

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 Policy and Steering Committee on Ways and Means

BILL: CS/SB 1804

INTRODUCER: Policy and Steering Committee on Ways and Means and Senator Alexander

SUBJECT: Leasing of State Buildings

DATE: April 7, 2009

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Pigott | Kelly | WPSC | Fav/CS |
| 2. | | | GO | |
| 3. | | | RC | |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This bill requires the state to offer to state agencies and universities the opportunity to lease state-owned buildings or parcels of land before it offers to sell or lease to others. The bill requires the Department of Management Services (DMS) to adopt rules relating to leases of all privately owned buildings and it requires agencies to notify the DMS 30 days prior to the execution of a lease for space less than 5,000 square feet. It directs the DMS to create a database of all state-owned real property and to immediately begin the disposition of certain surplus buildings.

This bill substantially amends sections 253.04, 255.249, 255.25(2), and 627.351(6), Florida Statutes.

II. Present Situation:

Use of State-Owned Lands

State-owned lands, unless otherwise specifically titled, are titled to the Board of Trustees of the Internal Improvement Trust Fund (Board), which is comprised of the Governor and Cabinet.

Chapter 253, F.S., details the powers and duties of the Board with respect to these lands. Specifically, s. 253.034, F.S., governs the uses of these lands. Provisions of this section include:

- Definitions for the various types of uses;
- Management plan requirements;
- Authority to surplus; and
- Requirements for the development of an inventory of public lands.

Regarding the surplusing of state-owned lands the Board must first determine if the lands are conservation or non-conservation lands. For lands managed by the Department of Management Services for use as state offices they are designated as non-conservation lands. Once a determination is made to surplus the Division of State Lands in the Department of Environmental Protection notifies other state agencies approximately 2 months prior to a parcel of land being offered for lease, sublease or sale to a local or federal unit of government or a private party per 18-2.019(5)(a), F.A.C.

Leasing Provisions in Chapter 255, F.S

Section 255.249(4)(b), F.S., requires the DMS to promulgate rules providing procedures for soliciting and accepting competitive proposals for leased space of 5,000 square feet or more in privately owned buildings; evaluating the proposals received; exemption from competitive bidding requirements of any lease the purpose of which is the provision of care and living space for persons or emergency space needs as provided in s. 255.25(10), F.S.; and the securing of at least three documented quotes for a lease that is not required to be competitively bid.

Pursuant to s. 255.25(2)(a), F.S., no state agency may lease a building or any part thereof unless prior approval of the lease conditions and of the need therefore is first obtained from the DMS. Any approved lease may include an option to purchase, an option to renew the lease, or both, upon such terms and conditions as established by the DMS subject to final approval by the head of the DMS and s. 255.2502, F.S.

The approval of the DMS, except for technical sufficiency, need not be obtained for the lease of less than 5,000 square feet of space within a privately owned building, provided the agency head or the agency head's designated representative has certified that all criteria for leasing have been fully complied with,¹ and has determined such lease to be in the best interest of the state.² Such a lease, which is for a term extending beyond the end of a fiscal year, is subject to the provisions of ss. 216.311, 255.2502, and 255.2503, F.S.³

In sum, DMS is responsible for prior approval of lease terms for leases over 5,000 square feet and for leases less than 5,000 square feet the agency head or their designee must certify compliance with applicable leasing criteria submit to DMS. Leases for less than 5,000 square feet are not required to be competitively bid.

¹ Pursuant to s. 255.249(4)(k), F.S.

² Section 255.25(2)(b), F.S.

³ Relating, respectively, to statutory provisions concerning unauthorized contracts in excess of appropriations, contingency statements in contracts which require annual appropriations, and certain prohibited provisions in contracts for the leasing of buildings.

Chapter 2009-15, Laws of Florida

Chapter 2009-15, L.O.F., passed during the 2009 Special Session A, directed the DMS to compile a list of all state-owned surplus real property that has a value greater than \$1,000 in order to determine potential cost savings and revenue opportunities from the sale or lease of assets, and identify current contracts for leased office space in which the leased space is not fully used or occupied and include a plan for contract renegotiation or subletting unoccupied space. The DMS subsequently reported the following:

- 566 private leases with 1.3 million square feet in potential excess space.
- More than 500K square feet of potential excess space is in Leon County.
- 276 leases with potential excess space with terms of 24 months or less.
- 80 percent of the leases have less than 2,500 SF of potential excess space.

