

SENATE BILL NO. 157

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY SENATORS OLSON, Davis, Kookesh

Introduced: 3/18/09

Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act directing the Alaska Permanent Fund Corporation to transfer \$22,700,000**
2 **from the principal of the mental health trust fund to the Alaska Mental Health Trust**
3 **Authority; relating to the development of revenue-producing facilities on mental health**
4 **trust land and to the Alaska Mental Health Trust Authority Support Office Building;**
5 **authorizing the issuance of certificates of participation for construction of the building;**
6 **approving leases of all or part of the building by the Department of Administration; and**
7 **providing for an effective date."**

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

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

11 **LEGISLATIVE FINDINGS AND INTENT.** (a) The legislature finds that the

12 (1) Alaska Mental Health Trust Authority intends to use up to \$22,700,000
13 from the mental health trust fund (AS 37.14.031) in the construction of a new facility to be

1 known as the Alaska Mental Health Trust Authority Subport Office Building, to be located on
2 land held in trust by the authority in Juneau; and

3 (2) cost of constructing and equipping the new facility will be \$45,400,000.

4 (b) The legislature intends that the state provide up to \$22,700,000 from the issuance
5 of certificates of participation for the construction of the new facility and that the Department
6 of Administration lease all or part of the facility on its completion for use as office space for
7 state agencies under two separate leases, with the lease payments from one of them used to
8 pay the principal of and interest on the certificates of participation to the extent needed to
9 meet the debt obligation.

10 * **Sec. 2.** AS 37.14.009(a) is amended to read:

11 (a) The Alaska Mental Health Trust Authority

12 (1) has a fiduciary obligation to ensure that the assets of the trust are
13 managed consistent with the requirements of the Alaska Mental Health Enabling Act,
14 P.L. 84-830, 70 Stat. 709 (1956);

15 (2) shall contract with the Department of Natural Resources to manage
16 the land assets of the trust; the contract must provide for the recording of at least one
17 conveyance to the authority by quitclaim deed of mental health trust land in each
18 recording district in the state in which mental health trust land is located; a
19 conveyance to the authority is exempt from the platting and surveying requirements of
20 AS 38.04.045(b) and municipal ordinances adopted under AS 29.40; when the
21 Department of Natural Resources manages land assets of the trust under a contract
22 entered into under this paragraph, the department shall

23 (A) manage in conformity with AS 38.05.801;

24 (B) consult with the authority before adopting regulations
25 under AS 38.05.801(c);

26 (C) provide notice to, and consult with, the authority regarding
27 all proposed actions subject to public notice under AS 38.05.945 before giving
28 that public notice;

29 (D) annually provide the authority with a report including

30 (i) a description of all land management activities
31 undertaken under this section during the prior year;

1 (ii) an accounting of all income and proceeds generated
2 from mental health trust land;

3 (iii) an explanation of the manner in which the income
4 and proceeds were allocated between the mental health trust fund and
5 the mental health trust settlement income account; and

6 (E) obtain the approval of the authority before exchanging
7 mental health trust land under AS 38.05.801(b)(2); and

8 (3) **except as provided in (c) of this section**, shall contract with
9 Alaska Permanent Fund Corporation for management of the mental health trust fund.

10 * **Sec. 3.** AS 37.14.009 is amended by adding a new subsection to read:

11 (c) Notwithstanding AS 37.13.300(a), at the direction of the authority, the
12 Alaska Permanent Fund Corporation shall transfer money from the principal of the
13 mental health trust fund to a separate trust land development account. The total
14 amount transferred to the trust land development account may not exceed
15 \$22,700,000. The authority shall use money in the trust land development account to
16 finance the development of revenue-producing office and retail buildings and
17 associated facilities on mental health trust land. The authority may use money in the
18 trust land development account for the development of facilities without regard to
19 maintaining reasonable diversification in investments. However, money may be used
20 for a proposed development project only if the authority determines that the proposed
21 development project has a risk level and expected return comparable to or greater than
22 alternative real estate investment opportunities. The authority shall

23 (1) exercise the powers of a fiduciary of a state fund granted in
24 AS 37.10.071 with respect to the management and investment of assets of the trust
25 land development account; and

26 (2) contract with the office established in the Department of Natural
27 Resources to manage the land assets of the Alaska mental health trust, as set out in
28 (a)(2) of this section, to serve as an external real estate investment manager to develop
29 real estate assets of the mental health trust fund.

