

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the General Government Appropriations Committee

BILL: CS/SB 1502

INTRODUCER: General Government Appropriations Committee and Senator Margolis

SUBJECT: Leased Property for Public Purposes

DATE: April 22, 2008

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Molloy</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
2.	<u>McKay</u>	<u>Wilson</u>	<u>GO</u>	Favorable
3.	<u>Fournier</u>	<u>Johansen</u>	<u>FT</u>	Favorable
4.	<u>Kynoch</u>	<u>DeLoach</u>	<u>GA</u>	Fav/CS
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill authorizes counties to execute leases with the state or another governmental entity, or any other entity as authorized in section 125.01, Florida Statutes, for periods longer than 30 years, notwithstanding any other provision of state law.

This bill substantially amends section 125.031, Florida Statutes.

II. Present Situation:

Lease or lease-purchases of property for public purposes

Section 125.031, F.S., authorizes counties to enter into leases or lease-purchase arrangements for properties needed for public purposes for periods of time not to exceed 30 years, and with the approval of the board of county commissioners. In cases where the lease or the lease-purchase is for longer than five years, the rental fee must be paid from funds other than ad valorem tax revenues.

Waiver of term limitation for leases entered into by a county for the benefit of a seaport

In 1995, the Legislature enacted ch. 95-257, L.O.F., to provide that, notwithstanding provisions of law to the contrary, a county could enter into a lease (but not a lease-purchase) with another governmental entity for the benefit of a seaport and not be subject to the 30-year limitation.

Powers and duties of county government

Part I of ch. 125, F.S., provides for the powers and duties of county commissioners. Section 125.01(3)(a), F.S., provides that powers and duties which are specified in part I are not deemed exclusive or restrictive, but are deemed to incorporate all implied powers necessary to carrying out the specified duties of the legislative and governing body, including but not limited to, the authority to enter into contractual obligations, and purchase or lease and sell or exchange real or personal property. The provisions of part I are to be liberally construed so that the powers and duties of the governing body may be effectively carried out and to secure for the counties the broad exercise of home rule powers authorized by the State Constitution.

Office of the Miami-Dade County State Attorney - E.R. Graham Building

The Miami-Dade County State Attorney's Office is located in the E.R. Graham Building on NW 12th Avenue in downtown Miami. The underlying property is leased to Dade County for \$1 per year and is owned by the state which received title to the property from Dade County in 1957 for a one dollar consideration.¹ The current lease agreement, executed in September 1988,² expires in September 2018 but does not contain an option for renewal. At the time the lease was executed, Dade County was directed to evict all tenants in the building, with the exception of the State Attorney's office, and was required to pay the state a one-time fee of \$233,805 to be used by the State Department of General Services to offset lost revenue caused by the removal of the Graham Building from the State Facilities Pool. The county committed to spending at least \$8.2 million in Criminal Justice Facilities General Obligation Bonds to renovate the property and bring it into compliance with the South Florida Building Code. Upon termination of the lease, all improvements automatically become the property of the state which may require removal of any improvements at the expense of Miami-Dade County.

In 2007, the Legislature enacted ch. 2007-198, L.O.F., requiring the Board of Trustees of the Internal Improvement Trust Fund (Board) to deed title to the property on which the Graham Building is located to Miami-Dade County for a consideration of \$1.00.³ Title was to be conveyed in fee simple not later than January 1, 2008, and the deed was to restrict the use of the property to house the offices of the Miami-Dade State Attorney and to provide workforce housing. Although he signed the legislation, the Governor expressed concern about giving Miami-Dade County this parcel for \$1 without proper consideration of its value, and he pointed out that the bill bypassed the procedures for disposing of surplus land as provided by Florida law. Upon passage of the legislation, discussions took place between the Governor's Office and Miami-Dade County that it might be desirable to lease the site to Miami-Dade County rather than convey it in fee simple.

¹ See Additional Item No. 6 on the December 18, 2007 agenda of the Florida Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund.

² Lease Agreement No. 3545 entered into September 2, 1988, by and between the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida and Dade County, a political subdivision of the state. Rule 18-2.018(3)(a), Florida Administrative Code, provides that the Board of Trustees of the Internal Improvement Trust Fund, as trustees of state lands, may execute leases for a 50-year period and longer, if the use is determined to be in the public interest.

³ Section 253.0341(4), F.S.

In December 2007, the Miami-Dade County Manager notified the Board he intended to recommend to the Board of County Commissioners that Miami-Dade County accept a lease amendment for a new 30-year lease, with two 30-year extensions, or a 99-year lease if legislation was enacted which authorized the county to execute a lease for longer than 30 years. At the December 18th meeting of the Florida Cabinet, the Board authorized the Secretary of Environmental Protection to negotiate the new lease with Miami-Dade County. On January 10, 2008, Miami-Dade County adopted a resolution urging the Legislature to remove the 30-year statutory restriction on county leases.⁴

III. Effect of Proposed Changes:

This bill authorizes counties, as defined in s. 125.011(1), to execute leases with the state or another governmental entity for longer than 30 years, notwithstanding state laws which may prohibit a lease period of longer than 30 years.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The fiscal impact of this bill on Miami-Dade County is indeterminate. If successfully enacted, the county and the state will renegotiate the lease for the use of the property on which the State Attorney's office is located. This may result in higher lease payments for the county.

⁴ Rule 18-2.018(3)(a)1., F.A.C., provides that the Board may enter into leases for terms of up to 50 years. Longer term leases may be entered into if the Board determines the lease is in the public interest.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by General Government Appropriations on April 22, 2008:

The committee substitute limits the provisions of the bill to Miami-Dade County.

- B. **Amendments:**

None.