

Offered: 5/3/89
Referred: Finance

go0449sH

Original sponsor: Rules/Governor

1 IN THE SENATE BY THE JUDICIARY COMMITTEE
2 CS FOR SENATE BILL NO. 108 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act relating to public finance, including lease-
7 financing, and to the disposal of certain property;
8 and providing for an effective date."
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
10 * Section 1. AS 14.40.040 is amended to read:
11 Sec. 14.40.040. GENERAL POWERS OF THE UNIVERSITY. There is
12 created and established a corporation to be called the University of
13 Alaska. It may in that name
14 (1) sue and be sued;
15 (2) receive and hold real and personal property;
16 (3) contract and be contracted with;
17 (4) adopt, use, and alter a corporate seal;
18 (5) borrow money, issue debt, or enter into long-term
19 obligations, for the purchase of facilities, goods, or services; the
20 obligations may secure, in whole or in part, debt issued by another
21 party;
22 (6) do and have done all matters necessary for the purpose
23 of any function set out [FORTH] in this chapter.
24 * Sec. 2. AS 14.40 is amended by adding a new section to read:
25 Sec. 14.40.253 FINANCING NOTICE AND APPROVAL. If the University
26 of Alaska intends to enter into an obligation, except for refinancing
27 obligations, under AS 14.40.040(5) with an annual payment by the
28 university anticipated to exceed \$1,000,000, the university shall
29 provide notice to the legislature. The notice must include the

1 anticipated annual payment amount, the anticipated financing, and the
2 total construction, acquisition, or other costs of the project. The
3 university may not enter into an obligation requiring a financing
4 notice under this section, other than a refinancing obligation, unless
5 the project has been approved by the legislature by law. An appropri-
6 ation for the project does not constitute approval of the project for
7 the purpose of this section.

8 * Sec. 3. AS 18.55.255 is amended to read:

9 Sec. 18.55.255. DISPOSAL OF SURPLUS PROPERTY [PROCEDURE FOR SALE
10 OF LAND]. The authority may convey real or personal property that it
11 determines is in excess of its needs. Except as provided in (b) and
12 (c) of this section, the sale [SALE OF LAND] shall be by public auc-
13 tion or by sealed bids at a price not lower than the fair market value
14 determined by an appraisal made within 180 days before [OF] the sale
15 by a qualified appraiser. Public notice shall be given by publishing
16 notice of the sale at least once a week for two consecutive weeks in a
17 newspaper of general circulation within the area in which the property
18 to be sold is located and by posting notice of sale in at least two
19 public places in the area. In no event may [SHALL] the auction be
20 held less than 30 days after the last day of publication. If no
21 acceptable bids are received the authority may sell the property at
22 negotiated sale [,] within six months after [OF] the date of the
23 auction. A negotiated sale may not be made on an appraisal made more
24 than nine months before the date of sale. The price at a negotiated
25 sale may not be less than the appraised value.

26 * Sec. 4. AS 18.55.255 is amended by adding new subsections to read:

27 (b) Real or personal property of the authority may be conveyed
28 to a state or federal agency or political subdivision for less than
29 the appraised value without competitive bidding, upon a determination

1 by the board that the terms are fair and proper and in the best inter-
2 ests of the state. The board shall consider both the nature of the
3 agency's or political subdivision's public services or functions and
4 the terms under which the property was acquired by the authority.

5 (c) Property acquired or renovated to provide mental health
6 community housing is not subject to the procedures of (a) or (b) of
7 this section and may be conveyed for less than the fair market value
8 to grantees selected by the Department of Health and Social Services
9 upon terms and conditions consistent with grants administered by the
10 Department of Health and Social Services under AS 47.30.520 - 47.30.-
11 620.

12 (d) This section does not apply to property that is covered by
13 AS 18.55.320 or 18.55.540.

14 * Sec. 5. AS 36.30.020 is amended to read:

15 Sec. 36.30.020. LEGISLATURE. The Legislative Council shall
16 adopt and publish procedures to govern the procurement of supplies,
17 services, professional services, and construction by the legislative
18 branch. The procedures must be based on the competitive principles
19 consistent with this chapter and must be adapted to the special needs
20 of the legislative branch as determined by the Legislative Council.
21 The procedures must be consistent with the provisions of AS 36.30.-
22 080(b) - (e).

23 * Sec. 6. AS 36.30.030 is amended to read:

24 Sec. 36.30.030. COURT SYSTEM. The administrative director of
25 courts shall adopt and publish procedures to govern the procurement of
26 supplies, services, professional services, and construction by the
27 judicial branch. The procedures must be based on the competitive
28 principles consistent with this chapter and must be adapted to the
29 special needs of the judicial branch as determined by the

1 administrative director [ADMINISTRATOR] of courts. The procedures
2 must be consistent with the provisions of AS 36.30.080(b) - (e).

