SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Ways and Means Committee

BILL: PCS/SB 848

INTRODUCER: Ways and Means Committee and Senator Carlton

SUBJECT: State Financial Matters

DATE: March 27, 2006 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kynoch/Proctor	Coburn	WM	**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

The proposed committee substitute requires the Department of Management Services to:

- annually submit a report to the Executive Office of the Governor and the Legislature that provides information on leases due to expire within 24 months and the financial impact of terms in new leases that have been amended, supplemented or waived;
- promulgate rules requiring lease terms and conditions to include clauses providing that the State's performance and obligation under a lease is contingent upon annual appropriation by the Legislature and that the State may terminate a lease without penalty upon providing six months notice in the event state-owned space becomes available;
- conduct a comprehensive financial analysis to determine whether amending, supplementing or waiving a lease clause is in the state's long term best interest prior to execution of the lease;
- conduct a lease verses buy analysis, analyze the sufficiency of tenant improvement funds, and determine the fiscal impact of modified or deleted lease provisions that increase the state's long-term costs for leases equal to or greater than 100,000 square feet;
- annually submit a five-year plan for state-owned buildings to the Executive Office of the Governor and the Legislature;
- notice and submit a cost-benefit analysis to the Executive Office of the Governor, the Legislature and the Division of Bond Finance of the State Board of Administration 120 days prior to recommending the disposition of buildings in the Florida Facilities Pool to the Division of State Lands of the Department of Environmental Protection.

The bill provides an objection period for President of the Senate or the Speaker of the House of Representative on the proposed disposition of facilities.

The bill amends the following sections of the Florida Statutes: 255.249, 255.25, and 255.503.

II. Present Situation:

The state rents or owns approximately 17.3 million square feet of office space to house its employees. 52 percent of this space is state-owned such as the Capitol and 22 regional service centers located throughout the state, while the remaining 48 percent is privately owned and leased by agencies.[1]

The Department of Management Services (department) oversees a portion of the state-owned office space. These buildings are part of the Florida Facilities Pool (facilities pool) established in section 255.505, Florida Statutes. The department is responsible for the operations, leasing or other disposition of buildings in the facilities pool. Agencies may contract with the department to lease space in the facilities pool. The department is required to charge reasonable rental rates or charges for the use of and services provided for space in the facilities pool in accordance with the provisions of ss. 255.503(1), 255.503(2) and 255.51, Florida Statutes. Rental receipts pay for operational expenses, maintenance and repair expenses, capital depreciation projects to improve buildings and debt service charges. As certain buildings in the facilities pool have been financed by bond issuances, the department must also ensure the bond coverage requirements for the facilities pool are met.

Regarding privately owned leased space, the department oversees a partially decentralized process. As provided by statutes and rules, the department must review and approve agency estimates of space needs and proposed lease conditions. In general, agencies have been responsible for entering into leases using a standard agreement for leased space and competitive processes to lease space of 5,000 square feet or more. Agencies may not lease space in the private sector when suitable space is available in a state-owned building in the same geographic region, unless they receive prior approval from the department.[2]

The department has initiated a project referred to as the Workspace Management Initiative (initiative). The initiative is comprised of three categories which include workspace standards, centralized leasing and asset management. For workspace standards, the department has updated existing space utilization rules to state that "to the extent possible without sacrificing critical public or client services, agencies are to obtain an average allocation of space, not to exceed, 180 usable square feet per full-time employee."[3] Regarding centralized leasing, the department has adopted new rules for state leasing procedures allowing a competitive solicitation process and contracted with a private tenant representative, the Staubach Company, to assist in lease procurements and renegotiations. As of June 30, 2005, Staubach had negotiated 150 leases for 20 state agencies. This includes four 15-year master leases totaling 1.5 million square feet in four Tallahassee area properties.[4] Finally, for asset management, the department has evaluated state-owned office buildings to determine if the state should sell the buildings and move affected employees to other buildings (either state-owned or leased) of higher quality. In October and

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[1] Office of Program Policy Analysis and Government Accountability Report No. 06-06.
[2] Office of Program Policy Analysis and Government Accountability Report No. 06-06.
[3] Rule 60H-2, Florida Administrative Code
[4] Office of Program Policy Analysis and Government Accountability Report No. 06-06.

