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HOUSE COMMITTEE REPORT

File


(11)
Date Referred: May 7, 1990

FURTHER REFERRALS:

Date of Committee Action: 5/7/90

The FINANCE Committee considered:

CSSB 108 (FINANCE)

CS SENATE BILL NO. 108 (Fin) PUBLIC FINANCE/LEASE-PURCHASING

"An Act relating to public finance, including leasefinancing, and to the disposal of certain property; repealing certain lease-purchasing approval; and providing for an effective date."

RECOMMENDATIONS:

- be replaced with HCS CSSB 108 (FIN) the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact _____ fiscal note(s) 5/4/90 REV
- zero fiscal note _____ zero fiscal note(s) 5/4/90
- zero with analysis _____ zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not
PASS No Rec Amend

C. Swackhammer Swackhammer
K. Koponen KOPONEN

<u><i>Ronald J. Carson</i></u> Carson	<input checked="" type="checkbox"/>		
<u><i>Ray Wallace</i></u> Wallis	<input checked="" type="checkbox"/>		
<u><i>Alvin Rieger</i></u> Rieger	<input checked="" type="checkbox"/>		
<u><i>F. Ulmer</i></u> Ulmer	<input checked="" type="checkbox"/>		
<u><i>Jay Brown</i></u> Brown	<input checked="" type="checkbox"/>		
<u><i>J. Barnes</i></u>	<input checked="" type="checkbox"/>		

Ronald J. Carson Carson
Chairman's Signature

R/0 HFC 5-7-90

STATE OF ALASKA
1990 LEGISLATIVE SESSION

Bill Version: CS SB 108 (Jud)

Publish Date: _____

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Relating to Public Finance
including Lease-Financing
Sponsor: Senate Judiciary
Requestor: Senate Finance

Agency Affected: State Bond Committee
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	(1200.0)	(1200.0)	(1200.0)	(1200.0)	(1200.0)
TOTAL OPERATING	0	(1200.0)	(1200.0)	(1200.0)	(1200.0)	(1200.0)
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	(1200.0)	(1200.0)	(1200.0)	(1200.0)	(1200.0)
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	(1200.0)	(1200.0)	(1200.0)	(1200.0)	(1200.0)

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: attach a separate page for analysis. Fiscal year 1990 effect is zero. Assumes new lease-financings in amounts and rates sufficient to require additional lease rental payments equal to current rental payments -- approximately \$12 million annually -- but with a 10% savings in construction, financing, and operating costs.

Prepared By: Milt Barker MB
Division: Treasury

Phone: 465-2350

Date: February 16, 1990

Approved by Commissioner: _____
Agency: Department of Revenue

Date: 2/16/90

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Changes in CSSB 108 (Fin) have no fiscal impact. This fiscal note is appropriate. 5/6/90 MB

Original sponsor(s): Rules/Governor

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 108 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND 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 repealing certain . lease-purchasing approval; and
9 providing for an effective date."

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

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

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

15 (1) sue and be sued;

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

17 (3) contract and be contracted with;

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

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

23 (6) do and have done all matters necessary for the purpose
24 of any function set out [FORTH] in this chapter.

25 * Sec. 2. AS 14.40 is amended by adding a new section to read:

26 Sec. 14.40.253 FINANCING NOTICE AND APPROVAL. If the University
27 of Alaska intends to enter into an obligation, except for refinancing
28 obligations, under AS 14.40.040(5) with an annual payment by the
29 university anticipated to exceed \$1,000,000, the university shall

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

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

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

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

28 (b) Real or personal property of the authority may be conveyed
29 to a state or federal agency or political subdivision for less than

1 the appraised value without competitive bidding, upon a determination
2 by the board that the terms are fair and proper and in the best inter-
3 ests of the state. The board shall consider both the nature of the
4 agency's or political subdivision's public services or functions and
5 the terms under which the property was acquired by the authority.

