

AN ACT concerning State government.

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

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

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

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

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

The leases shall be for a term not to exceed 5 years, except that the leases may contain a renewal clause subject to acceptance by the State after that date or an option to

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

cancellation in any year for which the General Assembly fails to make an appropriation to pay the rent payable under the terms of the lease. These limitations do not apply if the lease or purchase contract contains a provision limiting the liability for the payment of the rentals or installments thereof solely to funds received from the Federal government.

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

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

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

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

local government will construct, remodel, or convert a structure for the purposes of its serving as a correctional institution or facility and then lease the structure to the Department for the use of the Department of Corrections. A lease entered into pursuant to the authority granted in this subsection shall be for a term not to exceed 30 years but may grant to the State the option to purchase the structure outright.

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

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

However, no lease for more than 10,000 square feet of space shall be executed unless the Director, 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 he or she shall

determine. The Director shall not permit multiple leases for less than 10,000 square feet to be executed in order to evade this provision.

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

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

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

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

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

(D) no structural or other major building component or system has a remaining economic life of less than 10 years;

(E) the building, land, or facilities:

(i) is free of any identifiable environmental hazard or

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

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

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

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

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

(B) that a purchase price must not exceed the fair market value of the buildings, land, or facilities and

that the purchase price must be substantiated by an appraisal or by a competitive selection process.

(3) If the Department intends to enter into an installment purchase or lease purchase agreement for buildings, land, or facilities under circumstances that do not satisfy the conditions specified by this Section, it must issue a notice to the Secretary of the Senate and the Clerk of the House. The notice shall contain (i) specific details of the State's proposed purchase, including the amounts, purposes, and financing terms; (ii) a specific description of how the proposed purchase varies from the procedures set forth in this Section; and (iii) a specific justification, signed by the Director, stating why it is in the State's best interests to proceed with the purchase. The Department may not proceed with such an installment purchase or lease purchase agreement if, within 60 calendar days after delivery of the notice, the General Assembly, by joint resolution, disapproves the transaction. Delivery may take place on a day and at an hour when the Senate and House are not in session so long as the offices of Secretary and Clerk are open to receive the notice. In determining the 60-day period within which the General Assembly must act, the day on which delivery is made to the Senate and House shall not be counted. If delivery of the notice to the 2 houses occurs on different days, the 60-day period shall begin on the day following the later delivery.

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

The requirement for reporting ~~to the General Assembly~~ shall be satisfied by filing copies of the report with each of the following: (1) the Auditor General; (2) ~~the Speaker, the Minority Leader, and the Clerk of the House of Representatives and the President, the Minority Leader, and the Secretary of the Senate,~~ the Chairs of the Appropriations Committees; (3) the Clerk of the House of

Representatives and the Secretary of the Senate in electronic form only, in the manner that the Clerk and the Secretary shall direct; (4) ~~and the Legislative Research Unit; and (5) ~~as required by Section 3.1 of the General Assembly Organization Act, and filing additional copies~~~~ with the State Government Report Distribution Center for the General Assembly as is required under paragraph (t) of Section 7 of the State Library Act.

(Source: P.A. 99-143, eff. 7-27-15.)