

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

A BILL TO BE ENTITLED  
AN ACT

1 To provide for multiyear lease agreements managed by the State Properties Commission; to  
2 amend Article 2 of Chapter 16 of Title 50 of the Official Code of Georgia Annotated, relating  
3 to the "State Properties Code," so as to provide the State Properties Commission the authority  
4 to enter into multiyear lease or rental agreements; to provide for legislative oversight of  
5 certain multiyear lease or rental agreements by the General Assembly; to provide for fiscal  
6 policies for multiyear lease or rental agreements to be adopted by the Georgia State  
7 Financing and Investment Commission; to provide for related matters; to provide a  
8 contingent effective date; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Article 2 of Chapter 16 of Title 50 of the Official Code of Georgia Annotated, relating to the  
12 "State Properties Code," is amended by revising Code Section 50-16-41, relating to  
13 authorizing rental agreements without competitive bidding, limitations, charging the  
14 commission with the management of administrative space, standards governing the  
15 utilization of administrative space, reassignment of administrative space, and rules and  
16 regulations therefor, as follows:

17 "50-16-41.

18 (a) Notwithstanding any provisions and requirements of law to the contrary and  
19 particularly notwithstanding the requirements of Code Section 50-16-39, the commission  
20 is authorized to negotiate, prepare, and enter into in its own name rental agreements  
21 whereby a part of the property is rented, without public competitive bidding, to a person  
22 for a length of time not to exceed one year and for adequate monetary consideration (in no  
23 instance to be less than a rate of \$250.00 per year), which shall be determined by the  
24 commission, and pursuant to such terms and conditions as the commission shall determine  
25 to be in the best interest of the state. The same property or any part thereof shall not be the  
26 subject matter of more than one such rental agreement to the same person unless the

27 commission shall determine that there are extenuating circumstances present which would  
 28 make additional one-year rental agreements beneficial to the state; provided, however, the  
 29 same property or any part thereof shall not after April 24, 1975, be the subject matter of  
 30 more than a total of three such one-year rental agreements to the same person.

31 (b) The commission is given the authority and charged with the duty of managing the  
 32 utilization of administrative space by all state entities, except that the Board of Regents of  
 33 the University System of Georgia and the Georgia Department of Labor may manage their  
 34 own space but only for leases that are for a term of one year or less, within the State of  
 35 Georgia, and required for their core mission. The commission shall manage the utilization  
 36 of administrative space for all multiyear lease agreements entered into on behalf of any  
 37 state entity, including the Board of Regents of the University System of Georgia and the  
 38 Georgia Department of Labor. The commission shall manage in a manner that is the most  
 39 cost efficient and operationally effective and which provides decentralization of state  
 40 government. Such management shall include the authority to assign and reassign  
 41 administrative space to state entities based on the needs of the entities as determined by  
 42 standards for administrative space utilization promulgated by the commission pursuant to  
 43 subsection (g) of this Code section and shall include the obligation to advise the Office of  
 44 Planning and Budget and state entities of cost-effective, decentralized alternatives.

45 (c) The management of the utilization of administrative space by the commission shall  
 46 include entering into any necessary agreements to rent or lease administrative space,  
 47 whether existing or to be constructed, and shall include administrative space rented or  
 48 leased by a state entity from the Georgia Building Authority or from any other public or  
 49 private person, firm, or corporation. When it becomes necessary to rent or lease  
 50 administrative space, the space shall be rented or leased by the commission ~~and~~ for a term  
 51 not to exceed 20 years. The space shall be assigned to the state entity or entities requiring  
 52 the space. A multiyear lease resulting from a sale and lease back shall be treated as a  
 53 conveyance of real property by the state and shall be reviewed for approval or disapproval  
 54 by the General Assembly and Governor in the same manner as a conveyance of state  
 55 properties provided for in Code Section 50-16-39.

56 (d) If the commission reassigns all or any portion of any administrative space which is  
 57 leased or rented by one state entity to another state entity, the state entity to which the  
 58 administrative space is reassigned ~~shall~~ may pay to the commission rental charges, as  
 59 determined by the commission, for the utilization of the space; and the commission ~~shall~~  
 60 may, in turn, use the rental charges so paid for the purpose of paying or partially paying,  
 61 as the case may be, the rent or lease payments due the lessor of the administrative space in  
 62 accordance with the terms of the lease or rent contract existing at the time of the  
 63 reassignment of the administrative space. Any such payments to a lessor by the

64 commission shall be on behalf of the state entity which is the lessee of the administrative  
65 space reassigned as provided in this Code section.

