

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 11-0484.01 Jason Gelender

HOUSE BILL 11-1114

HOUSE SPONSORSHIP

Ramirez, Baumgardner, Conti, Holbert, Kerr J., Looper, Massey, Stephens

SENATE SPONSORSHIP

(None),

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING A REQUIREMENT THAT A STATE LEASE-PURCHASE
102 AGREEMENT BE SPECIFICALLY AUTHORIZED BY A BILL ENACTED
103 WITH THE APPROVAL OF AT LEAST TWO-THIRDS OF THE
104 MEMBERS OF EACH HOUSE OF THE GENERAL ASSEMBLY, AND, IN
105 CONNECTION THEREWITH, PROVIDING SPECIFIED EXCEPTIONS
106 TO THE REQUIREMENT.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

On and after July 1, 2011, **section 1** of the bill requires any state lease-purchase agreement that requires total payments exceeding \$500,000 to be approved by a bill, other than the annual general appropriation act or a supplemental appropriation act, enacted with the approval of at least two-thirds of the members of each house of the general assembly, but excludes from the requirement:

- ! Lease-purchase agreements entered into by the department of transportation, institutions of higher education, the state treasurer, or the legislative department that do not also provide for the issuance of certificates of participation or similar financial instruments; and
- ! Lease-purchase agreements legally authorized by a bill enacted by the general assembly before July 1, 2011, that specifically authorized lease-purchase agreements for specifically-identified projects only or subject to a limit on the maximum amount of lease payments.

Section 2 of the bill repeals a statutory provision that authorizes the state treasurer, subject to specified conditions, to enter into lease-purchase agreements on behalf of the state for the use of the department of personnel without the specific approval of the entire general assembly acting by bill. **Section 3** of the bill makes a conforming amendment necessitated by **section 2** of the bill.

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

2 **SECTION 1.** 24-82-801 (1) (a), (1) (b), (6), and (7), Colorado
3 Revised Statutes, are amended to read:

4 **24-82-801. Lease-purchase agreements for acquisition of real**
5 **or personal property.** (1) (a) Except as provided in subsection (6) of
6 this section, no lease-purchase agreement for real property that requires
7 total payments exceeding five hundred thousand dollars over the term of
8 the agreement shall be entered into unless ~~such~~ THE agreement is
9 specifically authorized, prior to its execution, by a bill enacted ~~by~~ WITH
10 THE APPROVAL OF AT LEAST TWO-THIRDS OF THE MEMBERS OF EACH
11 HOUSE OF the general assembly, other than the annual general
12 appropriation act or a supplemental appropriation act.

13 (b) Except as provided in subsection (6) of this section, no

1 lease-purchase agreement for personal property that requires total
2 payments exceeding five hundred thousand dollars over the term of the
3 agreement shall be entered into unless ~~such~~ THE agreement is specifically
4 authorized, prior to its execution, by a bill enacted ~~by~~ WITH THE
5 APPROVAL OF AT LEAST TWO-THIRDS OF THE MEMBERS OF EACH HOUSE OF
6 the general assembly, other than the annual general appropriation act or
7 a supplemental appropriation act. ~~or specifically authorized by~~
8 ~~appropriation in the annual general appropriation act or a supplemental~~
9 ~~appropriation act.~~

10 (6) (a) Notwithstanding any provision of this section to the
11 contrary, the department of transportation, institutions of higher
12 education, and the state treasurer may enter into lease-purchase
13 agreements THAT DO NOT FURTHER PROVIDE FOR THE ISSUANCE,
14 DISTRIBUTION, AND SALE OF INSTRUMENTS EVIDENCING RIGHTS TO
15 RECEIVE RENTALS AND OTHER PAYMENTS MADE BY THE STATE AS
16 AUTHORIZED BY SUBSECTION (5) OF THIS SECTION if the state controller as
17 authorized by section 24-30-202 approves each lease-purchase agreement
18 that requires total payments in excess of five hundred thousand dollars
19 over the term of the agreement or as otherwise provided by law.

