

S B

108

AMENDMENT #3

OFFERED IN JUDICIARY

BY HALFORD

TO: CSSB 108 (SA)

A. Page 4, line 20, delete

"a new subsection"

and insert

"new subsections"

B. Page 4, line 25, insert

"(e) In addition to the approval by law required under (c) of this section, a lease or lease-purchase agreement for a public building must be approved by a majority of the qualified voters voting at the next State general election if the lease or lease-purchase agreement

(1) provides annual rent anticipated to exceed \$1,000,000;

(2) would be entered into prior to the completion of construction of the public building, excluding alterations, repairs, maintenance, or improvements to an existing public building; and,

(A) contains minimum lease payments, including minimum lease payments during any renewals provided in the lease or lease-purchase agreement, whose present value, at inception, equals 90 percent or more of the fair market value of the property at inception; present value shall be determined by using as a discount rate the most recent Bond Buyer 20-Bond G.O. Index; or

(B) prohibits the department, legislative branch, or judicial branch, for a period of time following non-appropriation of lease payments, from acquiring, leasing, or using similar property to perform the same function as the property subject to the lease or lease purchase agreement."

C. Page 5, line 11, delete

"publicly owned structure"

and insert

"improved real property"

THESE DISCUSS CHANGES
IN HALFORD CS

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 13, 1989

SUBJECT: Draft of CSSB 108 (Judiciary)
(Work Order No. go0449sH)

TO: Senator Jan Faiks, Chair
Senate Judiciary Committee

FROM: Terry Bannister *TB*
Legislative Counsel

This memo accompanies the draft of CSSB 108 (Judiciary) that you requested. Please note that I have done the following:

- (1) substituted "improved real property" for "structure" where it occurs the second time in AS 36.30.990(19);
- (2) included the new sec. 36.30.080(e) in sec. 12 of the bill;
- (3) made various changes and additions to the new sec. 36.-30.080(e) during the drafting either for clarity or to carry out the intent of the subsection as I understand it.

Please examine the above to determine if they are consistent with your intent.

In addition, I suggest several changes that are not related to the changes you requested, but which would improve the bill.

- (1) I suggest adding language to AS 18.55.255 indicating that the section only applies to property that is not covered by AS 18.55.320 or 18.55.540, if that is your intent. This would eliminate any question about the section's coverage. AS 18.55.230 applies to surplus property sales under article 2. AS 18.55.540 applies to property sales under article 3. Article 4 does not cover ASHA. Unless the committee intended for AS 18.-55.255 to supplant AS 18.55.320 and 18.55.540, it

Senator Jan Faiks
Page 2
April 13, 1989

appears that AS 18.55.255 applies to property not covered by those sections. Adding the suggested language would clear up any confusion on this point.

- (2) I suggest clarifying the relationship between sec. 18.-55.255(c) and the rest of the section. I presume (c) stands alone and is not covered by the procedures in (a) or (b), but it is not clear.
- (3) I suggest adding "requiring notice" after the word "agreement" in the third sentence of sec. 36.30.080(c). This would seem to be a technical clarification, but I was not sure.

If you wish language drafted to accomplish the suggested changes, please advise. Or you may wish to pass these suggested changes along to the next committee of referral.

TB:gc:kb
WkG9/056

Enclosure



May 4, 1989

Senator Jan Faiks
Committee Chair, Senate Judiciary
Alaska State Senate
P. O. Box V
Juneau, Alaska 99811
Attention: Chris Christensen

RECEIVED

MAY 8 1989

JAN FAIKS
SENATE OFFICE

Re: CSSB108

Dear Senator Faiks:

*Release -
provision*

CS FOR SENATE BILL NO. 108 adds a new subsection, (d), under Sec. 4 of the bill as follows:

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

My understanding is that this new subsection was added to avoid the potential for inconsistency between AS 18.55.255, as amended, and AS 18.55.320 (governing moderate cost and rental housing) and AS 18.55.540 (governing urban renewal and redevelopment). My concern, which is great, is that the new subsection will create more of a problem than that which it seeks to redress. This is particularly true in the area of the Mental Health Housing program.

Subsection (c) was drafted to ensure that ASHA had authority to convey property interests under the Mental Health Housing program established by the Department of Health and Social Services. Subsection (c) provides that such conveyances "... are not subject to ... (a) or (b) of this section ...". When subsection (d) is tacked on, a double negative occurs, leaving significant room for doubt about ASHA's ability to transact business under the Mental Health Housing program, when the transaction involves moderate cost or rental housing.

