As Introduced

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S. B. No. 417

Senator Gavarone

To amend sections 123.01, 123.17, and 5913.09 and to enact section 123.012 of the Revised Code to authorize the state to enter into an enhanced lease agreement, with a private entity, to utilize unproductive and unused state real property, to empower a board of trustees of a state university and the Adjutant General to lease land, and to name this act the Advancing Strategic State and Military Asset Efficiency and Transformation (ASSET) Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 123.01, 123.17, and 5913.09 be amended and section 123.012 of the Revised Code be enacted to read as follows:

Sec. 123.01. (A) The department of administrative services, in addition to those powers enumerated in Chapters 124. and 125. of the Revised Code and provided elsewhere by law, the board of trustees of a state university or college under division (A)(5)(b) of this section, and the adjutant general under division (A)(5)(c) of this section, shall exercise the following powers:

(1) To prepare and suggest comprehensive plans for the development of grounds and buildings under the control of a state agency;

(2) To acquire, by purchase, gift, devise, lease, or grant, all real estate required by a state agency, in the exercise of which power the department may exercise the power of eminent domain, in the manner provided by sections 163.01 to 163.22 of the Revised Code;

(3) To erect, supervise, and maintain all public monuments and memorials erected by the state, except where the supervision and maintenance is otherwise provided by law;

(4) To procure, by lease, storage accommodations for a state agency;

(5) To lease or grant easements or licenses for unproductive and unused lands or other property under the control of a state agency. Such leases, easements, or licenses shall be executed for the state by the director of administrative services and may be granted to any person or entity~~, shall be for~~ according to the following:

(a) For a period not to exceed fifteen years~~, unless a longer period is authorized by division (A)(5) of this section, and shall be executed for the state by the director of administrative services. The director shall grant leases, easements, or licenses of~~ ;

(b) For university land, for periods not to exceed ~~twenty-five years for purposes approved by the respective university's board of trustees wherein the uses are compatible with the uses and needs of the university and may grant leases of university land for periods not to exceed~~ forty years, with a like or

lesser renewal term, for purposes approved by the respective university's board of trustees, to public utilities as defined in section 4905.02 of the Revised Code or described in section 4905.03 of the Revised Code pursuant to section 123.17 of the Revised Code~~. The director may~~ , or to other state agencies, political subdivisions, or tenants pursuant to section 123.17 or 123.012 of the Revised Code or Chapter 3345. of the Revised Code;

(c) For real property under the control of a state agency, for university land, and for property under the custody of the adjutant general, pursuant to section 123.012 of the Revised Code;

(d) To grant, with controlling board approval, perpetual easements to public utilities, as defined in section 4905.02 of the Revised Code or described in section 4905.03 of the Revised Code, or to other state agencies, political subdivisions, or tenants, under section 123.17 or 123.012 of the Revised Code or Chapter 3345. Of the Revised Code.

(6) To lease space for the use of a state agency;

(7) To have general supervision and care of the storerooms, offices, and buildings leased for the use of a state agency;

(8) To exercise general custodial care of all real property of the state;

(9) To assign and group together state offices in any city in the state and to establish, in cooperation with the state agencies involved, rules governing space requirements for office or storage use;

(10) To lease for a period not to exceed forty years,

pursuant to a contract providing for the construction thereof under a lease-purchase plan, buildings, structures, and other improvements for any public purpose, and, in conjunction therewith, to grant leases, easements, or licenses for lands under the control of a state agency for a period not to exceed forty years. The lease-purchase plan shall provide that at the end of the lease period, the buildings, structures, and related improvements, together with the land on which they are situated, shall become the property of the state without cost.