III. Effect of Proposed Changes:

Section 1 creates a new subsection (15) in s. 253.034, F.S., to provide that state agencies and state universities be given first consideration to lease, with further priority given to state universities, when a state-owned building or parcel of land is offered for lease, sublease, or sale.

Section 2 amends subsection (b) and (k) of subsection (4) of section 255.249, F.S. to require the DMS to adopt rules for competitive solicitation of all leased space. It also requires agencies leasing space less than 5,000 square to provide documentation to the DMS to review and approve technical sufficiency and if it is in the best interests of the state.

Section 3 amends subsection (2) of s. 255.25, F.S., to require that agencies notify the department at least 30 days prior to the execution of a lease for space less than 5,000 square feet. It also requires the DMS to review the lease and determine whether space is available in a state-owned building located in the same geographic region. If the DMS determines space is not available the DMS must then determine whether the state agency lease is in the best interest of the state. If the DMS determines the space is not in the best interests of the state the DMS must notify the agency proposing the lease, the Governor, and the presiding officers of each house of the Legislature of such finding.

Section 4 amends s. 627.351 (6)(f)-(ee), F.S., to subject Citizens Property Insurance Corporation to the provisions of chapter 255, F.S.

Section 5 directs the DMS to create, administer, and maintain a comprehensive database of all state-owned real property. DMS is required to submit a plan to the President of the Senate, the Speaker of the House of Representatives, and the Executive Office of the Governor by January 4, 2010.

Section 6 directs the DMS, in coordination with the Board of Trustees of the Internal Improvement Trust Fund, to begin immediately the disposition of the Fuller Warren Building, the Bloxham Building, the Bloxham Annex Properties "A, B, and C", the Firestone Building, and the Winchester Building.

Section 7 provides that this act shall take effect July 1, 2009.

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:

This bill has a positive fiscal impact to the state as it relates to the disposition of surplus buildings. In accordance with ch. 2009-15, L.O.F., the DMS identified the following information:

| Building | Value | Operating Costs |
|--------------------------|--------------------|------------------------|
| Fuller Warren | \$1,300,000 | \$ 60,000 |
| Bloxham | \$1,500,000 | \$149,000 |
| Bloxham Annex Properties | \$ 458,000 | \$ 5,000 |
| Firestone | \$1,500,000 | \$160,000 |
| Winchester | \$ 667,000 | \$160,000 |
| Total | \$5,425,000 | \$534,000 |

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 Policy and Steering Committee on Ways and Means April 7, 2009:**

- Provides that state agencies and state universities be given first consideration to lease, with further priority given to state universities, when a state-owned building or parcel of land is offered for lease, sublease, or sale.
- Requires the Department of Management Services (DMS) to adopt rules for competitive solicitation of all leased space. It also requires agencies leasing space less than 5,000 square to provide documentation to the DMS to review and approve technical sufficiency and if it is in the best interests of the state.
- Requires that agencies notify the department at least 30 days prior to the execution of a lease for space less than 5,000 square feet. It also requires the DMS to review the lease and determine whether space is available in a state-owned building located in the same geographic region. If the DMS determines space is not available the DMS must then determine whether the state agency lease is in the best interest of the state. If the DMS determines the space is not in the best interests of the state the DMS must notify the agency proposing the lease, the Governor, and the presiding officers of each house of the Legislature of such finding.
- Subjects Citizens Property Insurance Corporation to the provisions of chapter 255, F.S.
- Directs the DMS to create, administer, and maintain a comprehensive database of all state-owned real property. DMS is required to submit a plan to the President of the Senate, the Speaker of the House of Representatives, and the Executive Office of the Governor by January 4, 2010.
- Directs the DMS, in coordination with the Board of Trustees of the Internal Improvement Trust Fund, to begin immediately the disposition of the Fuller Warren Building, the Bloxham Building, the Bloxham Annex Properties “A, B, and C”, the Firestone Building, and the Winchester Building.
- Provides an effective date of July 1, 2009.

B. Amendments:

None.