it or space in it for commercial, governmental, or other public purposes,
10 including private plane tie down, or conferring the privilege of supplying goods,
11 commodities, services, or facilities at an airport or air navigation facility. The
12 department may establish the terms and conditions and fix the charges, rentals, and
13 fees for the privileges or services that are reasonable and uniform for the same class of
14 privilege or service. Charges, rentals, or fees authorized by this subsection may be

1 fixed for the international airports by order of the commissioner or by negotiated or
 2 competitively offered contract. [HOWEVER, FOR THE PRIVILEGE OF
 3 OCCUPYING OR USING A STATE-OWNED FACILITY ON AN AIRPORT,
 4 WHICH FACILITY IS OR WILL BE ACQUIRED, CONSTRUCTED, EQUIPPED,
 5 INSTALLED, OR IMPROVED WITH THE PROCEEDS OF INDEBTEDNESS,
 6 THE PAYMENT OF WHICH IS SECURED SOLELY BY REVENUES FROM
 7 CUSTOMER FACILITY CHARGES, THE DEPARTMENT SHALL REQUIRE
 8 OCCUPANTS OR USERS OF ALL OR A PORTION OF THE FACILITY TO PAY
 9 TO THE DEPARTMENT, OR SHALL REQUIRE PERSONS UNDER CONTRACT
 10 TO OCCUPY OR USE ALL OR A PORTION OF THE EXISTING OR PROPOSED
 11 FACILITY TO CHARGE THEIR CUSTOMERS, A UNIFORM CUSTOMER
 12 FACILITY CHARGE STIPULATED BY THE DEPARTMENT IN AN AMOUNT
 13 SUFFICIENT TO PAY THE PRINCIPAL OF, INTEREST ON, AND ANY OTHER
 14 COST OF DEBT SERVICE ON THE INDEBTEDNESS.] Notwithstanding
 15 AS 37.10.050(a), the fixing of charges, rentals, or fees as permitted under this
 16 subsection is not subject to the adoption of regulation provisions of AS 44.62
 17 (Administrative Procedure Act). The terms, conditions, charges, rentals, and fees shall
 18 be established with due regard to the property and improvements used and the expense
 19 of operation to the state. However, use of state land and buildings by the Alaska
 20 Wing, Civil Air Patrol and its squadrons shall be permitted without rental charges. If
 21 the department permits space in state-owned or state-controlled airports to be used as
 22 lounges for members of the United States armed forces, the Alaska National Guard,
 23 the Alaska Naval Militia, or the Alaska State Defense Force, and if the lounges are
 24 operated by persons exempt from taxation under 26 U.S.C. 501(c)(3) (Internal
 25 Revenue Code), rent may not be charged for the use of the space. The department
 26 shall provide for public notice and an opportunity to comment before a charge, rental,
 27 or fee is fixed by order of the commissioner as permitted under this subsection. The
 28 public may not be deprived of its rightful, equal, and uniform use of the airport, air
 29 navigation facility, or a portion of them.

30 * **Sec. 2.** AS 02.15.090 is amended by adding new subsections to read:

31 (h) For the privilege of occupying or using a state-owned facility on an airport,

1 which facility is or will be acquired, constructed, equipped, installed, or improved
2 with the proceeds of indebtedness, the payment of which is secured solely by proceeds
3 from customer facility charges, the department shall require occupants or users of all
4 or a portion of the facility to collect from their customers and remit to (1) the
5 department if the state on behalf of the department incurred the indebtedness; or (2) a
6 trustee or another third party if the state on behalf of the department did not incur the
7 indebtedness, a uniform customer facility charge. The commissioner shall set the
8 customer facility charge at an amount sufficient to pay the principal of, interest on,
9 and any other cost of debt service on the indebtedness, including the maintenance of a
10 debt service reserve fund and amounts to satisfy any coverage requirement in the
11 indebtedness documentation. The commissioner shall periodically adjust the amount
12 of the customer facility charge to reflect changes in the amounts necessary to pay the
13 principal of, interest on, and any other cost of debt service on the indebtedness and
14 changes in the number of occupants, users, or customers of the facility. If the
15 proceeds of the customer facility charge are remitted to a trustee or another third party
16 to pay the principal of, interest on, and any other cost of debt service on an
17 indebtedness not incurred by the state on behalf of the department, the proceeds of the
18 customer facility charge are not revenue of the state for the purpose of securing any
19 other indebtedness. The commissioner may set charges authorized by this subsection
20 for the international airports by order or by negotiated or competitively offered
21 contract. The department shall provide for public notice and an opportunity to
22 comment before a charge is set by order of the commissioner under this subsection.
23 Notwithstanding AS 37.10.050(a), the setting of charges under this subsection is not
24 subject to the adoption of regulation provisions of AS 44.62 (Administrative
25 Procedure Act).