(a) Whenever any building, structure, or other improvement is to be so leased by a state agency, the department shall retain either basic plans, specifications, bills of materials, and estimates of cost with sufficient detail to afford bidders all needed information or, alternatively, all of the following plans, details, bills of materials, and specifications:

(i) Full and accurate plans suitable for the use of mechanics and other builders in the improvement;

(ii) Details to scale and full sized, so drawn and represented as to be easily understood;

(iii) Accurate bills showing the exact quantity of different kinds of material necessary to the construction;

(iv) Definite and complete specifications of the work to be performed, together with such directions as will enable a competent mechanic or other builder to carry them out and afford bidders all needed information;

(v) A full and accurate estimate of each item of expense and of the aggregate cost thereof.

(b) The department shall give public notice, in such newspaper, in such form, and with such phraseology as the

director of administrative services prescribes, published once each week for four consecutive weeks, of the time when and place where bids will be received for entering into an agreement to lease to a state agency a building, structure, or other improvement. The last publication shall be at least eight days preceding the day for opening the bids. The bids shall contain the terms upon which the builder would propose to lease the building, structure, or other improvement to the state agency. The form of the bid approved by the department shall be used, and a bid is invalid and shall not be considered unless that form is used without change, alteration, or addition. Before submitting bids pursuant to this section, any builder shall comply with Chapter 153. of the Revised Code.

(c) On the day and at the place named for receiving bids for entering into lease agreements with a state agency, the director of administrative services shall open the bids and shall publicly proceed immediately to tabulate the bids upon duplicate sheets. No lease agreement shall be entered into until the bureau of workers' compensation has certified that the person to be awarded the lease agreement has complied with Chapter 4123. of the Revised Code, until, if the builder submitting the lowest and best bid is a foreign corporation, the secretary of state has certified that the corporation is authorized to do business in this state, until, if the builder submitting the lowest and best bid is a person nonresident of this state, the person has filed with the secretary of state a power of attorney designating the secretary of state as its agent for the purpose of accepting service of summons in any action brought under Chapter 4123. of the Revised Code, and until the agreement is submitted to the attorney general and the attorney general's approval is certified thereon. Within thirty

days after the day on which the bids are received, the department shall investigate the bids received and shall determine that the bureau and the secretary of state have made the certifications required by this section of the builder who has submitted the lowest and best bid. Within ten days of the completion of the investigation of the bids, the department shall award the lease agreement to the builder who has submitted the lowest and best bid and who has been certified by the bureau and secretary of state as required by this section. If bidding for the lease agreement has been conducted upon the basis of basic plans, specifications, bills of materials, and estimates of costs, upon the award to the builder the department, or the builder with the approval of the department, shall appoint an architect or engineer licensed in this state to prepare such further detailed plans, specifications, and bills of materials as are required to construct the building, structure, or improvement. The department shall adopt such rules as are necessary to give effect to this section. The department may reject any bid. Where there is reason to believe there is collusion or combination among bidders, the bids of those concerned therein shall be rejected.

(11) To acquire by purchase, gift, devise, or grant and to transfer, lease, or otherwise dispose of all real property required to assist in the development of a conversion facility as defined in section 5709.30 of the Revised Code as that section existed before its repeal by Amended Substitute House Bill 95 of the 125th general assembly;

(12) To lease for a period not to exceed forty years, notwithstanding any other division of this section, the state-owned property located at 408-450 East Town Street, Columbus, Ohio, formerly the state school for the deaf, to a developer in

accordance with this section. "Developer," as used in this section, has the same meaning as in section 123.77 of the Revised Code.

Such a lease shall be for the purpose of development of the land for use by senior citizens by constructing, altering, renovating, repairing, expanding, and improving the site as it existed on June 25, 1982. A developer desiring to lease the land shall prepare for submission to the department a plan for development. Plans shall include provisions for roads, sewers, water lines, waste disposal, water supply, and similar matters to meet the requirements of state and local laws. The plans shall also include provision for protection of the property by insurance or otherwise, and plans for financing the development, and shall set forth details of the developer's financial responsibility.

