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HOUSE BILL 728

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Ben Lujan

FOR THE CAPITOL BUILDINGS PLANNING COMMISSION

AN ACT

RELATING TO STATE BUILDINGS; AUTHORIZING THE PROPERTY CONTROL DIVISION OF THE GENERAL SERVICES DEPARTMENT TO ENTER INTO CONTRACTS FOR THE ACQUISITION OF A HEALTH AND HUMAN SERVICES OFFICE BUILDING; AUTHORIZING THE DIVISION TO ENTER INTO A LEASE PURCHASE AGREEMENT FOR THE BUILDING AND A SUBLEASE WITH THE HUMAN SERVICES DEPARTMENT AND THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT FOR THE OCCUPANCY OF THE BUILDING; AUTHORIZING THE ISSUANCE OF REVENUE BONDS BY THE NEW MEXICO FINANCE AUTHORITY; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] HEALTH AND HUMAN SERVICES OFFICE BUILDING.--

A. Subject to the provisions of this section, the property control division of the general services department,

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1 after consulting with the human services department and the
2 children, youth and families department and on behalf of those
3 departments, shall:

4 (1) enter into agreements necessary for the
5 planning, designing, constructing, equipping and furnishing of
6 a new health and human services office building in the county
7 or municipality of Santa Fe that will serve as the first phase
8 of the health and human services office complex and be occupied
9 by the human services department and the children, youth and
10 families department, provided that, in entering into the
11 agreements, the division shall consider state and private land
12 options, including potential trades of land; and

13 (2) enter into a lease purchase agreement with
14 the owner of the building for the leasing of the building by
15 the property control division with an option to purchase for a
16 price that is reduced according to the payments made pursuant
17 to the agreement; provided that the lease purchase agreement
18 shall:

19 (a) specify the principal, interest and
20 maintenance component of each payment made, provided further
21 that: 1) the initial principal shall not exceed eighty million
22 dollars (\$80,000,000); and 2) the net effective interest rate
23 shall not exceed the maximum permitted by the Public Securities
24 Act;

25 (b) provide that there is no legal

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1 obligation for the property control division to continue the
2 lease from year to year or to purchase the building;

3 (c) provide that the lease shall be
4 terminated if sufficient appropriations are not available to
5 meet the current lease payments;

6 (d) provide that the lease payments
7 include a maintenance component that shall escalate annually
8 and, over the length of the agreement, approximate the amount
9 that will be needed for the maintenance and repair of the
10 building; and

11 (e) provide that if the building is
12 purchased, title to the building shall be issued in the name of
13 the property control division.

14 B. The property control division shall enter into
15 such financing arrangements as are necessary to construct,
16 occupy and acquire the building by the most cost-effective
17 method and, if the division determines that the issuance of
18 lease purchase revenue bonds by the New Mexico finance
19 authority pursuant to Section 6-21-6.14 NMSA 1978 is the most
20 cost-effective financing arrangement, the New Mexico finance
21 authority is authorized to:

22 (1) issue bonds, in an amount not to exceed
23 eighty million dollars (\$80,000,000), pursuant to that section;

24 (2) include a maintenance component as part of
25 the lease payments received; and

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1 (3) use a portion of the net proceeds from the
2 sale of the bonds for debt service payments that are due before
3 sufficient lease payments have been deposited into the debt
4 service fund.

5 C. No contract or financing arrangement entered
6 into pursuant to Subsection A or B of this section shall be
7 effective until approved by the attorney general for legal
8 sufficiency.

9 D. Neither a request for proposals shall be issued
10 pursuant to Subsection A or B of this section nor a contract
11 entered into pursuant to those subsections without prior review
12 by the capitol buildings planning commission to ensure that:

13 (1) the request for proposals or the contract
14 is the most cost-effective method for acquiring the building;
15 and

16 (2) the building and its proposed use are
17 within the scope of the commission's master plan.

18 E. The property control division shall enter into
19 subleases with the human services department and the children,
20 youth and families department for the lease of office space
21 within the building, provided that the payments made under the
22 subleases shall equal the payments due by the property control
23 division under the lease purchase agreement. The property
24 control division may also sublease available space within the
25 building to any state agency if:

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1 (1) the space subject to an existing sublease
2 has been reduced by agreement between the property control
3 division and the existing sublessee;

4 (2) the previous sublease for the available
5 space has been terminated due to the failure of the sublessee
6 to obtain appropriations or otherwise receive the money
7 necessary for making the lease payments; or

8 (3) the previous sublessee of the available
9 space has been relocated by an act of the legislature.

