

The House Committee on State Institutions and Property offers the following substitute to SB 254:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 2 of Chapter 16 of Title 50 of the Official Code of Georgia Annotated,  
2 relating to the "State Properties Code," so as to provide the State Properties Commission the  
3 authority to enter into multiyear lease agreements; to remove the authority of the Department  
4 of Labor to manage its own space; to provide for the termination of certain rental and lease  
5 agreements; to provide for related matters; to provide an effective date; to repeal conflicting  
6 laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 2 of Chapter 16 of Title 50 of the Official Code of Georgia Annotated, relating to the  
10 "State Properties Code," is amended in Code Section 50-16-34, relating to the powers and  
11 duties of the State Properties Commission generally, by striking "and" at the end of  
12 paragraph (16), by replacing the period at the end of paragraph (17) with a semicolon, and  
13 adding a new paragraph to read as follows:

14 "(18) Contract with a licensed real estate broker through a competitive selection process  
15 to perform transaction management services on behalf of the commission. For the  
16 purposes of this Code section, 'transaction management' is defined as the management of  
17 all tasks relative to the acquiring and disposing of real property assets, whether leased,  
18 subleased, or owned. The commission may charge and retain a negotiated fee from the  
19 broker for the purpose of financing the operations of the commission, including, but not  
20 limited to, costs associated with acquiring and disposing of real property, negotiating and  
21 entering into rental agreements, and establishing and maintaining reserve funds for the  
22 payment of necessary expenses for carrying out the purposes of this article."

23 **SECTION 2.**

24 Said article is further amended by revising Code Section 50-16-41, relating to authorizing  
25 rental agreements without competitive bidding, limitations, charging the commission with

26 the management of administrative space, standards governing the utilization of  
27 administrative space, reassignment of administrative space, and rules and regulations  
28 therefore, as follows:

29 "50-16-41.

30 (a) Notwithstanding any provisions and requirements of law to the contrary and  
31 particularly notwithstanding the requirements of Code Section 50-16-39, the commission  
32 is authorized to negotiate, prepare, and enter into in its own name rental agreements  
33 whereby a part of the property is rented, without public competitive bidding, to a person  
34 for a length of time not to exceed one year and for adequate monetary consideration (in no  
35 instance to be less than a rate of \$250.00 per year), which shall be determined by the  
36 commission, and pursuant to such terms and conditions as the commission shall determine  
37 to be in the best interest of the state. The same property or any part thereof shall not be the  
38 subject matter of more than one such rental agreement to the same person unless the  
39 commission shall determine that there are extenuating circumstances present which would  
40 make additional one-year rental agreements beneficial to the state; provided, however, the  
41 same property or any part thereof shall not after April 24, 1975, be the subject matter of  
42 more than a total of three such one-year rental agreements to the same person.

43 (b) The commission is given the authority and charged with the duty of managing the  
44 utilization of administrative space by all state entities, except that the Board of Regents of  
45 the University System of Georgia ~~and the Georgia Department of Labor~~ may manage ~~their~~  
46 its own space but only for leases that are within the State of Georgia and required for ~~their~~  
47 its core mission. The commission shall manage in a manner that is the most cost efficient  
48 and operationally effective and which provides decentralization of state government. Such  
49 management shall include the authority to assign and reassign administrative space to state  
50 entities based on the needs of the entities as determined by standards for administrative  
51 space utilization promulgated by the commission pursuant to subsection (g) of this Code  
52 section and shall include the obligation to advise the Office of Planning and Budget and  
53 state entities of cost-effective, decentralized alternatives.

54 (c) The management of the utilization of administrative space by the commission shall  
55 include entering into any necessary agreements to rent or lease administrative space,  
56 whether existing or to be constructed, and shall include administrative space rented or  
57 leased by a state entity from the Georgia Building Authority or from any other public or  
58 private person, firm, or corporation. When it becomes necessary to rent or lease  
59 administrative space, the space shall be rented or leased by the commission for a term not  
60 to exceed ten years and assigned to the state entity or entities requiring the space. All  
61 agreements to rent or lease administrative space with a term of greater than one year shall  
62 be publicly advertised for a minimum of four consecutive weeks. Selections are to be

63 based on criteria set forth in the advertisement and the qualifications of the vendor. When  
64 there is a need to terminate an agreement for the rent or lease of administrative space, the  
65 state entity to which the space is assigned shall notify the commission of such need no less  
66 than 90 days prior to the requested date of termination. No agreement for the rent or lease  
67 of administrative space with a term in excess of one year shall be terminated without prior  
68 approval of the commission.

