

Senate Bill 37

By: Senators Carter of the 1st, Jackson of the 24th, Staton of the 18th, Rogers of the 21st, Williams of the 19th and others

AS PASSED

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.