



Ohio Legislative Service Commission

Bill Analysis

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H.B. 489

130th General Assembly
(As Introduced)

Rep. Blair

BILL SUMMARY

- Modifies the terms under which the Department of Administrative Services may enter into lease-purchase agreements for the purpose of constructing, renovating, or otherwise improving buildings, structures, and other improvements for a public purpose.
- Grants the Department the same authority for lease-leaseback agreements.
- Requires lease-purchase and lease-leaseback agreements to be awarded through a request for proposals process and removes the current process for awarding lease-purchase plans.

CONTENT AND OPERATION

Lease-leaseback agreements and lease-purchase agreements

(R.C. 123.01)

The bill modifies current law empowering the Department of Administrative Services to lease, for a period not to exceed 40 years, buildings, structures, and other improvements for any public purpose, pursuant to a contract providing for the construction of the buildings, structures, or other improvements under a lease-purchase plan. The lease-purchase plan must provide that the buildings, structures, and related improvements become the state's property without cost when the lease period ends. Under the bill's modification of these provisions, the lease must be entered into pursuant to a contract awarded under the Department's request for proposals process. The contract must provide for the construction, renovation, or other improvement of buildings, structures, and other improvements under a lease-purchase or lease-leaseback agreement. And the lease-purchase or lease-leaseback agreement must

specify that the buildings, structures, and related improvements become the state's property without cost when the lease period ends. The bill requires any person or entity entering into a lease-purchase or lease-leaseback agreement to provide plans satisfactory to the Department that detail the nature and cost, including financing costs, of the construction, renovation, or other improvement.

The current law process for lease-purchase plans, eliminated by the bill and replaced with the request for proposals process, requires the following:

(1) Whenever any building, structure, or other improvement is to be so leased by a state agency, the Department must retain either basic plans, specifications, bills of materials, and estimates of cost with sufficient detail to afford bidders all needed information or, alternatively, all of the following plans, details, bills of materials, and specifications: (a) full and accurate plans suitable for the use of mechanics and other builders, (b) details to scale and full-sized, drawn and represented as to be easily understood, (c) accurate bills showing the exact quantity of different kinds of material necessary, (d) definite and complete specifications of the work to be performed, together with directions that enable a competent mechanic or other builder to carry them out and afford bidders all needed information, and (e) a full and accurate estimate of each item of expense and of the aggregate cost.

(2) The Department must give public notice, in a newspaper, in a form, and with the phraseology that the Director of Administrative Services prescribes, published once each week for four consecutive weeks, of the time when and place where bids will be received. The last publication must be at least eight days preceding the day for opening the bids. The bids must contain the terms upon which the builder would propose to lease the building, structure, or other improvement. The Department-approved bid form must be used. Before submitting bids, a builder must comply with the Public Improvements Law.

(3) On the day and at the place named for receiving bids, the Director must open the bids and publicly proceed immediately to tabulate the bids upon duplicate sheets. No lease-purchase is permitted to be entered into until: (1) the Bureau of Workers' Compensation has certified that the person to be awarded the lease has complied with the Workers' Compensation Law, (2) if the builder submitting the lowest and best bid is a foreign corporation, the Secretary of State has certified that the corporation is authorized to do business in Ohio, (3) if the builder submitting the lowest and best bid is a nonresident of Ohio, the person has filed with the Secretary of State a power of attorney designating the Secretary of State as its agent for the purpose of accepting service of summons in any action brought under the Workers' Compensation Law, and (4) until the lease is submitted to the Attorney General and the Attorney General's approval is certified on the lease. Within 30 days after the day the bids are received, the



Department must investigate the bids and must determine that the Bureau and the Secretary of State have made the required certifications of the lowest and best bidder. Within ten days of the completion of the investigation, the Department must award the lease to the lowest and best bidder. If bidding for the lease has been conducted upon the basis of basic plans, the Department, or the builder with the approval of the Department, must appoint an architect or engineer licensed in Ohio to prepare further detailed plans.

The Department must adopt rules necessary to give effect to these provisions. The Department can reject any bid. Where there is reason to believe there is collusion or combination among bidders, the bids of those concerned therein must be rejected.

HISTORY

ACTION	DATE
Introduced	03-18-14

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