

CS FOR SENATE BILL NO. 247(2d FIN)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 2/2/94  
Referred: Rules

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE BUDGET AND  
AUDIT COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act making subject to prior legislative approval contracts entered into or  
2 renewed by the executive branch of state government, the legislative council, the  
3 Alaska Court System, and the University of Alaska for the lease of real property  
4 if the lease has an annual rent payable that is anticipated to exceed \$500,000  
5 or has total payments that exceed \$2,500,000 for the term of the lease, including  
6 any renewal options that are defined in the lease; prohibiting these entities from  
7 entering into or renewing a lease of real property if any or all renewal periods  
8 in the lease exceed the original term of the lease; making subject to prior  
9 legislative approval lease-purchase agreements that may be entered into by these  
10 entities to acquire real property, other than lease-purchase agreements to refinance  
11 outstanding balances on existing lease-purchase agreements and lease-purchase  
12 agreements secured by University of Alaska student fees and university receipts;

1 authorizing these entities to enter into lease-purchase agreements only in the  
2 capacity of lessee under the proposed lease-purchase agreement; defining  
3 procedures that these entities must follow when considering whether or not to  
4 enter into lease-purchase agreements, and setting limits on the duration of these  
5 agreements; providing definitions for applicable terms; and providing for an  
6 effective date."

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

8 \* Section 1. AS 14.40.040 is amended to read:

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

12 (1) sue and be sued;

13 (2) receive and hold real and personal property;

14 (3) contract and be contracted with; a contract entered into by the  
15 University of Alaska for the

16 (A) rent or lease of premises for use and occupancy by the  
17 University of Alaska is subject to AS 36.30.080(c);

18 (B) acquisition of property by a lease-purchase or lease-  
19 financing agreement for the benefit of the University of Alaska is subject  
20 to AS 36.30.085;

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

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

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

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

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

29 (1) all matters relating to the

1 (A) [PLANNING, DESIGN, CONSTRUCTION,] maintenance,  
2 occupancy, [LEASING,] and operation of all court facilities;

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

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

7 (2) the planning, design, and construction of court facilities but, in  
8 the exercise of its authority under this paragraph, the supreme court shall  
9 cooperate and coordinate with the Department of Transportation and Public Facilities  
10 so that court facility construction projects are carried out in accordance with the  
11 statutes and regulations applicable to state public works projects.

12 \* Sec. 3. AS 24.20.060 is amended to read:

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

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

15 (2) to hold public hearings, administer oaths, issue subpoenas, compel  
16 the attendance of witnesses and production of papers, books, accounts, documents, and  
17 testimony, and to have the deposition of witnesses taken in a manner prescribed by  
18 court rule or law for taking depositions in civil actions when consistent with the  
19 powers and duties assigned to the council by AS 24.20.010 - 24.20.140;

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

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

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

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

31 (C) to execute a program for the oversight of the administration

1 and construction of laws by state agencies and the courts through regulations,  
2 opinions, and rulings;

3 (D) to operate and maintain the state legislative reference  
4 library;

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

7 (F) to sue in the name of the legislature during the interim  
8 between sessions if authorized by majority vote of the full membership of the  
9 council;

10 (5) to exercise control and direction over all legislative space, supplies,  
11 and equipment and permanent legislative help between legislative sessions; the  
12 exercise of control over legislative space is subject to AS 36.30.080(c) if the  
13 exercise involves the rent or lease of facilities, and to AS 36.30.085 if the exercise  
14 involves the acquisition of facilities by lease-purchase or lease-financing  
15 agreement;

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

19 (7) to take appropriate action for the preconvening and post-session  
20 work of each legislative session including the employment one week in advance of  
21 each session of not more than 10 temporary legislative employees; the continuing  
22 employment of the temporary legislative employees is subject to legislative approval  
23 when the session convenes;

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

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

1 \* Sec. 4. AS 36.30.020 is amended to read:

2 Sec. 36.30.020. LEGISLATURE. The Legislative Council shall adopt and  
3 publish procedures to govern the procurement of supplies, services, professional  
4 services, and construction by the legislative branch. The procedures must be based on  
5 the competitive principles consistent with this chapter and must be adapted to the  
6 special needs of the legislative branch as determined by the Legislative Council. The  
7 procedures must be consistent with the provisions of AS 36.30.080(c) - (e) and  
8 36.30.085 [AS 36.30.080(b) - (c)].

9 \* Sec. 5. AS 36.30.030 is amended to read:

10 Sec. 36.30.030. COURT SYSTEM. The administrative director of courts shall  
11 adopt and publish procedures to govern the procurement of supplies, services,  
12 professional services, and construction by the judicial branch. The procedures must  
13 be based on the competitive principles consistent with this chapter and must be adapted  
14 to the special needs of the judicial branch as determined by the administrative director  
15 of courts. The procedures must be consistent with the provisions of AS 36.30.080(c) -  
16 (e) and 36.30.085 [AS 36.30.080(b) - (c)].

