

HOUSE BILL NO. 369

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE BUDGET AND
AUDIT COMMITTEE

Introduced: 1/14/94
Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to state leases and to state lease-purchase and lease-financing
2 agreements, and repealing a legislative authorization previously given for acquisition
3 of a facility through a lease-purchase agreement; and providing for an effective
4 date."

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

6 * Section 1. AS 14.40.040 is amended to read:

7 Sec. 14.40.040. GENERAL POWERS OF THE UNIVERSITY. There is
8 created and established a corporation to be called the University of Alaska. It may in
9 that name

- 10 (1) sue and be sued;
- 11 (2) receive and hold real and personal property;
- 12 (3) contract and be contracted with; a contract entered into by the
- 13 University of Alaska for the
- 14 (A) rent or lease of premises for use and occupancy by the

1 **University of Alaska is subject to AS 36.30.080(c):**

2 **(B) acquisition of property by a lease-purchase or lease-**
3 **financing agreement for the benefit of the University of Alaska is subject**
4 **to AS 36.30.085:**

5 (4) adopt, use, and alter a corporate seal;

6 (5) borrow money, issue debt, or enter into long-term obligations [,] for
7 the purchase of facilities, goods, or services; the obligations may secure, in whole or
8 in part, debt issued by another party;

9 (6) do and have done all matters necessary for the purpose of any
10 function set out in this chapter.

11 * Sec. 2. AS 22.05.025(a) is amended to read:

12 (a) **The** [SUBJECT TO AS 36.30.080, THE] supreme court has authority over

13 **(1)** all matters relating to the

14 **(A)** [PLANNING, DESIGN, CONSTRUCTION,] maintenance,
15 occupancy, [LEASING,] and operation of all court facilities;

16 **(B)** **rent or lease of facilities for court system purposes,**
17 **subject to AS 36.30.080(c); and**

18 **(C)** **acquisition of facilities for court system purposes by**
19 **lease-purchase or lease-financing agreements, subject to AS 36.30.085; and**

20 **(2)** **the planning, design, and construction of court facilities but, in**
21 **the exercise of its authority under this subsection, the supreme court shall**
22 cooperate and coordinate with the Department of Transportation and Public Facilities
23 so that court facility construction projects are carried out in accordance with the
24 statutes and regulations applicable to state public works projects.

25 * Sec. 3. AS 24.20.060 is amended to read:

26 Sec. 24.20.060. POWERS. The legislative council has the power

27 (1) to organize and adopt rules for the conduct of its business;

28 (2) to hold public hearings, administer oaths, issue subpoenas, compel
29 the attendance of witnesses and production of papers, books, accounts, documents, and
30 testimony, and to have the deposition of witnesses taken in a manner prescribed by
31 court rule or law for taking depositions in civil actions when consistent with the

1 powers and duties assigned to the council by AS 24.20.010 - 24.20.140;

2 (3) to call upon all state officials, agencies, and institutions to give full
3 cooperation to the council and its executive director by collecting and furnishing
4 information, conducting studies, and making recommendations;

5 (4) in addition to providing the administrative services required for the
6 operation of the legislative branch,

7 (A) to provide the technical staff assistance in research,
8 reporting, drafting, and counseling requested by standing, interim, and special
9 committees and spot research and drafting services for individual members in
10 conformity with law and legislative rules;

11 (B) to conduct a continuing program for the revision and
12 publication of the acts of the legislature;

13 (C) to execute a program for the oversight of the administration
14 and construction of laws by state agencies and the courts through regulations,
15 opinions, and rulings;

16 (D) to operate and maintain the state legislative reference
17 library;

18 (E) to do all things necessary to carry out legislative directives
19 and law, and the duties set out in the uniform rules of the legislature;

20 (F) to sue in the name of the legislature during the interim
21 between sessions if authorized by majority vote of the full membership of the
22 council;

23 (5) to exercise control and direction over all legislative space, supplies,
24 and equipment and permanent legislative help between legislative sessions; the
25 exercise of control over legislative space is subject to AS 36.30.080(c) if the
26 exercise involves the rent or lease of facilities, and to AS 36.30.085 if the exercise
27 involves the acquisition of facilities by lease-purchase or lease-financing
28 agreement;

29 (6) to produce, publish, distribute, and to contract for the printing of
30 reports, memoranda, and other materials it finds necessary to the accomplishment of
31 its work;