30 * **Sec. 4.** AS 37.14.033 is amended to read:

31 **Sec. 37.14.033. Management of trust fund. Except as provided in**

1 **AS 37.14.009(c), the** [THE] mental health trust fund shall be managed by the Alaska
2 Permanent Fund Corporation under AS 37.13.300.

3 * **Sec. 5.** AS 37.14.035(a) is amended to read:

4 (a) **Except as provided in AS 37.14.009(c), the** [THE] cash principal of the
5 mental health trust fund shall be retained perpetually in the fund for investment by the
6 Alaska Permanent Fund Corporation, as specified in AS 37.13.300.

7 * **Sec. 6.** AS 37.14.035(b) is amended to read:

8 (b) The net income of the fund, **including the net income of the separate**
9 **trust land development account,** shall be transferred [BY THE CORPORATION] to
10 the mental health trust settlement income account at the end of each fiscal year.

11 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

13 FINANCING AND LEASE AGREEMENTS. (a) The state bond committee is
14 authorized to provide for the issuance of certificates of participation in one or more series in
15 the aggregate principal amount of up to \$22,700,000 for the construction of a facility to be
16 known as the Alaska Mental Health Trust Authority Subport Office Building in Juneau if the
17 balance of the construction costs in the amount of up to \$22,700,000 is made available by the
18 Alaska Mental Health Trust Authority from the trust land development account of the mental
19 health trust fund (AS 37.14.031). Interest income on the certificate of participation proceeds
20 may be used to pay arbitrage rebates, with the balance to be used for debt service during
21 construction or additional costs of construction and equipping the facility. The estimated total
22 cost of construction, acquisition, and equipping the facility is \$45,400,000, including costs of
23 credit enhancement, underwriting, rating agency fees, bond counsel fees, financial advisor
24 fees, printing, and advertising.

25 (b) The state bond committee may contract for credit enhancement, underwriting,
26 credit ratings, bond counsel, financial advisors, printing, advertising, and trustee services that
27 the committee considers necessary in financing the acquisition and construction of the Alaska
28 Mental Health Trust Authority Subport Office Building.

29 (c) The Department of Administration is authorized to enter into a lease agreement
30 with the Alaska Mental Health Trust Authority with a term of 20 years for the use of all or
31 part of the Alaska Mental Health Trust Authority Subport Office Building by state agencies.

1 In addition to other funds that may be available for the purpose, as much of the lease
2 payments for the facility as are necessary to pay the principal of and interest on the
3 certificates of participation when due shall be used for that purpose. The estimated annual
4 amount of rental obligation under a lease agreement executed under this subsection is
5 \$1,759,802. The estimated total amount of lease payments for the full term of the lease
6 agreement is \$35,196,035. At the end of the term of the lease, ownership shall be vested in the
7 Alaska Mental Health Trust Authority. This subsection constitutes the approval required by
8 AS 36.30.080.

9 (d) The Department of Administration is authorized to enter into a lease agreement
10 with the Alaska Mental Health Trust Authority with a term of 30 years for the use of all or
11 part of the Alaska Mental Health Trust Authority Subport Office Building by state agencies.
12 The estimated annual amount of rental obligation under a lease agreement executed under this
13 subsection is \$3,665,000. The estimated total amount of lease payments for the full term of
14 the lease agreement is \$125,243,047. This subsection constitutes the approval required by
15 AS 36.30.080.

16 (e) The lease payments owed under a lease agreement executed under (c) of this
17 section and the lease payments owed under a lease agreement executed under (d) of this
18 section are subject to annual appropriation by the legislature.

19 (f) The Alaska Mental Health Trust Authority shall manage and operate the Alaska
20 Mental Health Trust Authority Subport Office Building.

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