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

18 (c) If the department, the Board of Regents of the University of Alaska, the  
19 legislative council [BRANCH], or the supreme court [JUDICIAL BRANCH] intends  
20 to enter into or renew a lease of real property with an annual rent to the department,  
21 University of Alaska, legislative council [BRANCH], or supreme court [JUDICIAL  
22 BRANCH] that is anticipated to exceed \$500,000 [\$1,000,000], or with total lease  
23 payments that exceed \$2,500,000 [\$10,000,000] for the full term of the lease,  
24 including any renewal options that are defined in the lease, the department, the  
25 Board of Regents, the legislative council [BRANCH], or supreme court [JUDICIAL  
26 BRANCH] shall provide notice to the legislature. [IF THE DEPARTMENT,  
27 LEGISLATIVE BRANCH, OR JUDICIAL BRANCH INTENDS TO ENTER INTO  
28 OR RENEW A LEASE-PURCHASE OR LEASE-FINANCING AGREEMENT FOR  
29 REAL PROPERTY, OTHER THAN (1) AN AGREEMENT RELATED TO THE  
30 REFINANCING OF AN OUTSTANDING BALANCE OWING OR (2) A  
31 LEASE-PURCHASE OR LEASE-FINANCING AGREEMENT BY THE

1 UNIVERSITY OF ALASKA THAT IS SECURED BY STUDENT FEES OR  
2 UNIVERSITY RECEIPTS AS DEFINED IN AS 14.40.491, THAT HAS ANNUAL  
3 LEASE PAYMENTS OF LESS THAN \$1,000,000, AND FOR WHICH THE TOTAL  
4 LEASE PAYMENTS FOR THE FULL TERM WILL NOT EXCEED \$10,000,000,  
5 THE DEPARTMENT, LEGISLATIVE BRANCH, OR JUDICIAL BRANCH SHALL  
6 PROVIDE NOTICE TO THE LEGISLATURE.] The notice must include the  
7 anticipated annual lease obligation amount [, THE ANTICIPATED TOTAL  
8 CONSTRUCTION, ACQUISITION, OR OTHER COSTS OF THE PROJECT,] and  
9 the total lease payments for the full term of the lease [, IF THE AGREEMENT IS A  
10 LEASE-PURCHASE OR LEASE-FINANCING AGREEMENT, OR IF THE  
11 AGREEMENT IS A LEASE OTHER THAN A LEASE-PURCHASE OR  
12 LEASE-FINANCING AGREEMENT AND THE TOTAL LEASE PAYMENTS FOR  
13 THE FULL TERM OF THE LEASE EXCEED \$10,000,000]. The department, the  
14 Board of Regents, the legislative council, and the supreme court may not enter into  
15 or renew a lease of real property

16 (1) [AN AGREEMENT] requiring notice under this subsection unless  
17 the proposed lease or renewal of a lease [PROJECT] has been approved by the  
18 legislature by law; an [. AN] appropriation for the rent payable during the initial  
19 period of the lease or the initial period of lease renewal [PROJECT] constitutes  
20 approval of the proposed lease or renewal of a lease [PROJECT] for purposes of this  
21 paragraph [SUBSECTION];

22 (2) [. THE DEPARTMENT MAY NOT ENTER INTO AN  
23 AGREEMENT] under this subsection if the total of all optional renewal periods  
24 provided for in [PERIOD ALLOWED UNDER] the lease [AGREEMENT] exceeds  
25 the original term of the lease exclusive of the total period of all renewal options  
26 [TWO YEARS. IN THIS SUBSECTION, "TERM" INCLUDES DEFINED  
27 RENEWAL OPTIONS].

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

29 Sec. 36.30.085. LEASE-PURCHASE AGREEMENTS. (a) To perform its  
30 duties and statutory functions, the department, the Board of Regents of the University  
31 of Alaska, the legislative council, or the supreme court may enter into lease-purchase

1 agreements. The department, the Board of Regents, the legislative council, or the  
2 supreme court may enter into a lease-purchase agreement only if the department, the  
3 Board of Regents, the legislative council, or the supreme court is the lessee under the  
4 agreement.

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

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

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

13 (c) A lease-purchase agreement

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

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

19 (d) If the department, Board of Regents, legislative council, or supreme court  
20 intends to enter into or renew a lease-purchase agreement for real property, the  
21 department, Board of Regents, legislative council, or supreme court shall provide  
22 notice to the legislature. The notice must include the

23 (1) anticipated total construction, acquisition, or other costs of the  
24 project;

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

26 (3) total lease payments for the full term of the lease-purchase  
27 agreement.

28 (e) The department, the Board of Regents, the legislative council, or the  
29 supreme court may not enter into a lease-purchase agreement to acquire real property  
30 unless the agreement has been approved by the legislature by law.

31 (f) The provisions of (d) and (e) of this section do not apply to a lease-

1 purchase agreement

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

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

6 (g) In this section,

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

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

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

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

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

14 (c) Except for AS 36.30.085 and 36.30.700 - 36.30.790 [AS 36.30.700 -  
15 36.30.790], this chapter does not apply to contracts between two or more agencies, the  
16 state and its political subdivisions, or the state and other governments.

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

18 (g) This chapter does not authorize the commissioner or any employee of the  
19 department to acquire title to real property through the use of lease-purchase  
20 agreements or lease-financing agreements in which the department is the lessor. For  
21 purposes of this section, "lease-purchase agreement" and "lease-financing agreement"  
22 have the meanings given those terms in AS 36.30.990.

23 \* Sec. 11. AS 36.30.080(b) is repealed.

24 \* Sec. 12. This Act takes effect immediately under AS 01.10.070(c).