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DATE: April 12, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
STATE ADMINISTRATION
ANALYSIS**

BILL #: HB 567
RELATING TO: State Agencies Leasing Space
SPONSOR(S): Representative(s) McGriff and others
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) STATE ADMINISTRATION YEAS 4 NAYS 0
 - (2) ECONOMIC DEVELOPMENT & INTERNATIONAL TRADE
 - (3) FISCAL POLICY & RESOURCES
 - (4) COUNCIL FOR SMARTER GOVERNMENT
 - (5)
-

I. SUMMARY:

The Department of Management Services (DMS) is responsible, among other duties, for assisting state agencies in leasing office space from the private sector.

This bill allows agencies to remain in an existing lease even after the 11-month extension period currently allowed by law. If an agency determines that it is in its best interest to remain in the space it occupies after the 11-month extension, the agency may negotiate a replacement lease. Currently, the agency must use the competitive bid process when the 11-month extension expires because a replacement lease is not allowed.

The negotiation of the replacement lease can only occur after an independent market analysis is completed. The analysis must demonstrate that the rates offered by the lessor are within market rates for the space offered and the cost of the new lease does not exceed the cost of a comparable lease plus documented moving costs. Present value analysis and the consumer price index must be utilized in calculating lease costs. If the agency decides to remain in its occupied space, the term of the replacement lease must not exceed the base term of the expiring lease.

This bill further allows an agency to avoid the current competitive bid requirement when negotiating a lease for space in areas designated as community redevelopment areas or areas that are part of the Front Porch Florida Initiative. With prior approval from DMS, an agency is permitted to directly negotiate with the building owner for leased space within these particular areas.

According to DMS, the bill does appear to have a fiscal impact on state or local governments. DMS projects this bill will result in savings due to reduced relocation costs and it will be less disruptive for agencies. However, if DMS requires an agency to relocate to state-owned properties, there may be additional costs associated with reimbursing the current owner for expenditures made by the landlord to improve the property for the agency.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

State Agency Leasing of Buildings

The Department of Management Services (DMS) serves as the administrative arm of the state. DMS has four major service areas: facilities, technology, workforce, and support. DMS, pursuant to its duties in the facilities service area, strives to create work environments that keep costs down while improving employee productivity.

Section 255.25, F.S., provides for DMS to assist state agencies in leasing office space from the private sector. State agencies are permitted to enter into lease agreements for the use of space 5,000 square feet or above only after advertisement and a competitive bid process that awards the lease agreement to the lowest and best bidder. DMS has the authority to approve these lease agreements for more than one fiscal year if DMS determines that the lease is in the best interests of the state. The approval of DMS need not be obtained for leases involving space under 5,000 square feet, provided the agency head has certified compliance with applicable leasing criteria and has determined the lease to be in the best interests of the state.

DMS may approve extensions of lease agreements for the use of space 5,000 square feet or above if such extensions are determined to be in the best interests of the state; however, these extensions are not to exceed 11 months. If at the end of the 11 months the agency still needs space, it can only be obtained through the competitive bid process.

Community Redevelopment Areas

Part III of Chapter 163, F.S., known as the Community Redevelopment Act of 1969¹ grants local governments the authority to establish community redevelopment agencies (CRAs).¹ To develop a CRA, the local government must adopt a resolution finding that: one or more slum or blighted areas, or one or more areas in which there is a shortage of housing affordable to residents of low or moderate income, exists within the county or municipality; and the rehabilitation, conservation, or redevelopment of these areas is necessary in the interest of public health, safety, morals, or welfare of the residents of the county or municipality.²

¹Section 163.330, F.S.

²Section 163.355, F.S.

