



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB3143

Introduced 2/15/2018, by Sen. Dale A. Righter

SYNOPSIS AS INTRODUCED:

20 ILCS 405/405-300

was 20 ILCS 405/67.02

Amends the Department of Central Management Services Law of the Civil Administrative Code of Illinois. In provisions requiring the Department of Central Management Services to submit an annual report regarding installment purchases or lease purchases of buildings, land, or facilities, provides that 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. Provides that the analysis shall include 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.

LRB100 16660 HLH 33717 b

1 AN ACT concerning State government.

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

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

7 (20 ILCS 405/405-300) (was 20 ILCS 405/67.02)

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

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

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

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

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

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

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

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

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

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

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

13 (f) On and after September 17, 1983, the powers granted to
14 the Department under this Section shall be exercised
15 exclusively by the Department, and no other State agency may
16 concurrently exercise any such power unless specifically
17 authorized otherwise by a later enacted law. This subsection is
18 not intended to impair any contract existing as of September
19 17, 1983.

20 However, no lease for more than 10,000 square feet of space
21 shall be executed unless the Director, in consultation with the
22 Executive Director of the Capital Development Board, has
23 certified that leasing is in the best interest of the State,
24 considering programmatic requirements, availability of vacant
25 State-owned space, the cost-benefits of purchasing or
26 constructing new space, and other criteria as he or she shall

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

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

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

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

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

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

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

1 (E) the building, land, or facilities:

2 (i) is free of any identifiable environmental
3 hazard or

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

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

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

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

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

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

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

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

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

20 The requirement for reporting to the General Assembly
21 shall be satisfied by filing copies of the report with the
22 Auditor General, the Speaker, the Minority Leader, and the
23 Clerk of the House of Representatives and the President,
24 the Minority Leader, and the Secretary of the Senate, the
25 Chairs of the Appropriations Committees, and the
26 Legislative Research Unit, as required by Section 3.1 of

1 the General Assembly Organization Act, and filing
2 additional copies with the State Government Report
3 Distribution Center for the General Assembly as is required
4 under paragraph (t) of Section 7 of the State Library Act.

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