

STORAGE NAME: h2007.go

DATE: March 29, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
GOVERNMENTAL OPERATIONS
ANALYSIS**

BILL #: HB 2007

RELATING TO: State Leases

SPONSOR(S): Representative Rubio

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) GOVERNMENTAL OPERATIONS
 - (2) GENERAL GOVERNMENT APPROPRIATIONS
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The Department of Management Services (DMS) is the nominal organization that acts as the central property management and lease holder for agencies of the State of Florida. It discharges these responsibilities through its headquarters-based Facilities Program. Program personnel manage and negotiate leases on behalf of constituent state agencies. The program also acts as the administrative entity for the operation of the facilities pool program through which agency rental payments are channeled into principal and interest payments for the debt service of capital facilities bond issuances.

The bill precludes a state agency from terminating a lease without cause until July 1, 2002.

It further provides that a state agency may not terminate a lease without cause for the purpose of relocating unless: it justifies to DMS that there is a reduction in occupancy cost; that at least one-half of the lease term has expired; the lease is terminated at the end of its term; and the landlord is reimbursed for all unamortized tenant improvements. DMS is directed to promulgate rules in accordance with the bill's provisions. All other state agencies with leasing needs shall be given preference to fill the unoccupied portions of buildings whose leases are terminated.

The bill takes effect July 1, 2000.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

The Department of Management Services (DMS) is the nominal organization that acts as the central property management and lease holder for agencies of the State of Florida. It discharges these responsibilities through its headquarters-based Facilities Program. Program personnel manage and negotiate leases on behalf of constituent state agencies. The program also acts as the administrative entity for the operation of the facilities pool program through which agency rental payments are channeled into principal and interest payments for the debt service of capital facilities bond issuances.

C. EFFECT OF PROPOSED CHANGES:

The bill precludes a state agency from terminating a lease without cause until July 1, 2002.

It further provides that a state agency may not terminate a lease without cause for the purpose of relocating unless: it justifies to DMS that there is a reduction in occupancy cost; that at least one-half of the lease term has expired; the lease is terminated at the end of its term; and the landlord is reimbursed for all unamortized tenant improvements. DMS is directed to promulgate rules in accordance with the bill's provisions. All other state agencies with leasing needs shall be given preference to fill the unoccupied portions of buildings whose leases are terminated.

The bill takes effect July 1, 2000.

D. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

DMS has a fiduciary relationship to provide a revenue stream sufficient to meet its debt service requirements for state-owned buildings. Any significant disruption of this stream may jeopardize the trust agreement it has with the bondholders. Such a disruption could occur when DMS has debt service on a state-owned building but cannot receive lease payments from an agency due to a delay in relocating an agency to a state-owned building from a private building.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Private lessors would derive additional financial stability under terms of the bill since there could be no unilateral cancellation of the lease by a state agency until July 1, 2002, regardless of the availability of alternative state building accommodations.

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that cities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the percentage of a state tax shared with counties or cities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

The staff analysis for SB 2322 expressed concern over the constitutional prohibition of the impairment of contracts by the state. It can be argued, however, that this bill does not affect the terms of any contract, and so does not impair any contractual right or obligation. Rather the bill only affects the ability of a state agency to exercise the specific contractual right of early termination. The Legislature, as the chief policy-making body for the state, has the power to limit the actions of state agencies.

B. RULE-MAKING AUTHORITY:

The bill provides sufficient rulemaking authority to DMS to promulgate rules in accordance with the bill's provisions.

C. OTHER COMMENTS:

DMS builds and manages the satellite office complex in southeastern Leon County. Under the terms of its Development of Regional Impact, DMS has the authority to construct one additional 65,000 net square foot facility, subject to budget authority. The state complex is located about one mile from an existing office park owned by Koger Properties, Inc. The owner of that property has approached DMS with concerns about state agency lease terminations after its incurring capital expenditures on facility improvements. Additionally, the Department of Health will vacate some 85,000 square feet of office space at the Koger site by June 2000. The Fish and Wildlife Commission will sublease about one-half of the vacated space and there is a prospective tenant for the remaining vacated space. DMS has approached the property owner with an alternative proposal which would permit a direct agency negotiation in such circumstances in lieu of a competitive procurement for the remaining term of the affected lease. That proposal itself would also require a statutory change. Unknown further impacts resulting from the reorganization of the Department of Labor and Employment Security by the 1999 Legislature, and augmented by SB 2050 pending before the 2000 Legislature, may be anticipated as large portions of that agency's operations are also located at the Koger office park.

Application of the term "state agency" varies widely in the Florida Statutes. In matters of purchasing and procurement in ch. 287, F.S., it does not apply to the State University System or the Board of Regents. It is similarly unclear whether the impact of this bill extends to all executive branch agencies or only an implicit subset of those defined in ch. 287, F.S.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

STORAGE NAME: h2007.go

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PAGE 5

VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

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