The local governing body may create a public body corporate and politic to be known as a "community redevelopment agency," and may appoint a separate board of commissioners to head the agency, or the body may adopt a resolution declaring itself to be the agency. Once established, the community redevelopment agency must develop a community redevelopment plan for the designated areas, and is permitted to issue revenue bonds to finance the undertaking of any community redevelopment area and to establish a redevelopment trust fund to be used by the agency to finance or refinance any community redevelopment it undertakes concurrent to the community redevelopment plan.³ According to the data provided by the Florida Development Council, approximately 125 CRAs have been created in Florida to date.⁴

Florida Front Porch Initiative

In 1999, the Legislature created the Office of Urban Opportunity within the Office of Tourism, Trade, and Economic Development for the purpose of administering the Front Porch Florida Initiative; a comprehensive, community-based urban core redevelopment program designed to empower urban core residents to craft solutions to the unique challenges of each designated community.⁵ Currently, the program is housed in and receives administrative assistance from the Department of Community Affairs, and is under the direction of the Executive Office of the Governor.⁶

Programs administered by the Florida Front Porch Initiative include the following:

- **Black Business Investment Loans** – The goal of these loans is to provide greater access to capital for predominantly African-American businesses in Front Porch communities by increasing state funding for Florida's Black Business Investment Corporations in the first year. The additional funding will be used to encourage an infusion of venture capital, direct lending loan guarantees, bonding, and trade and technical assistance.⁷
- **Front Porch Mentoring** – The Florida Front Porch Initiative provides \$100,000 to establish a Florida's Mentoring Initiative in the Office of Urban Opportunity. This program matches mentors with at-need children in Front Porch communities and provides effective prevention against academic failure, alcohol and drug abuse, teen pregnancy, and gang participation. Funds are used to recruit and train mentors, enhance existing mentor programs, and for advertising purposes.⁸
- **Microcredit Loans** – The goal of these loans is to increased access to capital through the program that will seed money to stimulate minority small business entrepreneurship. Small amounts of money are loans to people who might otherwise not qualify for conventional loans. Borrowers are matched with a business adviser who provides guidance and education about business start-ups.⁹

In order to become a Front Porch community, a neighborhood must demonstrate need for revitalization. There are currently six areas designated as Front Porch communities.¹⁰

³ Sections 163.356, 163.357, 163.360, 163.385, and 163.387, F.S.

⁴ Senate Staff Analysis and Economic Impact Statement, SB 850, March 9, 2001.

⁵ Section 14.2015, F.S.

⁶ Pursuant to telephone conversation with the office of the Front Porch Florida Initiative on March 14, 2001.

⁷ <http://www.myflorida.com/myflorida/government/learn/frontporch/businessInvestment.html>

⁸ <http://www.myflorida.com/myflorida/government/learn/frontporch/porchMentoring.html>

⁹ <http://www.myflorida.com/myflorida/government/learn/frontporch/microcreditLoans.html>

¹⁰ Greater South Central St. Petersburg; Northwood, Pleasant City, Northwest Community in West Palm Beach; Frenchtown in Tallahassee; Dorsey-Riverbend in Ft. Lauderdale; areas in Opa-Locka; and areas in Pensacola. Retrieved online at www.fl.gov.com/eog/frontportch on March 14, 2001.

C. EFFECT OF PROPOSED CHANGES:

HB 567 amends s. 255.25(3), F.S., providing that if an agency determines that it is in its best interest to remain in the space it currently occupies, the agency may negotiate a replacement lease with the lessor following an independent market analysis. The analysis must demonstrate that the rates offered are within market rates for the space offered and that the cost of the new lease does not exceed the cost of a comparable lease, plus documented moving costs. Present value analysis and the consumer price index must be used in the calculation of lease costs.

This bill further amends s. 255.25(3), F.S., providing that if an agency proposes to enter into a lease agreement in areas designated as community redevelopment areas or in areas that are part of the Front Porch Florida Initiative, with prior approval from the DMS the agency may negotiate directly with the building owner for such space and avoid the competitive bid requirement in s. 255.25(3)(a), F.S.

D. SECTION-BY-SECTION ANALYSIS:

See "Effect of Proposed Changes."