20 (b) Notwithstanding any provision of this section to the contrary,
21 the legislative department may enter into lease-purchase agreements THAT
22 DO NOT FURTHER PROVIDE FOR THE ISSUANCE, DISTRIBUTION, AND SALE
23 OF INSTRUMENTS EVIDENCING RIGHTS TO RECEIVE RENTALS AND OTHER
24 PAYMENTS MADE BY THE STATE AS AUTHORIZED BY SUBSECTION (5) OF
25 THIS SECTION pursuant to section 2-2-320, C.R.S.

26 (c) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE
27 CONTRARY, IF A BILL ENACTED BY THE GENERAL ASSEMBLY BEFORE JULY

1 1, 2011, OTHER THAN THE GENERAL APPROPRIATION ACT OR A
2 SUPPLEMENTAL APPROPRIATION ACT IN THE CASE OF A LEASE-PURCHASE
3 AGREEMENT FOR REAL PROPERTY, SPECIFICALLY AUTHORIZED
4 LEASE-PURCHASE AGREEMENTS FOR SPECIFICALLY-IDENTIFIED PROJECTS
5 ONLY OR SUBJECT TO A LIMIT ON THE MAXIMUM AMOUNT OF LEASE
6 PAYMENTS, THE LEASE-PURCHASE AGREEMENTS MAY BE ENTERED INTO
7 WITHOUT FURTHER LEGISLATIVE APPROVAL.

8 (7) Nothing in this section shall be construed to impair any
9 contract or instrument in existence on ~~July 1, 2009~~ JULY 1, 2011, if the
10 contract was validly entered into or the instrument was validly issued
11 under the law in effect at the time of entering into said contract or issuing
12 said instrument.

13 **SECTION 2. Repeal.** 24-82-802, Colorado Revised Statutes, is
14 repealed.

15 **SECTION 3.** 24-75-302 (3.5), Colorado Revised Statutes, is
16 amended to read:

17 **24-75-302. Capital construction fund - capital assessment fees**
18 **- calculation - repeal.** (3.5) (a) There is hereby created a special account
19 within the capital construction fund established pursuant to subsection (1)
20 of this section to be known as the "lease-purchase servicing account" for
21 the benefit of the department of personnel. The state treasurer shall
22 deposit into the lease-purchase servicing account all moneys transferred
23 or received pursuant to section 24-82-802 (9), AS THAT SECTION EXISTED
24 BEFORE JULY 1, 2011. Moneys in the lease-purchase servicing account
25 shall be subject to annual appropriation and shall only be used to pay
26 annual lease-purchase payments, as defined in section 24-82-802 (1) (a),
27 AS THAT SECTION EXISTED BEFORE JULY 1, 2011, for lease-purchase

1 agreements authorized pursuant to section 24-82-802, AS THAT SECTION
2 EXISTED BEFORE JULY 1, 2011, or for operating, maintenance, and
3 controlled maintenance costs and to establish a reserve for controlled
4 maintenance costs for the buildings subject to the lease-purchase
5 agreements. All interest and income derived from the investment and
6 deposit of moneys in the account shall be credited to the account. All
7 moneys remaining in the account at the end of a fiscal year that are
8 unexpended or unencumbered shall remain in the account.

9 (b) THIS SECTION IS REPEALED, EFFECTIVE AS OF THE DATE ON
10 WHICH ALL OBLIGATIONS OF THE STATE UNDER LEASE-PURCHASE
11 AGREEMENTS PAID FROM THE ACCOUNT ARE PAID IN FULL. UPON SUCH
12 REPEAL, ANY MONEYS REMAINING IN THE ACCOUNT SHALL BE
13 TRANSFERRED TO THE GENERAL FUND. THE STATE TREASURER SHALL
14 PROMPTLY NOTIFY THE REVISOR OF STATUTES IN WRITING OF THE
15 PAYMENT IN FULL OF ALL OBLIGATIONS OF THE STATE UNDER
16 LEASE-PURCHASE AGREEMENTS PAID FROM THE ACCOUNT.

17 **SECTION 4. Effective date.** This act shall take effect July 1,
18 2011.

19 **SECTION 5. Safety clause.** The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, and safety.