I believe that a better approach to avoid the potential for inconsistency between AS 18.55.255, as amended, and AS 18.55.320/.540 would be to delete the proposed subsection (d) under Sec. 4., and amend Sec. 3. to provide that the first sentence of AS 18.55.255 reads as follows:

The authority may convey real or personal property held by it under AS 18.55.010--18.55.290 that it determines is in excess of its needs.

This would parallel the statutory construction of AS 18.55.320, and avoid negating ASHA's ability to assist in the Mental Health Housing program.



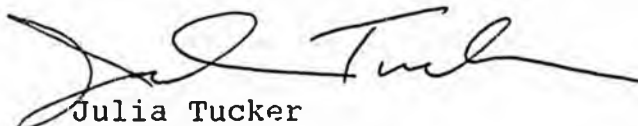
Senator Jan Faiks
May 4, 1989
Page 2

In the interest of the time constraints facing the legislature, I will forward a copy of this letter to Terry Bannister, Legislative Legal Services. Based on my previous conversations with her concerning SB 108, I anticipate her concurrence.

Thank you in advance for your attention to this matter. If there is additional information or comment that I can provide, I may be reached at 786-6222 or 786-6224.

Sincerely,

ALASKA STATE HOUSING AUTHORITY



Julia Tucker
General Counsel

cc: Terry Bannister
Senator Pat Pourchot c/o Sandra Shubert

mg:c:\wp5\jt\sb108.1



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

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.

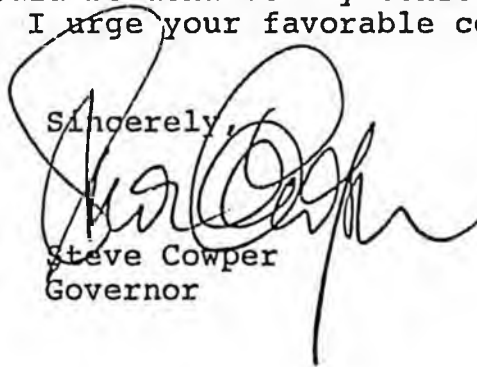
The credit markets should also respond favorably to a single issuer for state lease-financing. More regular issuance from one issuer should lead to greater market recognition and confidence, and a broader base of bond holders and lower interest rates as a result.

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,

A large, stylized handwritten signature in black ink, appearing to read 'Steve Cowper', is written over the typed name and title.

Steve Cowper
Governor

Alaska State Legislature

Sen. Pat Pourchot, Chairman

Sen. Jan Faiks, Vice Chairman
Sen. Al Adams
Sen. Tim Kelly
Sen. Rick Uehling



P.O. Box V
State Capitol
Juneau, Alaska 99811

907-465-3712

Senate State Affairs Committee

MEMORANDUM

TO: Senate State Affairs Committee Members
FROM: Senator Pat Pourchot, Chairman
RE: Today's Committee Hearing
DATE: March 22, 1989

SB 108, An Act relating to public finance, including lease-financing, will be back before the State Affairs Committee today.

SB 108 would require that all lease-financings for public buildings be handled by the Alaska State Building Authority. It would also require notice to the legislature of lease-purchase agreements entered into by the legislature and the court system if the costs exceed \$1 million annually (this provision currently applies to the executive branch and the University). In addition, SB 108 would amend the general powers of the University to allow them to issue debt.

At our first hearing on this bill, questions were raised regarding the authority of the University to issue debt and the ability of ASBA to transfer property to other public entities for less than fair market value. Amendments addressing these concerns are attached.

Throughout the lease purchase sections of SB 108, reference is made to the "department, legislature, or court system". The question of whether the University is included in the definition of "department" was raised. AS 36.30.005(c)(5), the current definition section of the procurement code, specifies that "department" means the University of Alaska.

AMENDMENT #1

page 2, after line 2, add:

The university may not enter into an obligation requiring a financing notice under this section, other than a refinancing obligation, unless the project has been approved by the legislature by law. An appropriation for the project does not constitute approval of the project for the purposes of this section.

NOTE: Sec. 1 of SB 108 authorizes the University to issue debt and enter into long-term obligations. Sec. 2 requires that the University provide notice to the legislature of any obligation with an annual payment exceeding \$1 million. Amendment #1 would require that the University receive legislative approval before proceeding with the obligation.

This procedure parallels the procedure in current law for lease financing by the executive branch, including the University.

The University has issued debt in the past, including bonds for student housing and a student center. The University sought legislative authorization of the issuance of this debt, and under Amendment #1 would continue to do so for issuances resulting in debt service of \$1 million or more annually.

