

CHAPTER 170

GOVERNMENT - STATE

HOUSE BILL 13-1234

BY REPRESENTATIVE(S) Fischer and Vigil, Szabo, Fields, Garcia, Hullinghorst, Labuda, Lebsock, Mitsch Bush, Rosenthal, Schafer;
also SENATOR(S) Schwartz and Giron, Baumgardner, Jones.

AN ACT**CONCERNING THE AUTHORITY OF THE STATE TO ENTER INTO LEASE-PURCHASE AGREEMENTS FOR THE DEPARTMENT OF AGRICULTURE'S OFFICE CONSOLIDATION.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly finds that:

(a) Currently, the department of agriculture's eight divisions are housed at various locations throughout the state and four of its divisions have outgrown their available space;

(b) The expansion of the markets and plant industry divisions to meet the challenge of expanding the promotion of Colorado's agricultural products and supporting a burgeoning organic industry has strained remaining space resources;

(c) In addition to the current space shortage, the department of agriculture is unable to realize opportunities to streamline operations. For example, the animal and brand divisions are located several miles from each other, but if they were located together the department would see efficiencies in training, inspections, and detection of disease, and communications delays would be eliminated.

(d) It will be necessary to consolidate all the department's divisions, except for the Colorado state fair, for the consolidation to realize its maximum efficiency. Although the current inspection and consumer services division facility provides adequate space for that division, its optimum location is effectively being encroached by the development in the Highlands neighborhood of metro Denver. Large trucks continue to move through the measurement standards portion of the metrology lab, which could eventually disturb new residents and businesses moving

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

into the redeveloped area. Parking for the area is at a premium, making it difficult for the facility to host large groups of employees or customers.

(e) The brand division has been located near the national western stock show complex for many years and, although the facility does provide some benefit to the division, it does not make logistical sense to exclude one division in a department-wide consolidation;

(f) The department of agriculture would have liked to have had the animal industry division located with the commissioner's office, plant industry, conservation services, and markets, but there is not enough space at that location so they have had to lease space for that particular division;

(g) In order to consolidate all the department's divisions, except for the Colorado state fair, the department considered constructing a new facility or purchasing an existing facility. It was determined that new construction would be cost prohibitive. Instead, purchasing an existing facility and building the necessary office and laboratory space is a more economical means to achieve complete office consolidation.

(h) The building would need approximately fifty thousand square feet with suitable ceiling height for the metrology lab. Additionally, test space and ample parking is needed for the plant industry division to provide weekly testing for individuals taking the pesticide applicator exam. The new facility must also have enough space for board and commission meetings with room for the members, department staff, and interested public.

(i) The agricultural management fund will need to be used for initial escrow costs, funding the purchase of new furniture, moving expenses, and miscellaneous contingency expenses. The inspection and consumer services division facility will be sold with proceeds going towards the cost of consolidation. The goal is to use these two sources of money as a means to keep the financed portion as low as possible.

(j) New funding is not required for the office consolidation. However, the current departmental indirect allocation model will need to be adjusted to support the lease-purchase payment and the department's operating and utility expenses. Increases in cash fund spending authority for the department's indirect lines in the annual general appropriation bill will also be necessary. In addition to these increases, the department will need reappropriated fund spending authority for operating and utility expenses as well as lease-purchase payments.

(k) An estimated one hundred fifty-six thousand three hundred sixty-seven dollars of general fund money will be saved in fiscal year 2013-14 and one hundred seventy-eight thousand one hundred five dollars of general fund money will be saved in fiscal year 2014-15 as a result of the department's office consolidation. This savings must be realized in reductions to the operating expense, lease space, and capital complex leased space lines of the department's section of the annual general appropriation bill.

(l) Adjusting the current indirect cost model for the department will not result in

a fee increase to any departmental funds. Although increased expenditures from a majority of the cash funds will occur, most, if not all, have sufficient revenues to support the increase.

(2) It is therefore considered good public policy to authorize the state of Colorado, acting by and through the state treasurer, to enter into one or more lease-purchase agreements and other agreements as necessary to finance the purchase of an office facility for the department of agriculture's office consolidation.

