

SB

1988

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred: April 24, 1993

FURTHER REFERRALS:

Date of Committee Action: 5/5/93

The FINANCE Committee considered:

SB 198

SENATE BILL NO. 198

EXEMPT D.O.T. FROM APA PROCEDURES

"An Act exempting certain activities of the Department of Transportation and Public Facilities from the regulation provisions of the Administrative Procedure Act and allowing other procedures for those activities; and providing for an effective date."

RECOMMENDATIONS: the same title
 be replaced with SB 198 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) DOTPF 4/18/93

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Richard J. Larson</i> Larson	X	<i>Eileen P. McLean</i> McLean		✓	
<i>Terrence Martin</i> Martin	X	<i>Mark Hankley</i> Hankley		X	
<i>Richard J. Foster</i> FOSTER	X	<i>Van Parnell</i> Parnell		X	
		<i>Raymond Gussendorf</i> Gussendorf		X	
		<i>John Hoffmann</i> Hoffmann		✓	
		<i>Mike Navarre</i> Navarre		✓	
		<i>Tony Brown</i> Brown		✓	
		<i>Eric Therman</i> Therman		X	

Eileen P. McLean
 CHAIRMAN'S SIGNATURE

McLean

Larson

SENATE BILL NO. 198

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE TRANSPORTATION COMMITTEE

Introduced: 4/15/93
Referred: TRANSPORTATION



A BILL

FOR AN ACT ENTITLED

1 "An Act exempting certain activities of the Department of Transportation and
2 Public Facilities from the regulation provisions of the Administrative Procedure
3 Act and allowing other procedures for those activities; and providing for an
4 effective date."

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

6 * Section 1. AS 02.15.090(a) is amended to read:

7 (a) In operating an airport or air navigation facility owned or controlled by the
8 state, the department may enter into contracts, leases, and other arrangements covering
9 periods not exceeding 55 years with a person, municipality, or the United States,
10 granting the privilege of using or improving an airport or air navigation facility or a
11 portion of it or space in it for commercial, governmental, or other public purposes,
12 including private plane tie down; or conferring the privilege of supplying goods,
13 commodities, services, or facilities at an airport or air navigation facility. The
14 department may establish the terms and conditions and fix the charges, rentals, and

1 fees for the privileges or services that are reasonable and uniform for the same class
2 of privilege or service. Charges, rentals, or fees authorized by this subsection may
3 be fixed for the international airports by order of the commissioner or by
4 negotiated or competitively offered contract. Notwithstanding AS 37.10.050(a),
5 the fixing of charges, rentals, or fees as permitted under this subsection is not
6 subject to the adoption of regulation provisions of AS 44.62 (Administrative
7 Procedure Act). The terms, conditions, charges, rentals, and fees shall be established
8 with due regard to the property and improvements used and the expense of operation
9 to the state. However, use of state land and buildings by the Alaska Wing, Civil Air
10 Patrol and its squadrons shall be permitted without rental charges. The department
11 shall provide for public notice and an opportunity to comment before a charge,
12 rental, or fee is fixed by order of the commissioner as permitted under this
13 subsection. The [IN NO CASE MAY THE] public may not be deprived of its
14 rightful, equal, and uniform use of the airport, air navigation facility, or a portion of
15 them.

16 * Sec. 2. AS 37.15.500 is amended to read:

17 Sec. 37.15.500. AIRPORT CHARGES. As provided in AS 02.15.090(a), the
18 [THE] commissioner of transportation and public facilities shall fix and collect the
19 [SUCH] fees, charges, and rentals derived by the state from the ownership, lease, use,
20 and operation of the airports and all of the facilities and improvements that [OF
21 THEM OR USED IN CONNECTION WITH THEM AS] will provide revenue
22 sufficient to comply with all of the covenants of the bond resolution.

23 * Sec. 3. Sections 1 and 2 of this Act are retroactive to January 1, 1993.

24 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

Revision Date: 04/16/93
Title: Exempt DOT from APA Procedures

Department Affected: DOT&PF
BRU: ALAS, AIA, FIA

Sponsor: Transportation
Requestor:

Component: ALAS, AIA, FIA
Component Serial Number: 1649, 613, 619

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
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
LAND & 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 FUND SOURCE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

1002 FEDERAL RECEIPTS	0	0	0	0	0	0
1003 GF MATCH	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/PROGRAM RECEIPTS	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL FUNDING:	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

Estimate of current year (FY93) impact: \$0

ANALYSIS: (Attach a separate page if necessary)

*Indicates there will be a fiscal impact if SB 198 is not enacted. See attached Position Paper.

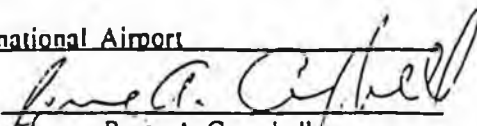
Prepared by: Gina Marie Lindsev, Director

Phone: 266-2525

Division: Anchorage International Airport

Date: April 16, 1993

Approved by Commissioner:


Bruce A. Campbell

Phone: 465-3901

Agency: Department of Transportation and Public Facilities

Date: April 16, 1993

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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Juneau, Alaska 99801-2105

MEMORANDUM

April 16, 1993

SUBJECT: Sectional Summary of SB 198.

