

# SB0227



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB0227

Introduced 1/31/2023, by Sen. Doris Turner

### SYNOPSIS AS INTRODUCED:

20 ILCS 405/405-300

was 20 ILCS 405/67.02

Amends the Department of Central Management Services Law of the Civil Administrative Code of Illinois. Deletes a provision which specifies that no lease for more than 10,000 square feet of space shall be executed unless the Director of the Central Management Services, in consultation with the Executive Director of the Capital Development Board, has certified that leasing is in the best interest of the State, considering programmatic requirements, availability of vacant State-owned space, the cost-benefits of purchasing or constructing new space, and other criteria as the Director shall determine. Effective immediately.

LRB103 26809 DTM 53173 b

A BILL FOR

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Department of Central Management Services  
5 Law of the Civil Administrative Code of Illinois is amended by  
6 changing Section 405-300 as follows:

7 (20 ILCS 405/405-300) (was 20 ILCS 405/67.02)

8 Sec. 405-300. Lease or purchase of facilities; training  
9 programs.

10 (a) To lease or purchase office and storage space,  
11 buildings, land, and other facilities for all State agencies,  
12 authorities, boards, commissions, departments, institutions,  
13 and bodies politic and all other administrative units or  
14 outgrowths of the executive branch of State government except  
15 the Constitutional officers, the State Board of Education and  
16 the State colleges and universities and their governing  
17 bodies. However, before leasing or purchasing any office or  
18 storage space, buildings, land or other facilities in any  
19 municipality the Department shall survey the existing  
20 State-owned and State-leased property to make a determination  
21 of need.

22 The leases shall be for a term not to exceed 5 years,  
23 except that the leases may contain a renewal clause subject to

1 acceptance by the State after that date or an option to  
2 purchase. The purchases shall be made through contracts that  
3 (i) may provide for the title to the property to transfer  
4 immediately to the State or a trustee or nominee for the  
5 benefit of the State, (ii) shall provide for the consideration  
6 to be paid in installments to be made at stated intervals  
7 during a certain term not to exceed 30 years from the date of  
8 the contract, and (iii) may provide for the payment of  
9 interest on the unpaid balance at a rate that does not exceed a  
10 rate determined by adding 3 percentage points to the annual  
11 yield on United States Treasury obligations of comparable  
12 maturity as most recently published in the Wall Street Journal  
13 at the time such contract is signed. The leases and purchase  
14 contracts shall be and shall recite that they are subject to  
15 termination and cancellation in any year for which the General  
16 Assembly fails to make an appropriation to pay the rent or  
17 purchase installments payable under the terms of the lease or  
18 purchase contract. Additionally, the purchase contract shall  
19 specify that title to the office and storage space, buildings,  
20 land, and other facilities being acquired under the contract  
21 shall revert to the Seller in the event of the failure of the  
22 General Assembly to appropriate suitable funds. However, this  
23 limitation on the term of the leases does not apply to leases  
24 to and with the Illinois Building Authority, as provided for  
25 in the Building Authority Act. Leases to and with that  
26 Authority may be entered into for a term not to exceed 30 years

1 and shall be and shall recite that they are subject to  
2 termination and cancellation in any year for which the General  
3 Assembly fails to make an appropriation to pay the rent  
4 payable under the terms of the lease. These limitations do not  
5 apply if the lease or purchase contract contains a provision  
6 limiting the liability for the payment of the rentals or  
7 installments thereof solely to funds received from the Federal  
8 government.

9 (b) To lease from an airport authority office, aircraft  
10 hangar, and service buildings constructed upon a public  
11 airport under the Airport Authorities Act for the use and  
12 occupancy of the State Department of Transportation. The lease  
13 may be entered into for a term not to exceed 30 years.

14 (c) To establish training programs for teaching State  
15 leasing procedures and practices to new employees of the  
16 Department and to keep all employees of the Department  
17 informed about current leasing practices and developments in  
18 the real estate industry.

19 (d) To enter into an agreement with a municipality or  
20 county to construct, remodel, or convert a structure for the  
21 purposes of its serving as a correctional institution or  
22 facility pursuant to paragraph (c) of Section 3-2-2 of the  
23 Unified Code of Corrections.

24 (e) To enter into an agreement with a private individual,  
25 trust, partnership, or corporation or a municipality or other  
26 unit of local government, when authorized to do so by the

1 Department of Corrections, whereby that individual, trust,  
2 partnership, or corporation or municipality or other unit of  
3 local government will construct, remodel, or convert a  
4 structure for the purposes of its serving as a correctional  
5 institution or facility and then lease the structure to the  
6 Department for the use of the Department of Corrections. A  
7 lease entered into pursuant to the authority granted in this  
8 subsection shall be for a term not to exceed 30 years but may  
9 grant to the State the option to purchase the structure  
10 outright.

11 The leases shall be and shall recite that they are subject  
12 to termination and cancellation in any year for which the  
13 General Assembly fails to make an appropriation to pay the  
14 rent payable under the terms of the lease.

15 (f) On and after September 17, 1983, the powers granted to  
16 the Department under this Section shall be exercised  
17 exclusively by the Department, and no other State agency may  
18 concurrently exercise any such power unless specifically  
19 authorized otherwise by a later enacted law. This subsection  
20 is not intended to impair any contract existing as of  
21 September 17, 1983.

