

CHAPTER 296

GOVERNMENT - STATE

HOUSE BILL 05-1341

BY REPRESENTATIVE(S) McFadyen and Todd;
also SENATOR(S) Anderson.

AN ACT**CONCERNING THE AUTHORITY OF STATE AGENCIES TO ENTER INTO LEASE AGREEMENTS INVOLVING
CAPITAL DEVELOPMENT.**

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

SECTION 1. Article 82 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

**PART 12
LEASES OF BUILDING PROJECTS**

24-82-1201. Definitions. AS USED IN THIS PART 12, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "APPROVED BUILDING PROJECT" MEANS A CAPITAL CONSTRUCTION PROJECT INVOLVING A LEASE THAT RECEIVES APPROVAL FROM THE CAPITAL DEVELOPMENT COMMITTEE AND THE JOINT BUDGET COMMITTEE PURSUANT TO SECTION 24-82-1202 (2).

(2) "COMMISSION" MEANS THE COLORADO COMMISSION OF HIGHER EDUCATION ESTABLISHED PURSUANT TO SECTION 23-1-102, C.R.S.

(3) "STATE DEPARTMENT" MEANS A DEPARTMENT OR AGENCY OF THE STATE.

24-82-1202. Leases of buildings. (1) SUBJECT TO THE PROVISIONS OF THIS PART 12, THE EXECUTIVE DIRECTOR OF A STATE DEPARTMENT, OR THE GOVERNING BOARD OF AN INSTITUTION OF HIGHER EDUCATION, IS AUTHORIZED TO EXECUTE A LEASE AGREEMENT FOR UP TO THIRTY YEARS FOR THE RENTAL OF AN APPROVED BUILDING PROJECT.

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

(2) (a) PRIOR TO EXECUTING A LEASE AGREEMENT AUTHORIZED PURSUANT TO THIS PART 12, THE EXECUTIVE DIRECTOR OF THE LEASING STATE DEPARTMENT SHALL SUBMIT A REPORT TO THE OFFICE OF STATE PLANNING AND BUDGETING ON THE PROPOSED APPROVED BUILDING PROJECT, INCLUDING THE PROPOSED TERMS OF THE LEASE AGREEMENT, THROUGH THE BUDGETING PROCESS ESTABLISHED PURSUANT TO SECTION 24-37-304. IF THE OFFICE OF STATE PLANNING AND BUDGETING APPROVES THE PROPOSED APPROVED BUILDING PROJECT AND THE LEASE, IT SHALL MAKE RECOMMENDATIONS CONCERNING THE PROPOSED APPROVED BUILDING PROJECT AND THE LEASE TO THE CAPITAL DEVELOPMENT COMMITTEE. IF THE CAPITAL DEVELOPMENT COMMITTEE APPROVES THE PROPOSED APPROVED BUILDING PROJECT AND THE LEASE FOR THE PROPOSED APPROVED BUILDING PROJECT, IT SHALL MAKE RECOMMENDATIONS CONCERNING THE PROPOSED APPROVED BUILDING PROJECT AND THE LEASE TO THE JOINT BUDGET COMMITTEE. FOLLOWING RECEIPT OF THE RECOMMENDATIONS, IF THE JOINT BUDGET COMMITTEE APPROVES THE PROPOSED APPROVED BUILDING PROJECT AND THE LEASE, IT SHALL INCLUDE ANY NECESSARY MONEYS FOR THE APPROVED BUILDING PROJECT IN ITS RECOMMENDATIONS FOR THE NEXT LONG APPROPRIATIONS BILL.

(b) PRIOR TO EXECUTING A LEASE AGREEMENT AUTHORIZED PURSUANT TO THIS PART 12, THE GOVERNING BOARD OF A LEASING INSTITUTION OF HIGHER EDUCATION SHALL SUBMIT A REPORT TO THE COLORADO COMMISSION ON HIGHER EDUCATION ON THE PROPOSED APPROVED BUILDING PROJECT, INCLUDING THE PROPOSED TERMS OF THE LEASE AGREEMENT, PURSUANT TO THE PROVISIONS OF SECTION 23-1-106, C.R.S. IF THE PROPOSED APPROVED BUILDING PROJECT DOES NOT REQUIRE THE APPROVAL OF THE CAPITAL DEVELOPMENT COMMITTEE PURSUANT TO SECTION 23-1-106, C.R.S., THE COMMISSION MAY APPROVE THE PROPOSED APPROVED BUILDING PROJECT AND THE LEASE. IF THE PROPOSED APPROVED BUILDING PROJECT IS SUBJECT TO THE APPROVAL OF THE CAPITAL DEVELOPMENT COMMITTEE PURSUANT TO SECTION 23-1-106, C.R.S., AND IF THE COMMISSION APPROVES THE PROPOSED APPROVED BUILDING PROJECT AND THE LEASE, THE COMMISSION SHALL MAKE RECOMMENDATIONS CONCERNING THE PROPOSED APPROVED BUILDING PROJECT AND THE LEASE TO THE CAPITAL DEVELOPMENT COMMITTEE. IF THE CAPITAL DEVELOPMENT COMMITTEE APPROVES THE PROPOSED APPROVED BUILDING PROJECT AND THE LEASE FOR THE PROPOSED APPROVED BUILDING PROJECT, IT SHALL MAKE RECOMMENDATIONS CONCERNING THE PROPOSED APPROVED BUILDING PROJECT AND THE LEASE TO THE JOINT BUDGET COMMITTEE. FOLLOWING RECEIPT OF THE RECOMMENDATIONS, IF THE JOINT BUDGET COMMITTEE APPROVES THE PROPOSED APPROVED BUILDING PROJECT AND THE LEASE, IT SHALL INCLUDE ANY NECESSARY MONEYS FOR THE APPROVED BUILDING PROJECT IN ITS RECOMMENDATIONS FOR THE NEXT GENERAL APPROPRIATION BILL.