69 (d) If the commission reassigns all or any portion of any administrative space which is  
70 leased or rented by one state entity to another state entity, the state entity to which the  
71 administrative space is reassigned ~~shall~~ may pay to the commission rental charges, as  
72 determined by the commission, for the utilization of the space; and the commission ~~shall~~  
73 may, in turn, use the rental charges so paid for the purpose of paying or partially paying,  
74 as the case may be, the rent or lease payments due the lessor of the administrative space in  
75 accordance with the terms of the lease or rent contract existing at the time of the  
76 reassignment of the administrative space. Any such payments to a lessor by the  
77 commission shall be on behalf of the state entity which is the lessee of the administrative  
78 space reassigned as provided in this Code section.

79 (e) The management of the utilization of administrative space given to the commission by  
80 this Code section shall not be construed to impair the obligation of any contract executed  
81 before July 1, 1976, between any state entity and the Georgia Building Authority or  
82 between any state entity and any other public or private person, firm, or corporation; and  
83 the powers given to the commission by this Code section shall not be implemented or  
84 carried out in such a manner as to impair the obligation of any such contract.

85 (f) The commission is authorized and directed to develop and promulgate standards  
86 governing the utilization of administrative space by all state entities which require  
87 emphasis on cost effectiveness and decentralization. The standards shall be uniformly  
88 applied to all state entities except as otherwise provided by subsection (g) of this Code  
89 section, but the standards shall recognize and provide for different types of administrative  
90 space required by the various state entities and the different types of administrative space  
91 that may be required by a single state entity.

92 (g) The commission shall be authorized to reassign administrative space to the various  
93 state entities in order to bring the utilization of administrative space into conformity with  
94 the standards promulgated under subsection (f) of this Code section. Any additional  
95 administrative space required by a state entity shall be approved by and obtained through  
96 the commission. The commission shall be authorized to grant exceptions to the standards  
97 governing the utilization of administrative space when the reassignment of such space  
98 would involve unnecessary expenses or the disruption of services being provided by a state  
99 entity. The commission shall adopt and promulgate rules and regulations governing the

100 granting of such exceptions, and the rules and regulations shall be uniformly applied by the  
 101 commission to all state entities requesting an exception to the standards.

102 (h) For purposes of cost effectiveness and decentralization, the following factors, among  
 103 other factors, shall be considered:

104 (1) Dual location of programs within a city should be considered in order to take  
 105 advantage of possible economies of scale and as a matter of convenience to the general  
 106 public; or

107 (2) When all factors are reasonably equivalent, preferences will be given to location of  
 108 state government programs and facilities in those counties which are determined by the  
 109 Department of Community Affairs to be the most economically depressed, meaning those  
 110 71 tier 1 counties of the state designated as least developed under paragraph (2) of  
 111 subsection (b) of Code Section 48-7-40.

112 (i) The commission is authorized and directed to promulgate rules and regulations  
 113 governing budgetary requirements for administrative space utilized by state entities in  
 114 cooperation with the Office of Planning and Budget whereby the entities shall be  
 115 accountable in the budgetary process for administrative space assigned to and utilized by  
 116 them. The budgetary requirements may provide for the payment of rent to the commission  
 117 by state entities or may otherwise provide procedures for the assessment of rent charges for  
 118 administrative space utilized by state entities or any combination of the foregoing. The  
 119 commission shall provide a report annually, no later than September 1 of each year, to the  
 120 Governor, President of the Senate, and Speaker of the House of Representatives of the total  
 121 sum of all leasing obligations to be paid by the state for the upcoming fiscal year.

122 (j) In addition to the standards and rules and regulations specifically provided for by this  
 123 Code section, the commission is authorized to adopt such other rules and regulations as  
 124 may be required to carry out this Code section efficiently and effectively."

125 **SECTION 3.**

126 This Act shall become effective on January 1, 2011; provided, however, that this Act shall  
 127 only become effective on January 1, 2011, upon the ratification of a resolution at the  
 128 November, 2010, state-wide general election, which resolution amends the Constitution so  
 129 as to authorize certain agencies to enter into lease and rental contracts exceeding one year.  
 130 If such resolution is not so ratified, this Act shall not become effective and shall stand  
 131 repealed in its entirety on January 1, 2011.

132 **SECTION 4.**

133 All laws and parts of laws in conflict with this Act are repealed.