

CHAPTER 12

GOVERNMENT - STATE

HOUSE BILL 09-1083

BY REPRESENTATIVE(S) McFadyen, Pace, Frangas, Labuda, Todd, Vigil;
also SENATOR(S) Tapia, Penry.

AN ACT

**CONCERNING THE AUTHORITY OF THE STATE TO ENTER INTO LEASE-PURCHASE AGREEMENTS FOR
COMMERCIAL SPACE FOR THE DEPARTMENT OF PERSONNEL IN PUEBLO COUNTY, COLORADO.**

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

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

(a) The department of personnel, referred to in this section as the "department", currently leases a building located at 2 Jetway Court in Pueblo county, Colorado, referred to in this section as the "property";

(b) Under the terms of the current, twenty-year lease on the property, the department will pay over six million dollars in lease payments;

(c) Through a lease-purchase agreement, the department could pay approximately five million dollars over the course of the same twenty-year period and obtain title to the property;

(d) The source of funding for the lease-purchase of the property should be from moneys currently being paid for the rental of the property and from such other sources as the general assembly may deem appropriate;

(e) It is therefore in the best interest of the citizens of Colorado to authorize the state of Colorado, acting by and through the executive director of the department, to enter into one or more lease-purchase agreements and other agreements as necessary to finance the property.

SECTION 2. Lease-purchase agreement. (1)(a) The state of Colorado, acting

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

by and through the executive director of the department of personnel, referred to in this section as the "executive director", is authorized to execute lease-purchase agreements for up to twenty-five years for the purpose of financing the purchase of the building located at 2 Jetway Court in Pueblo county, Colorado, referred to in this section as the "property", for the use of the department of personnel. The total amount of said lease-purchase agreements shall not exceed three million five hundred thousand dollars (\$3,500,000), plus reasonable and necessary administrative, monitoring, and closing costs and interest. The maximum annual aggregate rentals or other payments under all lease-purchase agreements authorized by this section from state funds shall not exceed two hundred sixty-seven thousand dollars (\$267,000).

(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 state of Colorado, acting by and through the executive director, may, at the executive director's sole discretion, enter into one or more lease-purchase agreements authorized by subsection (1) of this section with any for-profit or nonprofit corporation, trust, or commercial bank as a trustee, as the lessor. Prior to entering into any lease-purchase agreement, the executive director shall consult with the state treasurer.

(b) The lease-purchase agreements authorized in subsection (1) of this section shall provide that all of the obligations of the state under the agreements shall be subject to the action of the general assembly in annually making moneys available for all payments thereunder. The agreements 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 any of the lease-purchase agreements 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.

(c) The lease-purchase agreements authorized in subsection (1) of this section may contain such terms, provisions, and conditions as the executive director, acting on behalf of the state of Colorado, may deem appropriate, including all optional terms; except that the lease-purchase agreements shall specifically authorize the state of Colorado to receive fee title to all real and personal property that is the subject of the lease-purchase agreements on or prior to the expiration of the terms of the lease-purchase agreements. Any title to property received by the state on or prior to the expiration of the terms of the lease-purchase agreements shall be held for the benefit and use of the state.

(d) The lease-purchase agreements authorized in subsection (1) of this section may provide for the issuance, distribution, and sale of instruments by the lessor evidencing rights to receive rentals and other payments made and to be made under

the lease-purchase agreements. The instruments may be issued, distributed, or sold only by the lessor or any person designated by the lessor and not by the state. The instruments shall not create a relationship between the purchasers of the instruments and the state or create any obligation on the part of the state to the purchasers. The instruments shall not be notes, bonds, or any other evidence of indebtedness of the state within the meaning of any provision of the state constitution or the law of the state concerning or limiting the creation of indebtedness of the state 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.

(e) Interest paid under the lease-purchase agreements authorized in subsection (1) of this section, including interest represented by the instruments, shall be exempt from Colorado income tax.

(f) The state of Colorado, acting through the executive director, 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 on which the facilities are located.

(3) The provisions of section 24-30-202 (5) (b), Colorado Revised Statutes, shall not apply to the lease-purchase agreements authorized in subsection (1) of this section or any ancillary agreement entered into pursuant to paragraph (f) 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. 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: March 14, 2009