1 (7) to take appropriate action for the preconvailing and post-session
2 work of each legislative session including the employment one week in advance of
3 each session of not more than 10 temporary legislative employees; the continuing
4 employment of the temporary legislative employees is subject to legislative approval
5 when the session convenes;

6 (8) to establish a legislative internship program on a cooperative basis
7 with the University of Alaska that will provide for the assignment of interns to
8 standing committees of each house of the legislature during regular sessions of the
9 legislature; [,] and

10 (9) to establish reasonable fees for services and materials provided by
11 the Legislative Affairs Agency to entities outside of the legislative branch of state
12 government and charges for collecting the fees; all fees and charges collected under
13 this paragraph shall be deposited into the general fund.

14 * Sec. 4. AS 36.30.020 is amended to read:

15 Sec. 36.30.020. LEGISLATURE. The Legislative Council shall adopt and
16 publish procedures to govern the procurement of supplies, services, professional
17 services, and construction by the legislative branch. The procedures must be based on
18 the competitive principles consistent with this chapter and must be adapted to the
19 special needs of the legislative branch as determined by the Legislative Council. The
20 procedures must be consistent with the provisions of AS 36.30.080(c) - (e) and
21 36.30.085 [AS 36.30.080(b) - (e)].

22 * Sec. 5. AS 36.30.030 is amended to read:

23 Sec. 36.30.030. COURT SYSTEM. The administrative director of courts shall
24 adopt and publish procedures to govern the procurement of supplies, services,
25 professional services, and construction by the judicial branch. The procedures must
26 be based on the competitive principles consistent with this chapter and must be adapted
27 to the special needs of the judicial branch as determined by the administrative director
28 of courts. The procedures must be consistent with the provisions of AS 36.30.080(c) -
29 (e) and 36.30.085 [AS 36.30.080(b) - (c)].

30 * Sec. 6. AS 36.30.080(c) is amended to read:

31 (c) If the department, the Board of Regents of the University of Alaska, the

1 legislative council [BRANCH], or the supreme court [JUDICIAL BRANCH] intends
2 to enter into or renew a lease of real property with an annual rent to the department,
3 University of Alaska, legislative council [BRANCH], or supreme court [JUDICIAL
4 BRANCH] that is anticipated to exceed \$1,000,000, or with total lease payments that
5 exceed \$10,000,000 for the full term of the lease, including any renewal options that
6 are defined in the lease, the department, the Board of Regents, the legislative
7 council [BRANCH], or supreme court [JUDICIAL BRANCH] shall provide notice
8 to the legislature. [IF THE DEPARTMENT, LEGISLATIVE BRANCH, OR
9 JUDICIAL BRANCH INTENDS TO ENTER INTO OR RENEW A
10 LEASE-PURCHASE OR LEASE-FINANCING AGREEMENT FOR REAL
11 PROPERTY, OTHER THAN (1) AN AGREEMENT RELATED TO THE
12 REFINANCING OF AN OUTSTANDING BALANCE OWING OR (2) A
13 LEASE-PURCHASE OR LEASE-FINANCING AGREEMENT BY THE
14 UNIVERSITY OF ALASKA THAT IS SECURED BY STUDENT FEES OR
15 UNIVERSITY RECEIPTS AS DEFINED IN AS 14.40.491, THAT HAS ANNUAL
16 LEASE PAYMENTS OF LESS THAN \$1,000,000, AND FOR WHICH THE TOTAL
17 LEASE PAYMENTS FOR THE FULL TERM WILL NOT EXCEED \$10,000,000,
18 THE DEPARTMENT, LEGISLATIVE BRANCH, OR JUDICIAL BRANCH SHALL
19 PROVIDE NOTICE TO THE LEGISLATURE.] The notice must include the
20 anticipated annual lease obligation amount [, THE ANTICIPATED TOTAL
21 CONSTRUCTION, ACQUISITION, OR OTHER COSTS OF THE PROJECT,] and
22 the total lease payments for the full term of the lease [, IF THE AGREEMENT IS A
23 LEASE-PURCHASE OR LEASE-FINANCING AGREEMENT, OR IF THE
24 AGREEMENT IS A LEASE OTHER THAN A LEASE-PURCHASE OR
25 LEASE-FINANCING AGREEMENT AND THE TOTAL LEASE PAYMENTS FOR
26 THE FULL TERM OF THE LEASE EXCEED \$10,000,000]. The department, the
27 Board of Regents, the legislative council, and the supreme court may not enter into
28 or renew an agreement
29 (1) requiring notice under this subsection unless the proposed
30 agreement or renewal of an agreement [PROJECT] has been approved by the
31 legislature by law; an [. AN] appropriation for the rent payable during the initial