3 * Sec. 7. AS 36.30.080(b) is amended to read:

4 (b) The department, legislative branch, or judicial branch may
5 enter into lease-purchase [LEASE-FINANCING] agreements, including
6 lease-financing [LEASE-PURCHASE] agreements [AND AGREEMENTS RELATED TO
7 THE ISSUANCE OF CERTIFICATES OF PARTICIPATION]. A lease-purchase
8 [LEASE-FINANCING] agreement must provide that lease payments are
9 subject to annual appropriation.

10 * Sec. 8. AS 36.30.080(c) is amended to read:

11 (c) If the department, legislative branch, or judicial branch
12 intends to enter into a lease or lease-purchase [LEASE-FINANCING]
13 agreement, except an agreement related to a refinancing, with an
14 annual rent to the department, legislative branch, or judicial branch
15 that is [STATE] anticipated to exceed \$1,000,000, the department,
16 legislative branch, or judicial branch shall provide notice to the
17 legislature. The notice must include the anticipated annual lease
18 obligation amount and the anticipated total construction, acquisition,
19 or other costs of the project. The department may not enter into an
20 agreement requiring notice under this subsection unless the project
21 has been approved by the legislature by law. An appropriation for the
22 project does not constitute approval of the project for purposes of
23 this subsection.

24 * Sec. 9. AS 36.30.080 is amended by adding new subsections to read:

25 (d) The department, legislative branch, or judicial branch may
26 enter into a lease-financing agreement for the construction or acqui-
27 sition of a public building only with the Alaska State Housing Au-
28 thority.

29 (e) In addition to the approval by law required under (c) of

1 this section, a proposed lease or lease-purchase agreement of the
2 department, legislative branch, or judicial branch for a public build-
3 ing must be approved by a majority of the qualified voters voting at
4 the next state general election, if the agreement requires the payment
5 of annual rent that is anticipated to exceed \$1,000,000 and

6 (1) would be entered into before the completion of the
7 construction of the building; in this paragraph, "completion of con-
8 struction" does not include providing alterations, repairs, mainte-
9 nance, or improvements to an existing public building;

10 (2) contains minimum lease payments, including minimum
11 lease payments during a renewal provided for in the agreement, whose
12 present value at the inception of the agreement equals 90 percent or
13 more of the fair market value at the inception of the agreement of the
14 real property that is the subject of the agreement; the present value
15 shall be determined by using as a discount rate the most recent Bond
16 Buyer 20-Bond G.O. Index; and

17 (3) prohibits the department, legislative branch, or judi-
18 cial branch, for a period of time following nonappropriation of lease
19 payments, from acquiring, leasing, or using similar real property to
20 perform the same function as the real property that is the subject of
21 the agreement.

22 * Sec. 10. AS 36.30.990 is amended by adding new paragraphs to read:

23 (17) "lease-financing agreement" means a lease-purchase
24 agreement that secures or is related to debt obligations of the les-
25 sor, including revenue bonds or certificates of participation;

26 (18) "lease-purchase agreement" means a lease that

27 (A) transfers ownership of the property to the lessee
28 by the end of the lease term;

29 (B) contains a purchase option at a price less than

1 the fair market value of the property on the date the option is
2 exercisable;

3 (C) has a term, at inception, equal to 75 percent or
4 more of the economic life of the property; or

5 (D) contains minimum lease payments, including minimum
6 lease payments during a renewal provided for in the agreement,
7 whose present value at the inception of the agreement equals 90
8 percent or more of the fair market value at the inception of the
9 agreement of the real property that is the subject of the agree-
10 ment; the present value shall be determined by using as a dis-
11 count rate the most recent Bond Buyer 20-Bond G.O. Index;

12 (19) "public building" means improved real property leased
13 to the state for governmental, public, or educational use, but does
14 not include improved real property owned by the University of Alaska
15 Heating Corporation and leased to the University of Alaska for a
16 purpose within the scope, as of July 1, 1986, of the heating corpora-
17 tion's charter;

18 * Sec. 11. AS 14.40.253, as enacted by sec. 2 of this Act, and AS 36.-
19 30.080(c), as amended by sec. 8 of this Act, do not apply to projects au-
20 thorized by law before July 1, 1989.

21 * Sec. 12. AS 36.30.080(d) and (e), as enacted by sec. 9 of this Act,
22 do not apply to projects authorized by law before July 1, 1984.

23 * Sec. 13. This Act takes effect July 1, 1989.

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