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

DMS projects that this bill will result in cost savings due to reduced relocation expenditures, because state agencies will be allowed to stay in a current lease.¹¹

2. Expenditures:

DMS states there may be a nominal cost to execute an independent market analysis. If DMS requires some agencies to relocate to state-owned properties, then there may be possible additional costs to reimburse current owners for unamortized costs. These costs are a result of the owner expending funds to improve the property to meet the needs of the state agency.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

¹¹ The Department of Management Services, 2001 Substantive Bill Analysis, HB 567, March 8, 2001.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The Department of Community Affairs states that the private building owners in designated Front Porch Florida Initiative communities have the potential to benefit through direct negotiations with state agencies, and this could have a positive economic effect on the community as a whole.¹²

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

The contents of HB 567 were introduced during the 2000 legislative session as a part of HB 2167, which died in the Senate Committee on Governmental Oversight and Productivity on May 5, 2000. Section 6 of HB 2167 amended s. 255.25(3), F.S., providing the negotiation of a replacement lease after the 11-month extension period, following an independent market analysis. HB 2167 also provided that if agencies proposed lease agreements in areas designated as community redevelopment areas or areas part of the Front Porch Florida Initiative, with prior DMS approval, the agencies could negotiate directly with the building owner and avoid the competitive bid process.

The Agency for Health Care Administration supports the bill. The agency states that although there is no way to calculate the exact fiscal impact of this legislation, the state would realize the following benefits from its passage: "increased flexibility to both state agencies and property vendors in the

¹² The Florida Department of Community Affairs, 2001 Bill Analysis, HB 567

area of continuing leases which could be cost effective to both; the negotiated lease rates could reflect savings associated with reduction of costs incurred by the state in moving program services and personnel; [and] the costs of initial building facility modifications for communications and associated office layouts arrangements would likely be reflected in reduced leasing rates, thereby benefiting the state as well as vendors.”¹³

The Department of Community Affairs believes that allowing an agency to lease office space, in a community redevelopment area or in an area designated a Front Porch Florida Initiative community, based on direct negotiations rather than competitive bid, will strengthen the economic environment of the area. This incentive will serve as a catalyst to spur future economic growth and revitalization.¹⁴

The Florida Association of Facilities Managers (Association), a forum of state employees responsible for state leasing activities, supports HB 567. According to the Association, if a state agency is allowed to stay in the leased space it currently occupies, the agency saves moving costs and it is more convenient. The Association believes this legislation encourages state agencies to lease space in community redevelopment areas or areas part of the Front Porch Florida Initiative, but the Association is against any forced leasing arrangements in these areas.¹⁵

The Institute on Urban Policy and Commerce at Florida Agricultural Mechanical University (Institute) favors this legislation. The Institute exists, according to s. 240.709, F.S., to improve the quality of life in urban communities through research, teaching, and outreach activities. The Institute believes this legislation provides incentives for businesses to relocate to particularly distressed areas. The Institute is statutorily required to establish regional urban centers in the inner cities of St. Petersburg, Tampa, Jacksonville, Orlando, West Palm Beach, Fort Lauderdale, Miami, Daytona Beach, and Pensacola, and due to the Institute’s location, Tallahassee benefits from its services as well.¹⁶

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 12, 2001, the Committee on State Administration heard HB 567 and adopted one amendment. The amendment corrects a technical problem, inserts the term “comparative” in the expression “independent market analysis,” and creates a cross-reference to define the Florida Front Porch Initiative and community redevelopment areas. The bill, as amended, was reported out favorably.

¹³ Agency for Health Care Administration, 2001 Bill Analysis and Economic Impact Statement, HB 567

¹⁴ The Florida Department of Community Affairs, 2001 Bill Analysis, HB 567

¹⁵ Pursuant to telephone conversation with Randall Baker, General Services Manager of the Florida Association of Facilities Managers, on February 28, 2001.

¹⁶ Pursuant to telephone conversation with Dr. Patricia Walker McGill, Director of the Institute on Urban Policy and Commerce at Florida Agricultural and Mechanical University on February 28, 2001.

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VII. SIGNATURES:

COMMITTEE ON STATE ADMINISTRATION:

Prepared by:

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