6 (c) Property acquired or renovated to provide mental health
7 community housing is not subject to the procedures of (a) or (b) of
8 this section and may be conveyed for less than the fair market value
9 to grantees selected by the Department of Health and Social Services
10 upon terms and conditions consistent with grants administered by the
11 Department of Health and Social Services under AS 47.30.520 - 47.30.-
12 620.

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

15 * Sec. 5. AS 22.05.025(a) is amended to read:

16 (a) Subject to AS 36.30.080, the [THE] supreme court has author-
17 ity over all matters relating to the planning, design, construction,
18 maintenance, occupancy, leasing, and operation of all court facilities
19 and shall cooperate and coordinate with the Department of Transporta-
20 tion and Public Facilities so that court facility construction proj-
21 ects are carried out in accordance with the statutes and regulations
22 applicable to state public works projects.

23 * Sec. 6. AS 36.30.020 is amended to read:

24 Sec. 36.30.020. LEGISLATURE. The Legislative Council shall
25 adopt and publish procedures to govern the procurement of supplies,
26 services, professional services, and construction by the legislative
27 branch. The procedures must be based on the competitive principles
28 consistent with this chapter and must be adapted to the special needs
29 of the legislative branch as determined by the Legislative Council.

1 The procedures must be consistent with the provisions of AS 36.30.-
2 080(b) - (c).

3 * Sec. 7. AS 36.30.030 is amended to read:

4 Sec. 36.30.030. COURT SYSTEM. The administrative director of
5 courts shall adopt and publish procedures to govern the procurement of
6 supplies, services, professional services, and construction by the
7 judicial branch. The procedures must be based on the competitive
8 principles consistent with this chapter and must be adapted to the
9 special needs of the judicial branch as determined by the administra-
10 tive director [ADMINISTRATOR] of courts. The procedures must be
11 consistent with the provisions of AS 36.30.080(b) - (c).

12 * Sec. 8. AS 36.30.080(b) is amended to read:

13 (b) The department, legislative branch, or judicial branch may
14 enter into lease-purchase [LEASE-FINANCING] agreements, including
15 lease-financing [LEASE-PURCHASE] agreements [AND AGREEMENTS RELATED TO
16 THE ISSUANCE OF CERTIFICATES OF PARTICIPATION]. A lease-purchase
17 [LEASE-FINANCING] agreement must provide that lease payments are
18 subject to annual appropriation.

19 * Sec. 9. AS 36.30.080(c) is amended to read:

20 (c) If the department, legislative branch, or judicial branch
21 intends to enter into a lease or lease-purchase [LEASE-FINANCING]
22 agreement, except an agreement related to a refinancing, with an
23 annual rent to the department, legislative branch, or judicial branch
24 that is [STATE] anticipated to exceed \$1,000,000, the department,
25 legislative branch, or judicial branch shall provide notice to the
26 legislature. The notice must include the anticipated annual lease
27 obligation amount and the anticipated total construction, acquisition,
28 or other costs of the project. The department may not enter into an
29 agreement requiring notice under this subsection unless the project

1 has been approved by the legislature by law. An appropriation for the
2 project does not constitute approval of the project for purposes of
3 this subsection.

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

5 (19) "lease-financing agreement" means a lease-purchase
6 agreement that secures or is related to financing instruments of the
7 lessor, including revenue bonds or certificates of participation;

8 (20) "lease-purchase agreement" means a lease that

9 (A) transfers ownership of the property to the lessee
10 by the end of the lease term;

11 (B) contains a purchase option at a price less than
12 the fair market value of the property on the date the option is
13 exercisable;

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

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

23 (21) "public building" means improved real property leased
24 to the state for governmental, public, or educational use, but does
25 not include improved real property owned by the University of Alaska
26 Heating Corporation and leased to the University of Alaska for a
27 purpose within the scope, as of July 1, 1986, of the heating corpora-
28 tion's charter;

29 * Sec. 11. Section 2, ch. 78, SLA 1984, is repealed.