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

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

79 (g) The commission shall be authorized to reassign administrative space to the various  
80 state entities in order to bring the utilization of administrative space into conformity with  
81 the standards promulgated under subsection (f) of this Code section. Any additional  
82 administrative space required by a state entity shall be approved by and obtained through  
83 the commission. The commission shall be authorized to grant exceptions to the standards  
84 governing the utilization of administrative space when the reassignment of such space  
85 would involve unnecessary expenses or the disruption of services being provided by a state  
86 entity. The commission shall adopt and promulgate rules and regulations governing the  
87 granting of such exceptions, and the rules and regulations shall be uniformly applied by the  
88 commission to all state entities requesting an exception to the standards.

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

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

94 (2) When all factors are reasonably equivalent, preferences will be given to location of  
95 state government programs and facilities in those counties which are determined by the  
96 Department of Community Affairs to be the most economically depressed, meaning those  
97 71 tier 1 counties of the state designated as least developed under paragraph (2) of  
98 subsection (b) of Code Section 48-7-40.

99 (i) The commission is authorized and directed to promulgate rules and regulations  
100 governing budgetary requirements for administrative space utilized by state entities in

101 cooperation with the Office of Planning and Budget whereby the entities shall be  
 102 accountable in the budgetary process for administrative space assigned to and utilized by  
 103 them. The budgetary requirements may provide for the payment of rent to the commission  
 104 by state entities or may otherwise provide procedures for the assessment of rent charges for  
 105 administrative space utilized by state entities or any combination of the foregoing.

106 (j) The commission shall provide a multiyear leasing report annually, no later than  
 107 September 1 of each year, to the Governor, President of the Senate, Speaker of the House  
 108 of Representatives, chairpersons of the Senate Appropriations Committee and the House  
 109 Committee on Appropriations, and chairpersons of the Senate State Institutions and  
 110 Property Committee and the House Committee on State Institutions and Property. The  
 111 report shall provide the total sum of all leasing obligations to be paid by the state for the  
 112 upcoming fiscal year. Such report shall include an itemization and total of all revenues  
 113 collected from the previous fiscal year and provide an itemized budget allocation for the  
 114 upcoming fiscal year. The report shall also provide a list of all existing multiyear lease  
 115 agreements and the identity of the contracting parties for each.

116 ~~(j)~~(k) In addition to the standards and rules and regulations specifically provided for by  
 117 this Code section, the commission is authorized to adopt such other rules and regulations  
 118 as may be required to carry out this Code section efficiently and effectively.

119 (1)(1) The Georgia State Financing and Investment Commission is authorized to establish  
 120 fiscal policies regarding multiyear lease and rental agreements and, each fiscal year, may  
 121 establish a total multiyear contract value authority. During the fiscal year, the multiyear  
 122 contract value authority may be revised as determined necessary by the Georgia State  
 123 Financing and Investment Commission. The total multiyear contract value authority may  
 124 be based upon the Governor's revenue estimate for subsequent fiscal years and other  
 125 information as determined by the Georgia State Financing and Investment Commission.

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

132 (3) At the beginning of each fiscal year, a budget unit's appropriations shall be  
 133 encumbered for the estimated payments for any multiyear lease and rental agreements in  
 134 that fiscal year. The commission shall have the right to terminate, without further  
 135 obligation, any multiyear lease or rental agreement if the commission determines that  
 136 adequate funds will not be available for the payment obligations of the commission under  
 137 the agreement. The commission's determination regarding the availability of funds for

138 its obligations shall be conclusive and binding on all parties to the multiyear lease or  
139 rental agreement."

140 **SECTION 2.**

141 This Act shall become effective on January 1, 2013; provided, however, that this Act shall  
142 only become effective on January 1, 2013, upon the ratification of a resolution at the  
143 November, 2012, state-wide general election, which resolution amends the Constitution so  
144 as to provide for the authorization of agencies to enter into lease and rental contracts  
145 exceeding one year. If such resolution is not so ratified, this Act shall not become effective  
146 and shall stand repealed on January 1, 2013.

147 **SECTION 3.**

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