26 (i) In addition to requiring collection of a customer facility charge to be
27 applied as described in (h) of this section, the department may require occupants or
28 users of all or a portion of a state-owned facility on an airport, which facility is or will
29 be acquired, constructed, equipped, installed, or improved with the proceeds of
30 indebtedness, the payment of which is secured solely by proceeds of a customer
31 facility charge, to collect from their customers and remit to (1) the department if the

1 state on behalf of the department incurred the indebtedness; or (2) a trustee or another
 2 third party if the state on behalf of the department did not incur the indebtedness, a
 3 uniform customer facility maintenance charge. The commissioner shall set the
 4 customer facility maintenance charge at an amount sufficient to, wholly or in part,
 5 fund and maintain any repair and replacement fund established in connection with the
 6 facility, pay costs, fees, and expenses associated with the operation and maintenance
 7 of the facility including costs of insurance for the facility, pay costs related to the
 8 design acquisition, construction, and equipping of the facility not covered by the
 9 indebtedness, and pay any other costs, fees, and expenses that may be required to
 10 operate the facility. The commissioner shall periodically adjust the amount of the
 11 customer facility maintenance charge to reflect changes in amounts necessary to fund
 12 and maintain any repair and replacement fund established in connection with the
 13 facility, to pay costs, fees, and expenses associated with the operation and
 14 maintenance of the facility including costs of insurance for the facility, to pay costs
 15 related to the design acquisition, construction, and equipping of the facility not
 16 covered by the indebtedness, and to pay any other costs, fees, and expenses that may
 17 be required to operate the facility and to reflect changes in the number of occupants,
 18 users, or customers of the facility. If the proceeds of the customer facility
 19 maintenance charge are remitted to a trustee or another third party to pay the costs set
 20 out in this subsection with respect to a facility funded by indebtedness not incurred by
 21 the state on behalf of the department, the proceeds of the customer facility
 22 maintenance charge are not revenue of the state for the purpose of securing any other
 23 indebtedness. The commissioner may set charges authorized by this subsection for the
 24 international airports by order or by negotiated or competitively offered contract. The
 25 department shall provide for public notice and an opportunity to comment before a
 26 charge is set by order of the commissioner under this subsection. Notwithstanding
 27 AS 37.10.050(a), the setting of charges under this subsection is not subject to the
 28 adoption of regulation provisions of AS 44.62 (Administrative Procedure Act).

29 * **Sec. 3.** AS 37.15.410 is amended to read:

30 **Sec. 37.15.410. Bond authorization.** For the purpose of providing part or all
 31 of the money to be used, with or without any grants or other money that may become

1 available, the issuance and sale of revenue bonds of the state in a total principal sum
 2 not to exceed \$524,500,000 is authorized to acquire, equip, construct, and install the
 3 additions, improvements, extensions, and facilities authorized in AS 37.15.510. The
 4 principal of and interest on these bonds shall be paid out of and secured by the gross
 5 revenue derived by the state from the ownership, lease, use, and operation of the
 6 airports, and of all the facilities of them, and out of any other money that may be
 7 appropriated for the purpose, excepting only proceeds of any customer facility charge
 8 **and any customer facility maintenance charge** set by the commissioner of
 9 transportation and public facilities under AS 02.15.090.

10 * **Sec. 4.** AS 37.15.430(a) is amended to read:

11 (a) There is established an enterprise fund known as the "International
 12 Airports Revenue Fund," into which shall be paid all revenue, fees, charges, and
 13 rentals derived by the state from the ownership, lease, use, and operation of the
 14 airports and all of the facilities and improvements of them and facilities and
 15 improvements used in connection with them, excepting only proceeds of any customer
 16 facility charge **and any customer facility maintenance charge** set by the
 17 commissioner of transportation and public facilities under AS 02.15.090. The revenue,
 18 charges, fees, and rentals may not include the proceeds of any state tax or license. The
 19 money in the revenue fund may only be used for the purpose of

20 (1) paying or securing the payment of the principal of and interest on
 21 the bonds and of and on any other revenue bonds issued by authorization of the
 22 legislature to provide money to acquire, equip, construct, and install additions and
 23 improvements to, and extensions of and facilities for, the airports, and to be payable
 24 out of the revenue fund;

25 (2) paying the normal and necessary costs of maintaining and
 26 operating the airports and all of the improvements and facilities of them;

27 (3) paying the costs of renewals, replacements, and extraordinary
 28 repairs to the airports and all of the improvements and facilities of them;

29 (4) redeeming before their fixed maturities any and all revenue bonds
 30 issued for the purposes of the airports;

31 (5) providing money to acquire, construct, and install necessary

1 additions and improvements to and extensions of and facilities for the airports and all
2 of their facilities; and

3 (6) providing money to pay any and all other costs relating to the
4 ownership, use, and operation of the airports.

5 * **Sec. 5.** AS 37.15.430(c) is amended to read:

6 (c) For proceeds of a customer facility charge **or customer facility**
7 **maintenance charge** set by the commissioner of transportation and public facilities
8 under AS 02.15.090 but required to be **collected from** [CHARGED TO] customers by
9 occupants or users of a facility acquired, constructed, equipped, installed, or improved
10 with the proceeds of indebtedness incurred by a person other than the state **on behalf**
11 **of the Department of Transportation and Public Facilities** to acquire, construct,
12 equip, install, or improve the facility for **use by the occupants or users of the state-**
13 **owned facility** [STATE OWNERSHIP],

14 (1) the Department of Transportation and Public Facilities shall by
15 regulation or contract require that the proceeds of

16 (A) the customer facility charge be remitted directly to a
17 [BOND] trustee **or another third party** designated to receive **the** [SUCH]
18 proceeds and to pay the principal of, [OR] interest on, and any other cost of
19 debt **service** [SERVICES] on [,] the indebtedness **described in**
20 **AS 02.15.090(h); and**

21 (B) **the customer facility maintenance charge be remitted**
22 **directly to a trustee or another third party designated to receive the**
23 **proceeds and to pay some or all of the costs, fees, and expenses described**
24 **in AS 02.15.090(i); and**

25 (2) **the** [SUCH] proceeds **are** [MAY] not [BE CONSIDERED A]
26 revenue of the state **securing any indebtedness other than the indebtedness**
27 **described in AS 02.15.090(h) or (i).**