TO: Senator Bert Sharp

FROM: Michael F. Ford *MFF*
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Allows the commissioner of Transportation and Public Facilities to fix charges, fees, and rentals at international airports by order or by contract. Exempts the charges, fees, or rentals from the regulation provisions of the Administrative Procedure Act (AS 44.62). Requires the department to provide for public notice and comment before the commissioner fixes a fee, charge, or rental by order.

Section 2. Allows the commissioner to fix fees as provided in sec. 1, for purposes of international airport revenue bonds.

Section 3. Retroactive effective date for sections 1 and 2.

Section 4. Effective date.

MFF:pl
93-307.plm



*Department of Transportation
and Public Facilities*

POSITION PAPER

BILL NO: SB 198

APPROVED:

A handwritten signature in black ink, appearing to be "H. Hill", written over a horizontal line.

TITLE: Exempt DOT from APA
Procedures

DATE: April 16, 1993

SB 198 will allow the international airports to continue to operate in a business-like manner and respond quickly to market conditions and airport revenue requirements.

Based on the court decision in the rural airport landing fee lawsuit, Anchorage (AIA) and Fairbanks (FIA) International Airports may be required to establish all fees and fee changes through the regulatory process defined in the Administrative Procedures Act.

AIA and FIA establish landing fees, terminal rent, and other airline fees through uniform Airline Operating Agreement formulas negotiated with the airlines serving the two airports. This type of negotiation is fundamental to airlines conducting business with airports and is representative of industry standard throughout the United States. These fees are numerous, varied, and subject to change because of requirements in the operating agreements and provisions of other specific leases and concession agreements. Airline landing fees are recalculated twice a year through a formula specified in the Airline Operating Agreement. Other types of new fees are sometimes implemented in response to unanticipated user needs and changes in market conditions. A required regulatory process would impose an estimated four to five month time delay on implementation of new fees as compared to the current six to eight weeks.

In addition to airline specific fees, AIA and FIA have a wide range of other fee types. These include tie down fees, vehicle parking fees, land rent, impound fees, conference room charges, and concession fees. The concession bid/proposal solicitation process may be compromised if minimum bids for

each concession must first be established through regulation. This seriously jeopardizes the ability of AIA and FIA to maximize concession revenue.

If SB 198 is not enacted, there will be substantial direct and indirect operating budget impacts to the international airports. Direct costs include an additional \$36,700 in annual personal services expenses for staff regulation work and an estimated \$50,000 in additional annual Department of Law costs to DOT&PF. Indirect costs include revenue loss due to time delays inherent in the regulatory process. In the absence of the statutory change, AIA and FIA may be unable to implement new fees or revise existing fees (including landing fees) until a regulatory process in which the airports have little timing control is complete. In this situation, the revenue impact is substantial but is not possible to quantify because timing is dependent on Department of Law priorities.

DIVISION OF LEGAL SERVICES

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130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 21, 1993

SUBJECT: International airports - (SB 198)

TO: Senator Bert Sharp

FROM: Michael F. Ford 
Legislative Counsel

You have asked for an explanation of the term "international airport" as used in SB 198. The term is defined in AS 02.15.260 as follows:

"international airport" means an international airport owned and operated by the state;"

The term "airport" is also defined in that same section. You should also note that in sec. 2 of the bill the term "airports" is used. That term is defined in AS 37.15.550 as essentially the Anchorage and Fairbanks International Airports.

If you have further questions please contact me.

MFF:mi
93-075.mai

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NOT FILM LEGIBLY BECAUSE OF
THE POOR QUALITY OF THE ORIGINAL**



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April 19, 1993

The Honorable Bert Sharp
Chairman, Senate Transportation Committee
State Capitol, Room 514
Juneau, Alaska 99801-1182

Dear Senator Sharp:

This letter is to clarify the Department of Transportation and Public Facilities' (DOT&PF) interest in SB 198. The statute change is needed so the Anchorage and Fairbanks International Airports can continue to adjust rates and fees in accordance with the Airline Operating Agreement. This has been the method used for a number of years.

DOT&PF is concerned that the recent court decision requiring rural airport landing fees to be set by regulation might be interpreted to apply to the international airports. Adjusting rates and fees through regulation would limit DOT&PF's ability to generate revenue for ongoing operation of the two international airports.

In addition to rates and fees specified in the Airline Operating Agreement, the international airports have a wide variety of other fees which generate revenue for the Fairbanks and Anchorage airports. These fees are for uses such as general aviation tie downs, concessions, vehicle parking, and land rent.

SB 198 applies only to the Anchorage and Fairbanks International Airports and will not affect the way DOT&PF sets fees for the rural airports. The rural airports are general funded; the Anchorage and Fairbanks International Airports are wholly supported by revenue they generate (AS 37.15).

If we can provide additional information, please contact either of us.

Sincerely,

Robert Bullock, FIA Manager

Marie Lindsey, AIA Director

cc: Katy McHugh, DOT&PF Legislative Liaison
D. Randy Simmons, Deputy Commissioner
John Ungar, AIAS Controller