

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

BY THE HOUSE FINANCE COMMITTEE

Offered: 4/22/94

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, with certain exceptions, the University of Alaska for  
4 the lease of real property if the lease has an annual rent payable that is  
5 anticipated to exceed \$500,000 or has total payments that exceed \$2,500,000 for  
6 the term of the lease, including any renewal options that are defined in the  
7 lease; prohibiting these entities from entering into or renewing a lease of real  
8 property if any or all renewal periods in the lease exceed the original term of  
9 the lease; making subject to prior legislative approval lease-purchase agreements  
10 that may be entered into by these entities to acquire real property, other than  
11 lease-purchase agreements to refinance outstanding balances on existing lease-  
12 purchase agreements and lease-purchase agreements secured by University of

1 Alaska student fees and university receipts; authorizing these entities to enter into  
2 lease-purchase agreements only in the capacity of lessee under the proposed lease-  
3 purchase agreement; defining procedures that these entities must follow when  
4 considering whether or not to enter into lease-purchase agreements, setting limits  
5 on the duration of these agreements; providing definitions for applicable terms;  
6 and repealing a legislative authorization previously given for acquisition of a  
7 facility through a lease-purchase agreement; and providing for an effective date."

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

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

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

13 (1) sue and be sued;

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

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

17 (A) rent or lease of premises for use and occupancy by the  
18 University of Alaska is subject to AS 36.30.080(c); however,  
19 notwithstanding the limitation imposed by AS 36.30.080(c)(2), the Board  
20 of Regents of the University of Alaska

21 (i) may enter into a lease with a term described in (ii)  
22 of this subparagraph if the rent under the lease will be paid solely  
23 from a grant or contract made by the federal government or an  
24 agency of the federal government, and the grant or contract  
25 contains a firm commitment of not more than two years, or if the  
26 rent payable under the lease will be paid solely from university  
27 receipts as that term is defined in AS 14.40.491; and

28 (ii) when authorized by (i) of this subparagraph, may  
29 enter into a lease with an initial term equal to the period of the

1 firm commitment of the grant or contract, or with an initial term  
2 not to exceed two years when the rent is payable from university  
3 receipts; the lease may contain one or more optional renewal  
4 periods, but the total of all optional renewal periods may not exceed  
5 an additional five years;

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

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

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

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

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

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

17 (1) all matters relating to the

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (D) to operate and maintain the state legislative reference  
21 library;

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

24 (F) to sue in the name of the legislature during the interim  
25 between sessions if authorized by majority vote of the full membership of the  
26 council;

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

1           agreement:

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

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

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

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

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

19                          Sec. 36.30.020. LEGISLATURE. The Legislative Council shall adopt and  
20 publish procedures to govern the procurement of supplies, services, professional  
21 services, and construction by the legislative branch. The procedures must be based on  
22 the competitive principles consistent with this chapter and must be adapted to the  
23 special needs of the legislative branch as determined by the Legislative Council. The  
24 procedures must be consistent with the provisions of AS 36.30.080(c) - (e) and  
25 36.30.085 [AS 36.30.080(b) - (e)].

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

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

1 of courts. The procedures must be consistent with the provisions of AS 36.30.080(c) -  
2 (e) and 36.30.085 [AS 36.30.080(b) - (c)].

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

4 (c) If the department, the Board of Regents of the University of Alaska, the  
5 legislative council [BRANCH], or the supreme court [JUDICIAL BRANCH] intends  
6 to enter into or renew a lease of real property with an annual rent to the department,  
7 University of Alaska, legislative council [BRANCH], or supreme court [JUDICIAL  
8 BRANCH] that is anticipated to exceed \$500,000 [\$1,000,000], or with total lease  
9 payments that exceed \$2,500,000 [\$10,000,000] for the full term of the lease,  
10 including any renewal options that are defined in the lease, the department, the  
11 Board of Regents, the legislative council [BRANCH], or supreme court [JUDICIAL  
12 BRANCH] shall provide notice to the legislature. [IF THE DEPARTMENT,  
13 LEGISLATIVE BRANCH, OR JUDICIAL BRANCH INTENDS TO ENTER INTO  
14 OR RENEW A LEASE-PURCHASE OR LEASE-FINANCING AGREEMENT FOR  
15 REAL PROPERTY, OTHER THAN (1) AN AGREEMENT RELATED TO THE  
16 REFINANCING OF AN OUTSTANDING BALANCE OWING OR (2) A  
17 LEASE-PURCHASE OR LEASE-FINANCING AGREEMENT BY THE  
18 UNIVERSITY OF ALASKA THAT IS SECURED BY STUDENT FEES OR  
19 UNIVERSITY RECEIPTS AS DEFINED IN AS 14.40.491, THAT HAS ANNUAL  
20 LEASE PAYMENTS OF LESS THAN \$1,000,000, AND FOR WHICH THE TOTAL  
21 LEASE PAYMENTS FOR THE FULL TERM WILL NOT EXCEED \$10,000,000,  
22 THE DEPARTMENT, LEGISLATIVE BRANCH, OR JUDICIAL BRANCH SHALL  
23 PROVIDE NOTICE TO THE LEGISLATURE.] The notice must include the  
24 anticipated annual lease obligation amount [, THE ANTICIPATED TOTAL  
25 CONSTRUCTION, ACQUISITION, OR OTHER COSTS OF THE PROJECT,] and  
26 the total lease payments for the full term of the lease [, IF THE AGREEMENT IS A  
27 LEASE-PURCHASE OR LEASE-FINANCING AGREEMENT, OR IF THE  
28 AGREEMENT IS A LEASE OTHER THAN A LEASE-PURCHASE OR  
29 LEASE-FINANCING AGREEMENT AND THE TOTAL LEASE PAYMENTS FOR  
30 THE FULL TERM OF THE LEASE EXCEED \$10,000,000]. The department, the  
31 Board of Regents, the legislative council, and the supreme court may not enter into