SECTION 2. Lease-purchase agreement. (1) (a) The state of Colorado, acting by and through the state treasurer, is authorized to execute a lease-purchase agreement for up to twenty years to purchase an office facility for the department of agriculture's office consolidation. The total amount of the principal component of said lease-purchase agreement shall not exceed six million five hundred sixty-six thousand five hundred twelve dollars (\$6,566,512), plus reasonable and necessary administrative, monitoring, and closing costs and interest.

(b) Enactment of this act shall satisfy the requirements of sections 24-82-102 (1) (b) and 24-82-801, Colorado Revised Statutes, which require authorization of a lease-purchase agreement by a bill other than an annual general appropriation bill or a supplemental appropriation bill.

(2) (a) The lease-purchase agreement authorized in subsection (1) of this section shall provide that all of the obligations of the state under the agreement shall be subject to the action of the general assembly in annually making moneys available for all payments thereunder. The agreement shall also provide that the obligations shall not be deemed or construed as creating an indebtedness of the state within the meaning of any provision of the state constitution or the laws of the state of Colorado concerning or limiting the creation of indebtedness by the state of Colorado and shall not constitute a multiple fiscal-year direct or indirect debt or other financial obligation of the state within the meaning of section 20 (4) of article X of the state constitution. In the event the state of Colorado does not renew the lease-purchase agreement authorized in subsection (1) of this section, the sole security available to the lessor shall be the property that is the subject of the nonrenewed lease-purchase agreement.

(b) (I) The lease-purchase agreement authorized in subsection (1) of this section may contain such terms, provisions, and conditions as the state treasurer, acting on behalf of the state of Colorado, may deem appropriate, including all optional terms; except that the lease-purchase agreement shall specifically authorize the state of Colorado to:

(A) Receive fee title to all real and personal property that is the subject of the lease-purchase agreement on or prior to the expiration of the terms of the lease-purchase agreement; and

(B) Reduce the term of the lease through prepayment of rental and other payments.

(II) Any title to property received by the state on or prior to the expiration of the terms of the lease-purchase agreement shall be held for the benefit and use of the

department of agriculture.

(c) The state of Colorado, acting through the state treasurer, is authorized to enter into ancillary agreements and instruments as are deemed necessary or appropriate in connection with the lease-purchase agreements, including but not limited to ground leases, easements, or other instruments relating to the real property to be purchased.

(3) The provisions of section 24-30-202 (5) (b), Colorado Revised Statutes, shall not apply to the lease-purchase agreement authorized in subsection (1) of this section or any ancillary agreement entered into pursuant to paragraph (c) of subsection (2) of this section. Any provision of the fiscal rules promulgated pursuant to section 24-30-202 (1) and (13), Colorado Revised Statutes, that the state controller deems to be incompatible or inapplicable with respect to said lease-purchase agreements or any ancillary agreement may be waived by the controller or his or her designee.

SECTION 3. In Colorado Revised Statutes, **amend** 35-1-106.9 as follows:

35-1-106.9. Agriculture management fund - creation. There is hereby created in the state treasury the agriculture management fund. The fund shall consist of moneys transferred pursuant to section 38-13-116.7 (3), C.R.S., AND ANY MONEYS REALIZED FROM THE SALE OF THE INSPECTION AND CONSUMER SERVICES DIVISION FACILITY. The department shall use such moneys to fund agricultural efforts approved by the commissioner, including, but not limited to, funding additional department employees necessary to implement and manage approved programs. Moneys may be used for direct assistance or grant assistance for conservation districts created pursuant to article 70 of this title. MONEYS IN THE FUND MAY BE USED FOR EXPENSES RELATED TO THE DEPARTMENT'S OFFICE CONSOLIDATION AS AUTHORIZED BY HOUSE BILL 13-1234, ENACTED IN 2013. Moneys in the fund are subject to annual appropriation to the department. Any moneys not expended or encumbered from any appropriation at the end of any fiscal year shall remain available for expenditure in the next fiscal year without further appropriation. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund and shall not be transferred or credited to the general fund or any other fund.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 10, 2013