10 F. Notwithstanding any provision restricting budget
11 adjustments, upon the certification by the director of the
12 property control division that the building is completed and
13 suitable for occupancy, the secretary of finance and
14 administration may transfer between and among the categories
15 and programs of the current operating budget of each agency
16 that will occupy the building any unexpended or unencumbered
17 appropriation for lease payments or building maintenance. The
18 transferred appropriations shall be expended by the property
19 control division for lease payments due pursuant to the lease
20 purchase agreement.

21 G. During the term of the lease purchase agreement,
22 each sublessee shall include, in its annual budget request, the
23 amount due under its sublease during the next fiscal year, and
24 the sublessee and the property control division shall use their
25 best efforts to secure the appropriation.

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1 Section 2. A new section of the New Mexico Finance
2 Authority Act, Section 6-21-6.14 NMSA 1978, is enacted to read:

3 "6-21-6.14. [NEW MATERIAL] LEASE PURCHASE REVENUE BONDS--
4 LEASE PURCHASE AGREEMENTS.--

5 A. If specifically authorized by law, the authority
6 may issue and sell lease purchase revenue bonds in compliance
7 with the New Mexico Finance Authority Act and enter into a
8 lease purchase agreement pursuant to the provisions of this
9 section.

10 B. Lease purchase revenue bonds may be issued at
11 times and on terms established by the authority and shall be
12 paid exclusively from a debt service fund created pursuant to
13 this section. The net proceeds from the sale of lease purchase
14 revenue bonds are appropriated to the authority for the purpose
15 of acquiring by construction or purchase the buildings, land or
16 infrastructure specified in the authorizing law; provided that,
17 if authorized by law, the net proceeds may also be used for
18 debt service payments due before sufficient lease payments have
19 been deposited into the applicable debt service fund.

20 C. All lease purchase revenue bonds issued by the
21 authority shall be obligations of the authority payable solely
22 from the separate debt service fund created for those bonds.
23 The bonds shall not create an obligation, debt or liability of
24 the state and no breach of any pledge, obligation or agreement
25 of the authority shall impose a pecuniary liability or charge

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1 upon the general credit or taxing power of the state or any
2 political subdivision of the state.

3 D. The authority may purchase lease purchase
4 revenue bonds with money in the public project revolving fund
5 pursuant to the provisions of Section 6-21-6 NMSA 1978.

6 E. A debt service fund shall be created in the
7 authority for each authorized issuance of lease purchase
8 revenue bonds. Each fund shall consist of transfers to the
9 fund, legislative appropriations, lease payments made by the
10 property control division of the general services department or
11 other lessee pursuant to the authorized lease purchase
12 agreement and money earned from investment of the fund.
13 Balances remaining in a fund at the end of a fiscal year shall
14 not revert. Money in each fund is appropriated to the
15 authority for:

16 (1) the payment of principal, interest,
17 premiums and expenses on the specific lease purchase revenue
18 bonds that are issued pursuant to the bond authorization; and

19 (2) if authorized by law, required maintenance
20 and repairs of the building, land or infrastructure if the
21 authority determines that money in the fund is sufficient to
22 meet the requirements of Paragraph (1) of this subsection plus
23 any required reserve.

24 F. Upon the certification of the authority that all
25 debt service on a specific issuance of lease purchase revenue

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1 bonds has been paid in full, any remaining balance of the debt
2 service fund created for those bonds shall be transferred to
3 the general fund.

4 G. The authority may enter into an agreement with
5 the property control division of the general services
6 department or other agency specified by law for the lease
7 purchase of the building acquired with the lease purchase
8 revenue bond proceeds. The agreement shall provide the lessee
9 with an option to purchase for a price that is reduced
10 according to the lease payments made and shall also provide
11 that:

12 (1) there is no legal obligation for the state
13 to continue the lease from year to year or to purchase the
14 building;

15 (2) the lease shall be terminated if
16 sufficient appropriations are not available to meet the current
17 lease payments;

18 (3) if authorized by the legislature, the
19 lease payments include a maintenance component that may
20 escalate annually and, over the length of the agreement,
21 approximate the amount that will be needed for the maintenance
22 and repair of the building; and

23 (4) if the lessee is the property control
24 division of the general services department or an agency under
25 the jurisdiction of the property control division, the title to

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1 the building shall be issued in the name of the property
2 control division if the building is purchased."

3 Section 3. TEMPORARY PROVISION--RATIFICATION AND
4 APPROVAL.--In lieu of the ratification and approval otherwise
5 required by Section 15-3-35 NMSA 1978, the legislature ratifies
6 and approves a lease purchase agreement entered into in
7 compliance with this act for the lease and option to purchase
8 of a building by the property control division of the general
9 services department.

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