1 or renew a lease of real property

2 (1) [AN AGREEMENT] requiring notice under this subsection unless  
3 the proposed lease or renewal of a lease [PROJECT] has been approved by the  
4 legislature by law; an [. AN] appropriation for the rent payable during the initial  
5 period of the lease or the initial period of lease renewal [PROJECT] constitutes  
6 approval of the proposed lease or renewal of a lease [PROJECT] for purposes of this  
7 paragraph [SUBSECTION];

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

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

15 Sec. 36.30.085. LEASE-PURCHASE AGREEMENTS. (a) To perform its  
16 duties and statutory functions, the department, the Board of Regents of the University  
17 of Alaska, the legislative council, or the supreme court may enter into lease-purchase  
18 agreements. The department, the Board of Regents, the legislative council, or the  
19 supreme court may enter into a lease-purchase agreement only if the department, the  
20 Board of Regents, the legislative council, or the supreme court is the lessee under the  
21 agreement.

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

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

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

30 (c) A lease-purchase agreement

31 (1) may not provide for a period of occupancy under the full term of

1 the lease-purchase agreement that is greater than 40 years;

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

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

9 (1) anticipated total construction, acquisition, or other costs of the  
10 project;

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

12 (3) total lease payments for the full term of the lease-purchase  
13 agreement.

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

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

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

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

23 (g) In this section,

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

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

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

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

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

31 (c) Except for AS 36.30.085 and 36.30.700 - 36.30.790 [AS 36.30.700 -

1           36.30.790], this chapter does not apply to contracts between two or more agencies, the  
2           state and its political subdivisions, or the state and other governments.

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

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

9           \* **Sec. 11.** AS 36.30.080(b) and sec. 2, ch. 92, SLA 1986, are repealed.

10          \* **Sec. 12.** APPLICABILITY TO ALASKA COURT SYSTEM AND DEPARTMENT OF  
11          NATURAL RESOURCES. (a) Notwithstanding the amendments of AS 22.05.025(a) made  
12          by sec. 2 of this Act, AS 36.30.030 made by sec. 5 of this Act, and AS 36.30.080(c) made  
13          by sec. 6 of this Act, the addition of AS 36.30.085 made by sec. 7 of this Act, and the repeal  
14          of AS 36.30.080(b) made by sec. 11 of this Act, after the effective date of this section and  
15          until December 31, 1994, the Alaska Supreme Court may continue to enter into lease-purchase  
16          or lease-financing agreements for the judicial branch under the provisions of AS 22.05.025(a),  
17          AS 36.30.030, 36.30.080(b), and 36.30.080(c) as they read before their amendment or repeal  
18          by this Act.

19                         (b) Notwithstanding the amendments of AS 36.30.080(c) made by sec. 6 of this Act,  
20          AS 36.30.850(b)(5) made by sec. 8 of this Act, and AS 36.30.850(c) made by sec. 9 of this  
21          Act, the addition of AS 36.30.085 made by sec. 7 of this Act and of AS 38.05.030(g) made  
22          by sec. 10 of this Act, and the repeal of AS 36.30.080(b) made by sec. 11 of this Act, after  
23          the effective date of this section and until December 31, 1994, the Department of Natural  
24          Resources may continue to enter into lease-purchase or lease-financing agreements under the  
25          provisions of AS 36.30.080(b), 36.30.080(c), 36.30.850(b)(5), 36.30.850(c), and AS 38.05 as  
26          they read before their amendment or repeal by this Act, but only if the Department of Natural  
27          Resources is the lessor of the property and the judicial branch is lessee.

28          \* **Sec. 13.** This Act takes effect immediately under AS 01.10.070(c).