

SENATE CS FOR CS FOR HOUSE BILL NO. 115(TRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE TRANSPORTATION COMMITTEE

Offered: 3/2/05

Referred: Finance

Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE

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; and providing for an effective date."**

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

28 (i) In addition to requiring collection of a customer facility charge to be
29 applied as described in (h) of this section, the department may require occupants or
30 users of, or persons under contract to occupy or use, all or a portion of a state-owned
31 facility on an airport, which facility is or will be acquired, constructed, equipped,

1 installed, or improved with the proceeds of indebtedness, the payment of which is
2 secured solely by proceeds of a customer facility charge, to collect from their
3 customers a uniform customer facility maintenance charge and to remit the proceeds
4 to (1) the department if the state on behalf of the department incurred the
5 indebtedness; or (2) a trustee or another third party if the state on behalf of the
6 department did not incur the indebtedness. The commissioner shall set the customer
7 facility maintenance charge at an amount projected to generate proceeds sufficient to
8 pay some or all, as determined by the commissioner, of the costs, fees, and expenses
9 required to operate and maintain the facility, including costs of insurance and
10 maintenance of reserves for the facility. The commissioner shall periodically adjust
11 the amount of the customer facility maintenance charge to reflect changes in costs,
12 fees, and expenses to operate and maintain the facility, including costs of insurance
13 and maintenance of reserves for the facility and to reflect changes in the number of
14 occupants, users, or customers of the facility. If the proceeds of the customer facility
15 maintenance charge are remitted to a trustee or another third party as set out in this
16 subsection, the proceeds of the customer facility maintenance charge are not, unless
17 otherwise contractually required, revenue of the state securing any indebtedness. The
18 commissioner may impose charges authorized by this subsection for the international
19 airports by order or by negotiated or competitively offered contract. The department
20 shall provide for public notice and an opportunity to comment before a charge is set by
21 order of the commissioner under this subsection. Notwithstanding AS 37.10.050(a),
22 the setting of charges under this subsection is not subject to the adoption of regulation
23 provisions of AS 44.62 (Administrative Procedure Act).

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

25 **Sec. 37.15.410. Bond authorization.** For the purpose of providing part or all
26 of the money to be used, with or without any grants or other money that may become
27 available, the issuance and sale of revenue bonds of the state in a total principal sum
28 not to exceed \$524,500,000 is authorized to acquire, equip, construct, and install the
29 additions, improvements, extensions, and facilities authorized in AS 37.15.510. The
30 principal of and interest on these bonds shall be paid out of and secured by the gross
31 revenue derived by the state from the ownership, lease, use, and operation of the

1 airports, and of all the facilities of them, and out of any other money that may be
 2 appropriated for the purpose, excepting only proceeds of any customer facility charge,
 3 **and unless otherwise contractually required any customer facility maintenance**
 4 **charge**, set by the commissioner of transportation and public facilities under
 5 AS 02.15.090.

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

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

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

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

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

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

28 (5) providing money to acquire, construct, and install necessary
 29 additions and improvements to and extensions of and facilities for the airports and all
 30 of their facilities; and

31 (6) providing money to pay any and all other costs relating to the

1 ownership, use, and operation of the airports.

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

3 (c) For proceeds of a customer facility charge set by the commissioner of
4 transportation and public facilities under AS 02.15.090 but required to be **collected**
5 **from** [CHARGED TO] customers by occupants or users of, **or persons under**
6 **contract to occupy or use, all or a portion of** a facility **that is or will be** acquired,
7 constructed, equipped, installed, or improved **for state ownership** with the proceeds
8 of indebtedness incurred [BY A PERSON] other than **by** the state **on behalf of the**
9 **Department of Transportation and Public Facilities** [TO ACQUIRE,
10 CONSTRUCT, EQUIP, INSTALL, OR IMPROVE THE FACILITY FOR STATE
11 OWNERSHIP],

12 (1) the Department of Transportation and Public Facilities shall by
13 regulation or contract require that the proceeds of the customer facility charge be
14 remitted directly to a [BOND] trustee **or another third party** designated to receive
15 **the** [SUCH] proceeds and to **use the proceeds as provided under AS 02.15.090(h)**
16 [PAY THE PRINCIPAL OF OR INTEREST ON, AND ANY OTHER COST OF
17 DEBT SERVICES ON, THE INDEBTEDNESS]; and

18 (2) **the** [SUCH] proceeds **are** [MAY] not [BE CONSIDERED A]
19 revenue of the state **securing any indebtedness other than the indebtedness**
20 **described in AS 02.15.090(h).**

21 * **Sec. 6.** AS 37.15.430(d) is amended by adding a new subsection to read:

22 (d) For proceeds of a customer facility maintenance charge set by the
23 commissioner of transportation and public facilities under AS 02.15.090 but required
24 to be collected from customers by occupants or users of, or persons under contract to
25 occupy or use, all or a portion of a facility that is or will be acquired, constructed,
26 equipped, installed, or improved with proceeds of indebtedness incurred other than by
27 the state on behalf of the Department of Transportation and Public Facilities,

28 (1) the Department of Transportation and Public Facilities shall by
29 regulation or contract require that the proceeds of the customer facility maintenance
30 charge be remitted directly to a trustee or another third party designated to receive the
31 proceeds and to pay some or all of the costs, fees, and expenses as determined by the

1 commissioner of transportation and public facilities under AS 02.15.090(i); and

2 (2) the proceeds are not, unless otherwise contractually required,
3 revenue of the state securing any indebtedness.

4 * **Sec. 7.** AS 43.52.099(1) is amended to read:

5 (1) "fees and costs" means all charges incurred by the renter before the
6 tax imposed under this chapter except

7 (A) fees from the sale of automobile liability insurance, loss
8 damage waiver insurance, and personal accident insurance;

9 (B) parking tickets;

10 (C) sales or excise taxes;

11 (D) payment for damages to the vehicle during the rental
12 period; [AND]

13 (E) concession fees paid to an airport;

14 **(F) customer facility charges set by the commissioner of**
15 **transportation and public facilities under AS 02.15.090; and**

16 **(F) customer facility maintenance charges set by the**
17 **commissioner of transportation and public facilities under AS 02.15.090;**

18 * **Sec. 8.** This Act takes effect immediately under AS 01.10.070(c).