November 2005, the Cabinet approved the department's request to surplus certain facilities pool buildings in the Tallahassee area. The department is currently reviewing options for divesting state-owned office buildings across the state.[5]

For Fiscal Year 2005-2006, a deficit was projected for the operations and maintenance of the facilities pool. Line 2085A of the Fiscal Year 2005-2006 General Appropriations Act provided $6,304,229 to cover the deficit by increasing rental rates paid by state agencies. As the impact of the initiatives' centralized leasing and asset management actions on the facilities pool are unknown, proviso required the department to submit a detailed report on the facilities pool and the department's Workspace Management Initiative by August 15, 2005, to provide an overview of the facilities pool assets and debt, capital deficiencies, rental revenues, and operations and maintenance costs; address any proposed actions or recommendations to increase the occupancy rate in the facilities pool, to reduce the operational and maintenance costs, and to restructure or reduce bonded debt; and address the anticipated impact the department's Workspace Management Initiative would have on the facilities pool, state agencies, and state funding. The department submitted its report entitled Master Strategic Plan for the Management and Development of Florida's Real Estate Portfolio to the Executive Office of the Governor and the Legislature on September 29, 2005. Per the report, it provided an opportunity analysis and stated "this analysis is very preliminary" and "this assessment is for establishments of a direction only, and cannot be considered detailed, complete or entirely accurate."[6]

For Fiscal Year 2006-2007, a $2,921,436 deficit is projected for the operations and maintenance of the facilities pool. The deficit requires another increase to rental rates paid by state agencies for space in the facilities pool. It has also been determined that the coverage test for the bond covenants will not be met unless the rental rates are increased.

III. Effect of Proposed Changes:

Section 1 amends s. 255.249 (3) and (4), F.S., to require the department to annually submit a report to the Executive Office of the Governor and the Legislature that provides information on leases due to expire within 24 months and the financial impact of terms in new leases that have been amended, supplemented or waived. The bill also requires the department to promulgate rules requiring lease terms and conditions to include clauses providing that the State's performance and obligation under a lease is contingent upon annual appropriation by the Legislature and that the State may terminate a lease without penalty upon providing six months notice in the event state-owned space becomes available.

Section 2 amends s. 255.25 (2) and (4), F.S., to require the department to conduct a comprehensive financial analysis to determine whether amending, supplementing or waiving a lease clause is in the state's long term best interest prior to execution of the lease. This section also requires the department to conduct a lease verses buy analysis, analyze the sufficiency of tenant improvement funds, and determine the fiscal impact of modified or deleted lease provisions that increase the state's long-term costs for leases equal to or greater than 100,000

[5] Office of Program Policy Analysis and Government Accountability Report No. 06-06.
[6] Master Strategic Plan for the Management and Development of Florida's Real Estate Portfolio Appendix A.

square feet. Additionally, the section requires the department to annually submit a five-year plan for state owned buildings to the Executive Office of the Governor and the Legislature.

Section 3 amends s. 255.503 (7), F.S. to require the department to notice and submit a cost-benefit analysis to the Executive Office of the Governor, the Legislature and the Division of Bond Finance of the State Board of Administration prior to recommending the disposition of buildings in the Florida Facilities Pool to the Division of State Lands of the Department of Environmental Protection.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None

C. Government Sector Impact:

For Fiscal Year 2006-2007, a $2,921,436 deficit is projected for the operations and maintenance of the facilities pool. The deficit requires rental rates paid by state agencies for space in the facilities pool to be increased. It has also been determined that the coverage test for the bond covenants will not be met unless the rental rates are increased.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.