1 * Sec. 12. AS 14.40.253, as enacted by sec. 2 of this Act, and AS 36.-
2 30.080(c), as amended by sec. 9 of this Act, do not apply to projects au-
3 thorized by law before July 1, 1990.

4 * Sec. 13. Section 11 of this Act takes effect immediately under
5 AS 01.10.070(c).

6 * Sec. 14. Sections 1 - 10 and 12 of this Act take effect July 1, 1990.
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STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF REVENUE

TREASURY DIVISION

ELEVENTH FLOOR
STATE OFFICE BUILDING
P.O. BOX SB
JUNEAU, ALASKA 99811-0400

May 7, 1990

The Honorable Ron Larson
Co-Chairman
House Finance Committee
Alaska State Legislature
P. O. Box V
Juneau, Alaska 99811

Dear Representative Larson:

I would like to urge the House Finance Committee to favorably consider, CSSB 108 (Finance), with the inclusion of an amendment. The main purpose of SB 108 as introduced is to consolidate major lease-financings of State public buildings in the Alaska State Housing Authority (ASHA). The Judiciaries Committee substitute adds a requirement for voter approval of lease-financings for:

- 1) new buildings;
- 2) buildings financed primarily from State rental payments, as opposed to payments from other tenants;
- 3) leases which restrict the ability of the State to lease alternate facilities.

Consistently using ASHA for State lease-financing would save the State millions of dollars over the lives of public building leases. In the absence of this bill, lease-financings of State projects could continue to be undertaken by municipalities or private developers. These entities may have little incentive to control construction and financing costs and may be inclined to enlarge project scopes. This can result in significant increases in State rental payments and operating costs for the leased facilities.

Lease-financing is paid entirely from the State's general fund. Interest rates are based on the State's credit rating. Lease-financings are normally rated one notch below the State's general obligation bond rating because lease payments are subject to appropriation. Lease-financing is counted as part of the State's debt burden by Moody's and Standard & Poor's credit rating services. In the event of default, it is the State's rating that would suffer.

Enclosed is a letter from Standard & Poor's to the State Bond Committee's financial advisor indicating the rating agency's favorable view of the type of action contained in SB 108.

Finally, I would like to suggest amending CSSB 108 (Finance) by adding, after "building" on line 7, page 5, the following:

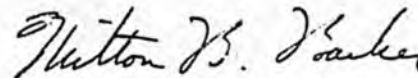
"with an annual rent anticipated to exceed \$1,000,000".

The Honorable Ron Larson
May 7, 1990
Page 2

This amendment would avoid burdening ASHA with the responsibility and activity of administering the many smaller leases of the State. ASHA is not administratively prepared to handle such responsibilities and it would be duplicative of those of the Department of Administration.

I would appreciate any consideration you can give to this bill.

Yours truly,



Milton B. Barker
Deputy Commissioner

MBB/ph

encls.

cc: Frank Baxter, Commissioner of Administration
Robert Link, Director, General Services and Supply
Ray Price, Executive Director, Alaska State Housing Authority
Brian Rogers, Vice-President for Finance, University of Alaska

90-107

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

108

January 12, 1989

The Honorable Tim Kelly
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Kelly:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating, for the most part, to lease-financing under the Procurement Code.

The main purpose of the bill, embodied in sec. 7, is to centralize all lease-financings for public buildings in the Alaska State Building Authority (ASBA). Section 6 of the bill adds to the existing requirement for the executive branch a requirement that the legislative and judicial branches notify the legislature of leases and lease-purchases, including lease-financings, if the cost is expected to exceed \$1,000,000 annually. Currently, only the executive branch, through the Department of Administration, and the University of Alaska are subject to this requirement.

"Lease-purchase agreement" and "public building" are defined in sec. 8 of the bill. "Lease-financing agreement" is also defined in that section as a type of lease-purchase agreement.

Section 5 of the bill statutorily authorizes the legislative and judicial branches to enter into lease-purchase agreements. Other amendments relating to the new definitions added by sec. 8 of the bill are also made in sec. 5.

