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SB-387 State property: sale or lease: broadband development. (2023-2024)

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Senate Bill No. 387

CHAPTER 485

An act to amend Section 11011.2 of the Government Code, relating to state property.

[Approved by Governor October 08, 2023. Filed with Secretary of State October 08, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

SB 387, Dodd. State property: sale or lease: broadband development.

Existing law authorizes the Department of General Services to lease real property under the jurisdiction of a state agency, department, or district agricultural association if the Director of General Services determines that the real property is of no immediate need to the state but may have a potential future use. Existing law prohibits the director from leasing specified real property, including lands under the jurisdiction of the State Coastal Conservancy or another state conservancy, the Department of Transportation, the California State University system, the Department of Parks and Recreation, or the Department of Fish and Wildlife. Existing law requires the lease to be set at the amount of the lease's fair market value, as determined by the Director of General Services. Existing law authorizes the director to determine the length of term or a use of the lease, and specify any other terms and conditions that are determined to be in the best interest of the state.

This bill, as an exception to the prohibition on leasing certain properties described above and the requirement to set the lease at fair market value, would authorize the Department of General Services to enter into a lease for real property under the jurisdiction of a state agency, department, or district agricultural association, with the consent of that state agency, department, or district agricultural association at an amount less than fair market value in support of broadband infrastructure deployment to connect unserved or underserved locations in the state, if specified conditions are met, including that the lease terms enable the state to recover all direct costs for the term of the lease.

Existing law requires the Department of General Services, for every new lease entered into under these provisions that exceeds 5 years, to annually transmit a report containing specified information to each house of the Legislature.

This bill would require the report to also list every new lease that is below fair market value. The bill would require the report to include, for any lease to support broadband infrastructure deployment, a description of the related broadband infrastructure project, as specified.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 11011.2 of the Government Code, as amended by Section 14 of Chapter 45 of the Statutes of 2023, is amended to read:

11011.2. (a) (1) Notwithstanding any other law, including, but not limited to, Sections 11011 and 14670, except as provided in this section, the Department of General Services may lease real property under the jurisdiction of a state agency, department, or district agricultural association, if the Director of General Services determines that the real property is of no immediate need to the state but may have some potential future use to the program needs of the agency, department, or district agricultural association.

(2) Except as provided in paragraph (4), the Director of General Services shall not lease any of the following real property pursuant to this section:

(A) Tax-deeded land or lands under the jurisdiction of the State Lands Commission.

(B) Land that has escheated to the state or that has been distributed to the state by court decree in estates of deceased persons.

(C) Lands under the jurisdiction of the State Coastal Conservancy or another state conservancy.

(D) Lands under the jurisdiction of the Department of Transportation or the California State University system, or land owned by the Regents of the University of California.

(E) Lands under the jurisdiction of the Department of Parks and Recreation.

(F) Lands under the jurisdiction of the Department of Fish and Wildlife.

(3) Except as provided in paragraph (4), a lease entered into pursuant to this section shall be set at the amount of the lease's fair market value, as determined by the Director of General Services.

(4) Notwithstanding paragraphs (2) and (3), the Department of General Services may lease real property under the jurisdiction of a state agency, department, or district agricultural association, with the consent of that state agency, department, or district agricultural association in support of broadband infrastructure deployment to connect unserved or underserved locations in the state, at an amount less than fair market value, if the following conditions are met:

(A) For last-mile broadband infrastructure deployment projects, the Public Utilities Commission gives consent and makes a written finding of the public benefit for each lease entered that is below fair market value.

(B) For the state middle-mile broadband network authorized by Section 11549.52, the Department of Technology gives consent and makes a written finding of the public benefit for each lease entered that is below fair market value.

(C) The lease terms enable the state to recover all direct costs for the term of the lease.

(5) The Director of General Services may determine the length of term or a use of the lease, and specify any other terms and conditions that are determined to be in the best interest of the state.

(b) The Department of General Services may enter into a long-term lease of real property pursuant to this section that has outstanding lease revenue bonds and for which the real property cannot be disencumbered from the bonds, only if the issuer and trustee for the bonds approves the lease transaction, and this approval takes into consideration, among other things, that the proposed lease transaction does not breach a covenant or obligation of the issuer or trustee.

(c) (1) All issuer- and trustee-related costs for reviewing a proposed lease transaction pursuant to this section, and all other costs of the lease transaction related to the defeasance or other retirement of any bonds, including the cost of nationally recognized bond counsel, shall be paid from the proceeds of that lease.

(2) The Department of General Services shall be reimbursed for any reasonable costs or expenses incurred in conducting a transaction pursuant to this section.

(3) Notwithstanding subdivision (g) of Section 11011, unless necessary to maintain the operating reserve referenced in that subdivision, the Department of General Services shall deposit into the General Fund the net proceeds of a lease entered into pursuant to this section, after deducting the amount of the reimbursement of costs incurred pursuant to this section or the reimbursement of adjustments to the General Fund loan made pursuant to Section 8 of Chapter 20 of the 2009–10 Fourth Extraordinary Session from the lease.

(d) The Department of General Services shall transmit a report to each house of the Legislature on or before June 30, 2011, and on or before June 30 each year thereafter, listing every new lease that is below fair market value or exceeds a period of five years entered into under the authority of this section and the following information regarding each listed lease:

(1) Lease payments.

(2) Length of the lease.

(3) Identification of the leasing parties.

(4) Identification of the leased property.

(5) For any lease to support broadband infrastructure deployment, a description of the related broadband infrastructure project to connect unserved or underserved locations in the state.

(6) Any other information the Director of General Services determines should be included in the report to adequately describe the material provisions of the lease.

(e) For purposes of this section, "unserved" and "underserved" locations shall be as specified on the state broadband map maintained by the Public Utilities Commission or in broadband infrastructure grant programs.