1 period of the lease or the initial period of lease renewal [PROJECT] constitutes
2 approval of the proposed agreement or renewal of an agreement [PROJECT] for
3 purposes of this paragraph [SUBSECTION];

4 (2) [. THE DEPARTMENT MAY NOT ENTER INTO AN
5 AGREEMENT] under this subsection if the optional renewal period provided for
6 [ALLOWED] under the agreement exceeds two years. [IN THIS SUBSECTION,
7 "TERM" INCLUDES DEFINED RENEWAL OPTIONS.]

8 * Sec. 7. AS 36.30 is amended by adding a new section to read:

9 Sec. 36.30.085. LEASE-PURCHASE AGREEMENTS. (a) To perform its
10 duties and statutory functions, the department, the Board of Regents of the University
11 of Alaska, the legislative council, or the supreme court may enter into lease-purchase
12 agreements. The department, the Board of Regents, the legislative council, or the
13 supreme court may enter into a lease-purchase agreement only if the department, the
14 Board of Regents, the legislative council, or the supreme court is the lessee under the
15 agreement.

16 (b) When evaluating proposals to acquire property under a lease-purchase
17 agreement, the department, the Board of Regents, the legislative council, or the
18 supreme court shall consider

19 (1) in addition to lease costs, the life cycle costs, function, indoor
20 environment, public convenience, planning, design, appearance, and location of the
21 property proposed for acquisition; and

22 (2) whether acquisition of the property by lease-purchase agreement is
23 likely to be the least costly means to provide the space.

24 (c) A lease-purchase agreement

25 (1) may not provide for a period of occupancy under the full term of
26 the lease-purchase agreement that is greater than 40 years;

27 (2) must provide that lease payments made by the department, the
28 Board of Regents, the legislative council, or the supreme court are subject to annual
29 appropriation.

30 (d) If the department, Board of Regents, legislative council, or supreme court
31 intends to enter into or renew a lease-purchase agreement for real property, the

1 department, Board of Regents, legislative council, or supreme court shall provide
2 notice to the legislature. The notice must include the

3 (1) anticipated total construction, acquisition, or other costs of the
4 project;

5 (2) anticipated annual amount of the rental obligation; and

6 (3) total lease payments for the full term of the lease-purchase
7 agreement.

8 (e) The department, the Board of Regents, the legislative council, or the
9 supreme court may not enter into a lease-purchase agreement unless the project has
10 been approved by the legislature by law.

11 (f) The provisions of (d) and (e) of this section do not apply to a lease-
12 purchase agreement

13 (1) related to the refinancing of an outstanding balance owing on an
14 existing lease-purchase agreement; or

15 (2) by the University of Alaska if the lease-purchase agreement is
16 secured by student fees or university receipts as defined in AS 14.40.491.

17 (g) In this section,

18 (1) "full term of the lease-purchase agreement" includes all renewal
19 options that are defined within the lease-purchase agreement;

20 (2) "lease-purchase agreement" includes a lease-financing agreement.

21 * Sec. 8. AS 36.30.850(b)(5) is amended to read:

22 (5) acquisitions or disposals of real property or interest in real property,
23 except as provided in AS 36.30.080 and 36.30.085;

24 * Sec. 9. AS 36.30.850(c) is amended to read:

25 (c) Except for AS 36.30.085 and 36.30.700 - 36.30.790 [AS 36.30.700 -
26 36.30.790], this chapter does not apply to contracts between two or more agencies, the
27 state and its political subdivisions, or the state and other governments.

28 * Sec. 10. AS 38.05.030 is amended by adding a new subsection to read:

29 (g) This chapter does not authorize the commissioner or any employee of the
30 department to acquire title to real property through the use of lease-purchase
31 agreements or lease-financing agreements in which the department is the lessor. For

- 1 purposes of this section, "lease-purchase agreement" and "lease-financing agreement"
- 2 have the meanings given those terms in AS 36.30.990.
- 3 * Sec. 11. AS 36.30.080(b) and sec. 2, ch. 92, SLA 1986 are repealed.
- 4 * Sec. 12. This Act takes effect immediately under AS 01.10.070(c).