Sections 3 and 4 of the bill make amendments to reflect the amendments made by secs. 5, 6, and 7 of the bill.

The amendments made by sec. 1 of the bill, and the new statute proposed by sec. 2, relate to the University of Alaska's financing authority in general.

Under sec. 9 of the bill, university projects, and lease-purchase agreements entered into by the university, the legislature, or the court system, will not be subject to proposed AS 14.40.253 (university), and AS 36.30.080(c) (legislature and court system) as it is amended by sec. 6 of the bill, if the project is authorized by law before July 1, 1989, regardless of whether arrangements for the project or agreement are made final by that date.

Section 10 of the bill exempts projects authorized by law before July 1, 1984 from the requirement that a lease-financing agreement for such a project may be entered into only with ASBA. (This provides a type of "grandfather clause" exception for the Anchorage court facility, authorized by sec. 2, ch. 78, SLA 1984.) Projects authorized by law after July 1, 1984, for which a lease-financing agreement is not signed before July 1, 1989 (the effective date of this Act), will be subject to AS 36.30.080(d); however, those for which a lease-financing agreement is signed before July 1, 1989 will not be subject to that subsection.

As mentioned earlier in this letter, sec. 7 of the bill centralizes all lease-financings for public buildings in ASBA. There are at least four reasons for consolidating lease-financing in ASBA: efficiency, accountability, market acceptance, and coordination.

Using one issuer/lessor for state lease-financing will build expertise in both ASBA staff and retained professionals, such as bond counsel, about the legal and financial requirements and procedures of both the credit markets and the state. This will create greater efficiency not only in processing such transactions, but in structuring them as well. An example of this effect is the innovative and low-cost financing obtained by the Alaska Housing Finance Corporation (AHFC) for mortgage loans in Alaska. It is improbable that the overseas and other creative financing AHFC employs would have been possible if housing financing in this state had been splintered among many municipal or regional housing finance authorities.

One issuer/lessor for lease-financing would also provide clearer accountability and a central, uniform source of reporting. This would enable the state to provide timely, accurate responses to inquiries about or reviews of lease-financing from auditors, legislative committees, or national credit rating agencies.

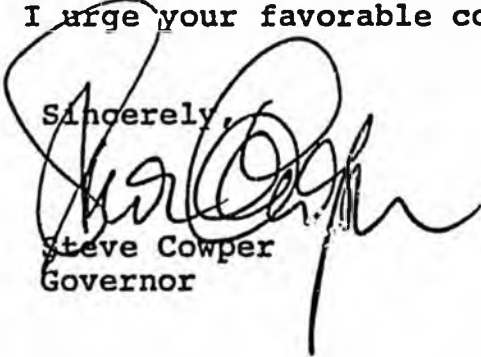
The credit markets should also respond favorably to a single issuer for state lease-financing. More regular issuance from one issuer should lead to greater market recognition and confidence, and a broader base of bond holders and lower interest rates as a result.

Another, and possibly the most important, reason for consistently using ASBA for state lease-financing is financial. In the absence of this bill, lease-financings of state projects could continue to be undertaken by municipalities or private developers. These entities might have little incentive to control costs and might be inclined to enlarge project scopes. This can result in significant increases in state rental payments and operating costs for the leased facilities.

Lease-financing is paid entirely from the state's general fund. Its rate is based on the state's credit rating, and is normally one notch below the state's general obligation bond rating because lease payments are subject to appropriation. Lease-financing is counted as part of the state's debt burden by Moody's and Standard & Poor's credit rating services. In the event of default, it is the state's rating that would suffer. A multiplicity of issuers can have an adverse effect on the state's rating and frustrate attempts to properly coordinate such issuances.

State lease-financing capacity is not unlimited. It is limited by the ability to appropriate lease payments from the general fund and by the credit rating of the state. The best use of that capacity would be achieved by consolidation or lease-financing in ASBA. I urge your favorable consideration of this legislation.

Sincerely,



Steve Cowper
Governor