The department may employ, as employees or consultants, persons needed to assist in reviewing the development plans. Those persons may include attorneys, financial experts, engineers, and other necessary experts. The department shall review the development plans and may enter into a lease if it finds all of the following:

(a) The best interests of the state will be promoted by entering into a lease with the developer;

(b) The development plans are satisfactory;

(c) The developer has established the developer's financial responsibility and satisfactory plans for financing the development.

The lease shall contain a provision that construction or renovation of the buildings, roads, structures, and other

necessary facilities shall begin within one year after the date of the lease and shall proceed according to a schedule agreed to between the department and the developer or the lease will be terminated. The lease shall contain such conditions and stipulations as the director considers necessary to preserve the best interest of the state. Moneys received by the state pursuant to this lease shall be paid into the general revenue fund. The lease shall provide that at the end of the lease period the buildings, structures, and related improvements shall become the property of the state without cost.

(13) To manage the use of space owned and controlled by the department by doing all of the following:

(a) Biennially implementing, by state agency location, a census of agency employees assigned space;

(b) Periodically in the discretion of the director of administrative services:

(i) Requiring each state agency to categorize the use of space allotted to the agency between office space, common areas, storage space, and other uses, and to report its findings to the department;

(ii) Creating and updating a master space utilization plan for all space allotted to state agencies. The plan shall incorporate space utilization metrics.

(iii) Conducting a cost-benefit analysis to determine the effectiveness of state-owned buildings;

(iv) Assessing the alternatives associated with consolidating the commercial leases for buildings located in Columbus.

(c) Commissioning a comprehensive space utilization and capacity study in order to determine the feasibility of consolidating existing commercially leased space used by state agencies into a new state-owned facility.

(14) To adopt rules to ensure that energy efficiency and conservation is considered in the purchase of products and equipment, except motor vehicles, by any state agency, department, division, bureau, office, unit, board, commission, authority, quasi-governmental entity, or institution. The department may require minimum energy efficiency standards for purchased products and equipment based on federal testing and labeling if available or on standards developed by the department. When possible, the rules shall apply to the competitive selection of energy consuming systems, components, and equipment under Chapter 125. of the Revised Code.

(15) To ensure energy efficient and energy conserving purchasing practices by doing all of the following:

(a) Identifying available energy efficiency and conservation opportunities;

(b) Providing for interchange of information among purchasing agencies;

(c) Identifying laws, policies, rules, and procedures that should be modified;

(d) Monitoring experience with and the cost-effectiveness of this state's purchase and use of motor vehicles and of major energy-consuming systems, components, equipment, and products having a significant impact on energy consumption by the government;

(e) Providing technical assistance and training to state

employees involved in the purchasing process;

(f) Working with the department of development to make recommendations regarding planning and implementation of purchasing policies and procedures that are supportive of energy efficiency and conservation.

(16) To require all state agencies, departments, divisions, bureaus, offices, units, commissions, boards, authorities, quasi-governmental entities, institutions, and state institutions of higher education to implement procedures to ensure that all of the passenger automobiles they acquire in each fiscal year, except for those passenger automobiles acquired for use in law enforcement or emergency rescue work, achieve a fleet average fuel economy of not less than the fleet average fuel economy for that fiscal year as the department shall prescribe by rule. The department shall adopt the rule prior to the beginning of the fiscal year, in accordance with the average fuel economy standards established by federal law for passenger automobiles manufactured during the model year that begins during the fiscal year.

Each state agency, department, division, bureau, office, unit, commission, board, authority, quasi-governmental entity, institution, and state institution of higher education shall determine its fleet average fuel economy by dividing the total number of passenger vehicles acquired during the fiscal year, except for those passenger vehicles acquired for use in law enforcement or emergency rescue work, by a sum of terms, each of which is a fraction created by dividing the number of passenger vehicles of a given make, model, and year, except for passenger vehicles acquired for use in law enforcement or emergency rescue work, acquired during the fiscal year by the fuel economy

measured by the administrator of the United States environmental protection agency, for the given make, model, and year of vehicle, that constitutes an average fuel economy for combined city and highway driving.