AMENDMENT #2

page 2, after line 2, insert a new section to read:

AS 18.55.255 is amended to read:

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

(b) Real or personal property of the authority may be sold to a state or federal agency or political subdivision for less than the appraised value without competitive bidding, upon a determination by the board that the terms are fair and proper and

in the best interests of the state. The board shall consider both the nature of the agency's or political subdivision's public services or functions and the terms under which the property was acquired by the authority.

NOTE: This amendment has been requested by ASBA and the Department of Revenue. ASBA interprets existing law to mean that it cannot dispose of its property except at fair market value. This makes it difficult and expensive for other state agencies to use excess property of ASBA for other public purposes, and prohibits ASBA from transferring into state ownership ASHA-funded projects for which the bonds have been paid off (such as the state office building in Juneau).

Amendment #2 would allow transfer of property at less than fair market value upon a determination by the ASBA board that it is in the best interest of the state.

AMENDMENT #3

page 2, after line 2 add a new paragraph to AS 18.55.255:

(c) property acquired or renovated to provide mental health community housing may be conveyed for less than the fair market value to grantees selected by the Department of Health and Social Services upon terms and conditions consistent with grants administered by the Department of Health and Social Services under AS 47.30.520 - 47.30.620.

NOTE: The FY 89 capital budget appropriated \$2,350,000 to the Department of Health and Social Services from the Mental Health Trust Account for acquisition and renovation of community housing for the mentally ill. Through an RFP process DHSS has awarded funds to non-profit grantees who, with the assistance of ASBA, are in the process of purchasing/renovating facilities. The non-profits hold title to the facilities; in the case of default the title would revert to ASBA.

Amendment #3 would authorize ASBA to transfer mental health housing properties that may revert to ASBA to another grantee for less than fair market value. The grantee would be selected by DHSS through their general grant award process.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An act relating to public
finance including lease-financing.
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Alaska State Building
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: *Jim A. Meyer* Phone: 12/12/88
Division: Finance Department Date: 562-2813
Approved by Commissioner: *[Signature]* Date: 12/11/88
Agency: Alaska State Building Authority

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

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: SB 108 (b)
PUBLISH DATE: 1/12/89

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Public finance, including lease-financing
Sponsor: Rules
Requestor: Governor

Agency Affected: Department of Revenue
BRU: Treasury

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
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	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	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 if necessary)

Prepared By: Milt Barker MB
Division: Treasury

Phone: 465-2350
Date: December 29, 1988

Approved by Commissioner: Hugh Malone
Agency: Department of Revenue

Date: December 29, 1988

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

FISCAL NOTE

REQUEST:

Revision Date: 3/24/89
 Title: An act relating to public finance including lease-financing.
 Sponsor: _____
 Requestor: Governor

Agency Affected: Alaska State Building Authority
 BRU: _____
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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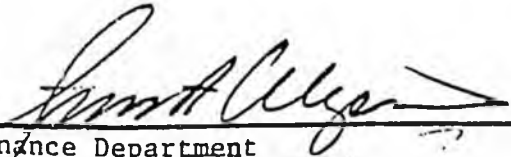
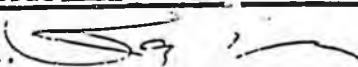
FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by:  Phone: 562-2813
 Division: Finance Department Date: 3/24/89
 Approved by Commissioner:  Date: 3/24/89
 Agency: Alaska State Building Authority

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

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Department of Revenue
 Title: Public Finance, including
 Lease-Financing BRU: Treasury
 Sponsor: Senate State Affairs Components: _____
 Requestor: Senate State Affairs

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
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	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	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.

Prepared By: Milt Barker *MB*
 Division: Treasury

Phone: 465-2350
 Date: 3-22-89

Approved by Commissioner: *[Signature]*
 Agency: Department of Revenue *3/23/89*

Date: 3-22-89

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

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 ^{within annual rent anticipated to exceed \$1,000,000.} 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; or

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 36.20.990 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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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 for a
2 public building must be approved by a majority of the qualified voters
3 voting at the next state general election, if the agreement requires
4 the payment of annual rent that is anticipated to exceed \$1,000,000
5 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; or

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 whose present
6 value, at inception, equals 90 percent or more of the fair market
7 value of the property at inception;

8 → (19) "public building" means improved real property leased
9 to the state for governmental, public, or educational use, but does
10 not include improved ^[structure] real property owned by the University of Alaska
11 Heating Corporation and leased to the University of Alaska for a
12 purpose within the scope, as of July 1, 1986, of the heating corpora-
13 tion's charter;

14 * Sec. 11. AS 14.40.253, as enacted by sec. 2 of this Act, and AS 36.-
15 30.080(c), as amended by sec. 8 of this Act, do not apply to projects au-
16 thorized by law before July 1, 1989.

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

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