WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1994

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ENROLLED

Com. Sub. for
HOUSE BILL No. 4214

(By Delegate Mr. Speaker, Mr. Chairman, & Delegate)
Huntwork, Howard, J. Williams, Lineh, Figiols, and Stack

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Passed Feb. 23, 1994

In Effect 90 Days From Passage
AN ACT to amend and reenact section forty, article three, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to leases entered into by the secretary of the department of administration.

Be it enacted by the Legislature of West Virginia:

That section forty, article three, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 3. PURCHASING DIVISION.

§5A-3-40. Selection of grounds, etc.; acquisition by contract or lease; long-term leases; requiring approval of secretary for permanent changes.

1 The secretary shall have sole authority to select and
2 to acquire by contract or lease, in the name of the state,
3 all grounds, buildings, office space or other space, the
4 rental of which is necessarily required by any spending
5 unit, upon a certificate from the chief executive officer
6 or his designee of said spending unit that the grounds,
7 buildings, office space or other space requested is
8 necessarily required for the proper function of said
spending unit, that the spending unit will be responsible for all rent and other necessary payments in connection with the contract or lease and that satisfactory grounds, buildings, office space or other space is not available on grounds and in buildings now owned or leased by the state. The secretary shall, before executing any rental contract or lease, determine the fair rental value for the rental of the requested grounds, buildings, office space or other space, in the condition in which they exist, and shall contract for or lease said premises at a price not to exceed the fair rental value thereof.

The secretary is hereby authorized to enter into long-term agreements for buildings, land and space for periods longer than one fiscal year: Provided, That such long-term lease agreements shall not be for periods in excess of forty years, except that the secretary may, in the case of the adjutant general's department, enter into lease agreements for a term of fifty years or a specific term of more than fifty years so as to comply with federal regulatory requirements, and shall contain, in substance, all the following provisions: (1) That the department of administration, as lessee, shall have the right to cancel the lease without further obligation on the part of the lessee upon giving thirty days' written notice to the lessor, such notice being given at least thirty days prior to the last day of the succeeding month; (2) that the lease shall be considered canceled without further obligation on the part of the lessee if the state Legislature or the federal government should fail to appropriate sufficient funds therefor or should otherwise act to impair the lease or cause it to be canceled; and (3) that the lease shall be considered renewed for each ensuing fiscal year during the term of the lease unless it is canceled by the department of administration before the end of the then current fiscal year.

A spending unit which is granted any grounds, buildings, office space or other space leased in accordance with this section may not order or make permanent changes of any type thereto, unless the secretary has first determined that the change is necessary for the proper, efficient and economically sound operation of the
spending unit. For purposes of this section, a “permanent change” means any addition, alteration, improvement, remodeling, repair or other change involving the expenditure of state funds for the installation of any tangible thing which cannot be economically removed from the grounds, buildings, office space or other space when vacated by the spending unit.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Ernest C. Moore
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clifford Johnson
Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 7th day of March, 1994.

Governor