As used in division (A)(16) of this section, "acquired" means leased for a period of sixty continuous days or more, or purchased.

(17) To correct legal descriptions or title defects, or release fractional interests in real property, as necessary to cure title clouds reflected in public records, including those resulting from boundary disputes, ingress or egress issues, title transfers precipitated through retirement of bond requirements, and the retention of fractional interests in real estate otherwise disposed of in previous title transfers.

(18)(a) To, with controlling board approval, sell state-owned real property that is not held for the benefit of an institution of higher education and is appraised at not more than one hundred thousand dollars by an independent third-party appraiser.

(b) To sell state-owned real property that is held for the benefit of an institution of higher education, provided all of the following are true:

(i) The board of trustees of the institution of higher education, or, in the case of a university branch district, any other managing authority, adopts a resolution approving the sale;

(ii) The real property is appraised at not more than ten million dollars by an independent third-party appraiser;

(iii) The controlling board approves the sale.

Notwithstanding any provision of law to the contrary, net proceeds from any disposition of real property made pursuant to division (A)(18) of this section shall, at the direction of the director of budget and management, be credited to a fund or funds in the state treasury, or to accounts held by an institution of higher education for purposes to be determined by the institution.

As used in division (A)(18) of this section, "institution of higher education" has the same meaning as in section 3345.12 of the Revised Code.

(B) This section and section 125.02 of the Revised Code shall not interfere with any of the following:

(1) The power of the adjutant general to purchase military supplies, or with the custody of the adjutant general of property leased, purchased, or constructed by the state and used for military purposes, or with the functions of the adjutant general as director of state armories;

(2) The power of the director of transportation in acquiring rights-of-way for the state highway system, or the leasing of lands for division or resident district offices, or the leasing of lands or buildings required in the maintenance operations of the department of transportation, or the purchase of real property for garage sites or division or resident district offices, or in preparing plans and specifications for and constructing such buildings as the director may require in the administration of the department;

(3) The power of the director of public safety and the registrar of motor vehicles to purchase or lease real property and buildings to be used solely as locations to which a deputy

registrar is assigned pursuant to division (B) of section 4507.011 of the Revised Code and from which the deputy registrar is to conduct the deputy registrar's business, the power of the director of public safety to purchase or lease real property and buildings to be used as locations for division or district offices as required in the maintenance of operations of the department of public safety, and the power of the superintendent of the state highway patrol in the purchase or leasing of real property and buildings needed by the patrol, to negotiate the sale of real property owned by the patrol, to rent or lease real property owned or leased by the patrol, and to make or cause to be made repairs to all property owned or under the control of the patrol;

(4) The power of the division of liquor control in the leasing or purchasing of retail outlets and warehouse facilities for the use of the division;

(5) The power of the director of development to enter into leases of real property, buildings, and office space to be used solely as locations for the state's foreign offices to carry out the purposes of section 122.05 of the Revised Code;

(6) The power of the director of environmental protection to enter into environmental covenants, to grant and accept easements, or to sell property pursuant to division (G) of section 3745.01 of the Revised Code;

(7) The power of the department of public safety under section 5502.01 of the Revised Code to direct security measures and operations for the Vern Riffe center and the James A. Rhodes state office tower. The department of administrative services shall implement all security measures and operations at the Vern Riffe center and the James A. Rhodes state office tower as

directed by the department of public safety.

(C) Purchases for, and the custody and repair of, buildings under the management and control of the capitol square review and advisory board, the opportunities for Ohioans with disabilities agency, the bureau of workers' compensation, or the departments of public safety, job and family services, ~~mental health and addiction services~~behavioral health, developmental disabilities, and rehabilitation and correction; buildings of educational and benevolent institutions under the management and control of boards of trustees; and purchases or leases for, and the custody and repair of, office space used for the purposes of any agency of the legislative branch of state government are not subject to the control and jurisdiction of the department of administrative services.

