

CHAPTER 159

CORRECTIONS

HOUSE BILL 10-1083

BY REPRESENTATIVE(S) Gardner B., Curry, Fischer, Kagan, Kerr J., King S., Labuda, Massey, McFadyen, Merrifield, Nikkel, Pace, Pommer, Primavera, Priola, Riesberg, Ryden, Solano, Stephens, Summers, Todd;
also SENATOR(S) Steadman, Boyd, Newell, Williams.

AN ACT**CONCERNING THE AUTHORITY OF THE STATE TO ENTER INTO LEASE-PURCHASE AGREEMENTS FOR A DAY SURGERY CENTER.**

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

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

(a) Currently, when an inmate in the custody of the department of corrections requires even minor surgery, the inmate must be transferred to an off-site, public hospital;

(b) If the department of corrections had a day surgery center at its Denver reception and diagnostic center, certain surgeries could be performed at a lower cost to the department;

(c) Furthermore, the ability to perform certain surgical procedures at a secure facility would eliminate the expense of having correctional staff transfer the inmate to a public hospital and supervise the inmate during the procedure and recovery time and would reduce the public risk in having inmates at less-secure public facilities;

(d) The source of funding for the cost of the day surgery center should be from moneys currently paid by the department of corrections to public hospitals for the procedures and from such other sources as the general assembly may deem appropriate.

(2) 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 of corrections, to enter into one or more lease-purchase agreements and other

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

agreements as necessary to finance the purchase of a day surgery center at the Denver reception and diagnostic center.

SECTION 2. Lease-purchase agreement. (1)(a) The state of Colorado, acting by and through the executive director of the department of corrections, referred to in this section as the "executive director", is authorized to execute a lease-purchase agreement for up to twelve years to purchase a day surgery center to be located at the Denver reception and diagnostic center. The total amount of the principal component of said lease-purchase agreement shall not exceed two million eight hundred thousand dollars (\$2,800,000), 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 executive director, 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 state.

(c) 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 day surgery center will be located or other property managed by the department.

(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. 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: April 21, 2010