

The House Committee on State Institutions and Property offers the following substitute to SB 37:

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 or rental agreements; to provide for the termination of
4 certain rental and lease agreements; to provide for fiscal policies for multiyear lease or rental
5 agreements to be adopted by the Georgia State Financing and Investment Commission; to
6 provide for related matters; to provide an effective date; to repeal conflicting laws; and for
7 other purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

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

15 "(18) Contract with a licensed real estate broker through a competitive selection process
16 to perform transaction management services on behalf of the commission. For the
17 purposes of this Code section, 'transaction management' is defined as the management of
18 all tasks relative to the acquiring and disposing of real property assets, whether leased,
19 subleased, or owned. The commission may charge a negotiated fee from the broker."

20 **SECTION 2.**

21 Said article is further amended in Code Section 50-16-41, relating to authorizing rental
22 agreements without competitive bidding, limitations, charging the commission with the
23 management of administrative space, standards governing the utilization of administrative
24 space, reassignment of administrative space, and rules and regulations therefore, by revising
25 subsection (c) as follows:

S. B. 37 (SUB)

26 "(c) The management of the utilization of administrative space by the commission shall
 27 include entering into any necessary agreements to rent or lease administrative space,
 28 whether existing or to be constructed, and shall include administrative space rented or
 29 leased by a state entity from the Georgia Building Authority or from any other public or
 30 private person, firm, or corporation. When it becomes necessary to rent or lease
 31 administrative space, the space shall be rented or leased by the commission ~~and~~ for a term
 32 not to exceed ten years or, in the case of a sale and leaseback, for a term not to exceed 20
 33 years. The space shall be assigned to the state entity or entities requiring the space. All
 34 agreements to rent or lease administrative space with a term of greater than one year shall
 35 be publicly advertised for a minimum of four consecutive weeks. Selections are to be
 36 based on criteria set forth in the advertisement and the qualifications of the lessor. When
 37 there is a need to terminate an agreement for the rent or lease of administrative space, the
 38 state entity to which the space is assigned shall notify the commission of such need no less
 39 than 90 days prior to the requested date of termination. No agreement for the rent or lease
 40 of administrative space with a term in excess of one year shall be terminated without prior
 41 approval of the commission."

42 **SECTION 3.**

43 Said Code section is further amended by revising subsection (d) as follows:

44 "(d) If the commission reassigns all or any portion of any administrative space which is
 45 leased or rented by one state entity to another state entity, the state entity to which the
 46 administrative space is reassigned ~~shall~~ may pay to the commission rental charges, as
 47 determined by the commission, for the utilization of the space; and the commission ~~shall~~
 48 may, in turn, use the rental charges so paid for the purpose of paying or partially paying,
 49 as the case may be, the rent or lease payments due the lessor of the administrative space in
 50 accordance with the terms of the lease or rent contract existing at the time of the
 51 reassignment of the administrative space. Any such payments to a lessor by the
 52 commission shall be on behalf of the state entity which is the lessee of the administrative
 53 space reassigned as provided in this Code section."

54 **SECTION 4.**

55 Said Code section is further amended by revising subsection (i) as follows:

56 "(i) The commission is authorized and directed to promulgate rules and regulations
 57 governing budgetary requirements for administrative space utilized by state entities in
 58 cooperation with the Office of Planning and Budget whereby the entities shall be
 59 accountable in the budgetary process for administrative space assigned to and utilized by
 60 them. The budgetary requirements may provide for the payment of rent to the commission

61 by state entities or may otherwise provide procedures for the assessment of rent charges for
62 administrative space utilized by state entities or any combination of the foregoing. The
63 commission shall provide a report annually, no later than September 1 of each year, to the
64 Governor, President of the Senate, Speaker of the House of Representatives, chairpersons
65 of the Senate and House Appropriations Committees, and chairpersons of the Senate State
66 Institutions and Property Committee and the House Committee on State Institutions and
67 Property. The report shall provide the total sum of all leasing obligations to be paid by the
68 state for the upcoming fiscal year. Such report shall also include and itemize all revenues
69 collected from the previous fiscal year, including revenues collected from broker fees, and
70 provide an itemized budget allocation for the upcoming fiscal year."

71 **SECTION 5.**

72 Said Code section is further amended by adding a new subsection to read as follows:

73 "(k)(1) The Georgia State Financing and Investment Commission is authorized to
74 establish fiscal policies regarding multiyear lease and rental agreements and, each fiscal
75 year, may establish a total multiyear contract value authority. During the fiscal year, the
76 multiyear contract value authority may be revised as determined necessary by the Georgia
77 State Financing and Investment Commission. The total multiyear contract value
78 authority may be based upon the Governor's revenue estimate for subsequent fiscal years
79 and other information as determined by the Georgia State Financing and Investment
80 Commission.

81 (2) No multiyear lease or rental agreement shall be entered into under the provisions of
82 this Code section until the Georgia State Financing and Investment Commission has
83 established the fiscal policies and multiyear contract value authority for the current and
84 future fiscal years. Any multiyear lease or rental agreement entered into that is not in
85 compliance with such fiscal policies and multiyear contract value authority shall be void
86 and of no effect.

87 (3) At the beginning of each fiscal year, a budget unit's appropriations shall be
88 encumbered for the estimated payments for any multiyear lease and rental agreements in
89 that fiscal year. The commission shall have the right to terminate, without further
90 obligation, any multiyear lease or rental agreement if the commission determines that
91 adequate funds will not be available for the payment obligations of the commission under
92 the agreement. The commission's determination regarding the availability of funds for
93 its obligations shall be conclusive and binding on all parties to the multiyear lease or
94 rental agreement."

95

SECTION 6.

96 Section 1 of this Act shall become effective on July 1, 2011. Sections 2 through 5 of this Act
97 shall become effective on January 1, 2013; provided, however, that Sections 2 through 5 of
98 this Act shall only become effective on January 1, 2013, upon the ratification of a resolution
99 at the November, 2012, state-wide general election, which resolution amends the
100 Constitution so as to authorize certain agencies to enter into lease and rental contracts
101 exceeding one year. If such resolution is not so ratified, Sections 2 through 5 of this Act
102 shall not become effective and shall stand repealed on January 1, 2013.

103

SECTION 7.

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