An agency of the legislative branch of state government that uses office space in a building under the management and control of the department of administrative services may exercise the agency's authority to improve the agency's office space as authorized under this division only if, upon review, the department of administrative services concludes the proposed improvements do not adversely impact the structural integrity of the building.

If an agency of the legislative branch of state government, except the capitol square review and advisory board, so requests, the agency and the director of administrative services may enter into a contract under which the department of administrative services agrees to perform any services requested by the agency that the department is authorized under this section to perform. In performing such services, the department shall not use competitive selection. As used in this division,

"competitive selection" has the meaning defined in section 125.01 of the Revised Code and includes any other type of competitive process for the selection of persons producing or dealing in the services to be provided.

(D) Any instrument by which real property is acquired pursuant to this section shall identify the agency of the state that has the use and benefit of the real property as specified in section 5301.012 of the Revised Code.

Sec. 123.012. (A) The department of administrative services, with controlling board approval, may enter into an enhanced lease agreement, with a private entity, in accordance with division (A)(5)(c) of section 123.01 of the Revised Code. The agreement may permit the private entity to utilize unproductive and unused state real property under the control of a state agency or a university or under the custody of the adjutant general. The agreement must set forth all of the following:

(1) The authorized use of the land, which shall include one of the following;

(a) To conduct commercial activity;

(b) To conduct research contemplated to advance a state economic interest;

(c) To support a public-private partnership for the purposes of divisions (A)(1)(a) and (b) of this section.

(2) The lease value;

(3) Whether the lease payments will include in-kind services that benefit the state, such as infrastructure improvements on the property;

(4) Any construction, demolition, or redevelopment that will be completed on the property under the lease agreement;

(5) Any requirements deemed prudent by the director of administrative services, or required by state and federal law, with respect to development of state property, environmental review, security review, public transparency, and fair market value assessment.

(B) An enhanced lease agreement under this section shall not do either of the following:

(1) Specify a term in excess of ninety-nine years;

(2) Authorize construction, demolition, or redevelopment on the property, or authorize any commercial or research activity, that might interfere with core government or military functions that may occur on adjacent state property.

(C) An enhanced lease agreement under this section shall provide that at the end of the lease period the buildings, structures, and related improvements, together with the land on which they are situated, become the property of the state without cost.

Sec. 123.17. (A)(1) The ~~department~~ board of ~~administrative services~~ trustees of a state university may lease land belonging to or under the control or jurisdiction of ~~a~~ the state university, not required nor to be required for use of the university, to a developer or developers in accordance with this section.

(2) The adjutant general may lease land belonging to or under the control or jurisdiction of the adjutant general, not required nor to be required for use of the Ohio organized militia, to a developer or developers in accordance with this

section.

"Developer," as used in this section, means a person, partnership, association, corporation, or community improvement corporation established pursuant to Chapter 1724. of the Revised Code who or which submits a development plan to the ~~department~~ board of trustees or the adjutant general as provided in this section and requests the ~~department~~ board or adjutant general to enter into a lease.

~~Such a~~ (B) A lease ~~of university land~~ under this section shall be for the purpose of development of the land by establishing, constructing, altering, repairing, expanding, ~~and~~ or improving industrial, distribution, commercial, ~~or~~ retail, residential, institutional, recreational, conservation, research, or other types of facilities. A developer desiring to lease land ~~of the university~~under this section for such development shall prepare and submit ~~to the department of administrative services and~~ to the board of trustees of the university or the adjutant general a plan for such development. Plans shall include provisions for roads, streets, sewers, water lines, waste disposal, water supply, and similar matters to meet the requirements of state and local laws. The plans shall also include provision for protection of the property by insurance or otherwise and plans for financing the development, and shall set forth details of the developer's financial responsibility.