24-82-1203. Payment obligations subject to annual appropriation by the general assembly. EACH LEASE AGREEMENT ENTERED INTO PURSUANT TO THE PROVISIONS OF THIS PART 12 SHALL PROVIDE THAT ALL PAYMENT OBLIGATIONS OF THE STATE UNDER THE LEASE AGREEMENT ARE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY AND THAT THE OBLIGATIONS SHALL NOT BE DEEMED OR CONSTRUED AS CREATING AN INDEBTEDNESS OF THE STATE WITHIN THE MEANING OF ANY PROVISION OF THE COLORADO CONSTITUTION OR THE LAWS OF THE STATE OF COLORADO CONCERNING OR LIMITING THE CREATION OF INDEBTEDNESS BY THE STATE OF COLORADO.

24-82-1204. Terms and conditions of lease agreements. A LEASE AGREEMENT ENTERED INTO PURSUANT TO THE PROVISIONS OF THIS PART 12 MAY CONTAIN SUCH TERMS, PROVISIONS, AND CONDITIONS AS THE EXECUTIVE DIRECTOR OF THE LEASING STATE DEPARTMENT OR THE GOVERNING BOARD OF THE LEASING INSTITUTION MAY DEEM APPROPRIATE. A LEASE AGREEMENT ENTERED INTO PURSUANT TO THE PROVISIONS OF THIS PART 12 MAY PROVIDE AN OPTION FOR THE STATE TO PURCHASE THE PROPERTY WHICH IS THE SUBJECT OF THE LEASE PRIOR TO THE TERMINATION OF THE LEASE AGREEMENT.

24-82-1205. Ancillary agreements. THE EXECUTIVE DIRECTOR OF A LEASING STATE DEPARTMENT OR THE GOVERNING BOARD OF THE LEASING INSTITUTION MAY ENTER INTO OR EXECUTE, OR MAY NEGOTIATE WITH AN OFFICER OF THE STATE TO ENTER INTO OR EXECUTE, A DEED, CONVEYANCE, ESCROW AGREEMENT, OR OTHER AGREEMENT OR INSTRUMENT THAT HE OR SHE OR THE BOARD DEEMS NECESSARY OR APPROPRIATE IN CONNECTION WITH A LEASE AGREEMENT ENTERED INTO PURSUANT TO THIS PART 12.

24-82-1206. Fiscal rules inapplicable - independent powers. (1) THE PROVISIONS OF SECTION 24-30-202 (5) (b) SHALL NOT APPLY TO A LEASE AGREEMENT OR ANCILLARY AGREEMENT ENTERED INTO PURSUANT TO THIS PART 12. ANY PROVISION OF THE FISCAL RULES PROMULGATED PURSUANT TO SECTION 24-30-202 (1) OR (13) WHICH THE CONTROLLER DEEMS TO BE INCOMPATIBLE WITH OR INAPPLICABLE TO A LEASE AGREEMENT ENTERED INTO PURSUANT TO THIS PART 12 OR ANCILLARY AGREEMENT MAY BE WAIVED BY THE CONTROLLER OR HIS OR HER DESIGNEE.

(2) THE POWERS CONFERRED BY THIS PART 12 ARE IN ADDITION TO ANY OTHER LAW, AND THE LIMITATIONS IMPOSED BY ANY OTHER LAW SHALL NOT AFFECT THE POWERS CONFERRED BY THIS PART 12.

24-82-1207. Inapplicability of part 7. THE PROVISIONS OF PART 7 OF THIS ARTICLE SHALL NOT APPLY TO LEASES ENTERED INTO PURSUANT TO THIS PART 12.

SECTION 2. 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: June 3, 2005