22 ~~However, no lease for more than 10,000 square feet of~~  
23 ~~space shall be executed unless the Director, in consultation~~  
24 ~~with the Executive Director of the Capital Development Board,~~  
25 ~~has certified that leasing is in the best interest of the~~  
26 ~~State, considering programmatic requirements, availability of~~

1 ~~vacant State owned space, the cost benefits of purchasing or~~  
2 ~~constructing new space, and other criteria as he or she shall~~  
3 ~~determine. The Director shall not permit multiple leases for~~  
4 ~~less than 10,000 square feet to be executed in order to evade~~  
5 ~~this provision.~~

6 (g) To develop and implement, in cooperation with the  
7 Interagency Energy Conservation Committee, a system for  
8 evaluating energy consumption in facilities leased by the  
9 Department, and to develop energy consumption standards for  
10 use in evaluating prospective lease sites.

11 (h) (1) After June 1, 1998 (the effective date of Public  
12 Act 90-520), the Department shall not enter into an  
13 agreement for the installment purchase or lease purchase  
14 of buildings, land, or facilities unless:

15 (A) the using agency certifies to the Department  
16 that the agency reasonably expects that the building,  
17 land, or facilities being considered for purchase will  
18 meet a permanent space need;

19 (B) the building or facilities will be  
20 substantially occupied by State agencies after  
21 purchase (or after acceptance in the case of a build to  
22 suit);

23 (C) the building or facilities shall be in new or  
24 like new condition and have a remaining economic life  
25 exceeding the term of the contract;

26 (D) no structural or other major building

1 component or system has a remaining economic life of  
2 less than 10 years;

3 (E) the building, land, or facilities:

4 (i) is free of any identifiable environmental  
5 hazard or

6 (ii) is subject to a management plan, provided  
7 by the seller and acceptable to the State, to  
8 address the known environmental hazard;

9 (F) the building, land, or facilities satisfy  
10 applicable accessibility and applicable building  
11 codes; and

12 (G) the State's cost to lease purchase or  
13 installment purchase the building, land, or facilities  
14 is less than the cost to lease space of comparable  
15 quality, size, and location over the lease purchase or  
16 installment purchase term.

17 (2) The Department shall establish the methodology for  
18 comparing lease costs to the costs of installment or lease  
19 purchases. The cost comparison shall take into account all  
20 relevant cost factors, including, but not limited to, debt  
21 service, operating and maintenance costs, insurance and  
22 risk costs, real estate taxes, reserves for replacement  
23 and repairs, security costs, and utilities. The  
24 methodology shall also provide:

25 (A) that the comparison will be made using level  
26 payment plans; and

1           (B) that a purchase price must not exceed the fair  
2           market value of the buildings, land, or facilities and  
3           that the purchase price must be substantiated by an  
4           appraisal or by a competitive selection process.

5           (3) If the Department intends to enter into an  
6           installment purchase or lease purchase agreement for  
7           buildings, land, or facilities under circumstances that do  
8           not satisfy the conditions specified by this Section, it  
9           must issue a notice to the Secretary of the Senate and the  
10          Clerk of the House. The notice shall contain (i) specific  
11          details of the State's proposed purchase, including the  
12          amounts, purposes, and financing terms; (ii) a specific  
13          description of how the proposed purchase varies from the  
14          procedures set forth in this Section; and (iii) a specific  
15          justification, signed by the Director, stating why it is  
16          in the State's best interests to proceed with the  
17          purchase. The Department may not proceed with such an  
18          installment purchase or lease purchase agreement if,  
19          within 60 calendar days after delivery of the notice, the  
20          General Assembly, by joint resolution, disapproves the  
21          transaction. Delivery may take place on a day and at an  
22          hour when the Senate and House are not in session so long  
23          as the offices of Secretary and Clerk are open to receive  
24          the notice. In determining the 60-day period within which  
25          the General Assembly must act, the day on which delivery  
26          is made to the Senate and House shall not be counted. If



1 delivery of the notice to the 2 houses occurs on different  
2 days, the 60-day period shall begin on the day following  
3 the later delivery.

4 (4) On or before February 15 of each year, the  
5 Department shall submit an annual report to the Director  
6 of the Governor's Office of Management and Budget and the  
7 General Assembly regarding installment purchases or lease  
8 purchases of buildings, land, or facilities that were  
9 entered into during the preceding calendar year. The  
10 report shall include a summary statement of the aggregate  
11 amount of the State's obligations under those purchases;  
12 specific details pertaining to each purchase, including  
13 the amounts, purposes, and financing terms and payment  
14 schedule for each purchase; and any other matter that the  
15 Department deems advisable. The report shall also contain  
16 an analysis of all leases that meet both of the following  
17 criteria: (1) the lease contains a purchase option clause;  
18 and (2) the third full year of the lease has been  
19 completed. That analysis shall include, without  
20 limitation, a recommendation of whether it is in the  
21 State's best interest to exercise the purchase option or  
22 to seek to renew the lease without exercising the clause.

23 The requirement for reporting shall be satisfied by  
24 filing copies of the report with each of the following:  
25 (1) the Auditor General; (2) the Chairs of the  
26 Appropriations Committees; (3) the General Assembly and

1           the Commission on Government Forecasting and  
2           Accountability as required by Section 3.1 of the General  
3           Assembly Organizations Act; and (4) the State Government  
4           Report Distribution Center for the General Assembly as is  
5           required under paragraph (t) of Section 7 of the State  
6           Library Act.

7           (Source: P.A. 99-143, eff. 7-27-15; 100-1109, eff. 1-1-19;  
8           100-1148, eff. 12-10-18.)

9           Section 99. Effective date. This Act takes effect upon  
10          becoming law.