(C) The ~~department of administrative services~~ state university or the adjutant general may employ as employees or consultants, persons needed to assist it in reviewing the development plans. Such persons may include attorneys, financial experts, engineers, and other necessary experts. The ~~department of administrative services~~ board of trustees or the adjutant

general shall review the development plans and may enter into a lease or instruct the department of administrative services to enter into a lease if ~~it~~ the board or adjutant general finds that:

~~(A)~~ (1) The best interests of the university or the Ohio organized militia will be promoted by entering into a lease with the developer.

~~(B)~~ (2) The development plans are satisfactory.

~~(C)~~ (3) The developer has established the developer's financial responsibility and satisfactory plans for financing the development.

(D) The ~~university~~ board of trustees, ~~approves the lease.~~

~~A lease may be entered into~~ the adjutant general, or the department of administrative services if requested by the board of trustees or the adjutant general, shall enter into a lease pursuant to this section for a term and an annual rent agreed to between the ~~department~~ board of trustees and the developer for a maximum term of forty years ~~and~~ , which may be renewed for a like or lesser term. The lease shall contain a provision that construction of buildings, structures, roads, and other necessary facilities ~~shall begin within one year after the date of the lease and~~ shall proceed according to a schedule agreed to between the ~~department~~ board of trustees or adjutant general and the developer or the lease will be terminated.

(E) Moneys received by the state pursuant to such leases shall be paid into the state treasury as an addition to the appropriation made to the university, or as an addition to the appropriation made to the adjutant general, as the case may be, which has control or jurisdiction of the land or to which the

land belongs.

Sec. 5913.09. (A) The adjutant general is the custodian of all military and other adjutant general's department property, both real and personal, belonging to the state.

(B) The adjutant general may make changes and improvements to military and other adjutant general's department property as the needs of the state and federal government and the exigencies of the service require. All improvements made upon that property belonging to the state, from moneys received either all or in part from the state or federal government, or both, become the property of the state, except as may be provided in an agreement and corresponding regulations by which the United States contributes to the cost of an improvement.

(C)(1) In accordance with applicable state and federal law and regulations, the adjutant general, with the approval of the governor, may acquire by purchase, lease, license, or otherwise, real and personal property necessary for the purposes of the department.

(2) In accordance with applicable state and federal law and regulations, the adjutant general, with the approval of the attorney general, may enter into contracts for the construction, repair, renovation, maintenance, and operation of military or other adjutant general's department property.

~~(3)~~ (3)(a) In accordance with applicable state and federal law and regulations, the adjutant general, with the approval of the governor, may lease or exchange all or part of any military or other adjutant general's department property or grant easements or licenses, if the lease, exchange, easement, or license is advantageous to the state.

(b) The adjutant general may authorize the director of administrative services to lease property under the custody of the adjutant general in accordance with section 123.012 or 123.17 of the Revised Code.

(4) All real property of the adjutant general's department shall be sold in accordance with section 5911.10 of the Revised Code.

(D)(1) Except as otherwise provided in this section, all income from any military or other adjutant general's department property of the state, not made a portion of the company, troop, battery, detachment, squadron, or other organization funds by regulations, shall be credited to the funds for the operation and maintenance of the Ohio organized militia, as the adjutant general directs, in accordance with applicable state and federal law and regulations and the agreements by which the United States contributes to the cost of operation and maintenance of the Ohio national guard.

(2) There is hereby created in the state treasury the camp Perry/buckeye inn operations fund. The fund shall consist of all amounts received as revenue from the rental of facilities located at the camp Perry training site in Ottawa county and the buckeye inn at Rickenbacker air national guard base in Franklin county, and all amounts received from the use of the camp Perry training site and its facilities, including shooting ranges. The moneys in the fund shall be used to support the facility operations of the camp Perry clubhouse and the buckeye inn. Investment earnings of the fund shall be credited to the general revenue fund.

Section 2. That existing sections 123.01, 123.17, and 5913.09 of the Revised Code are hereby repealed.

Section 3. This act shall be known as the Advancing Strategic State and Military Asset Efficiency and Transformation (ASSET) Act.