STORAGE NAME: h1739.brc
DATE: March 23, 2000

HOUSE OF REPRESENTATIVES
COMMITTEE ON
BUSINESS REGULATION & CONSUMER AFFAIRS
ANALYSIS

BILL #: HB 1739

RELATING TO: Public Facilities/Sale to Tenants

SPONSOR(S): Representative Greenstein

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) BUSINESS REGULATION & CONSUMER AFFAIRS
(2) GENERAL GOVERNMENT APPROPRIATIONS
(3)
(4)
(5)

I. SUMMARY:

Public facilities that have a majority of tenants that are private businesses will be required to be sold under certain circumstances upon petition of a majority of the private business tenants. The petitioning majority will have a right of first refusal when the public facility is sold under provisions of the bill. Proceeds of the sale will cover the costs of the sale to state government and the remainder will support capital improvements to other public facilities.

The bill has an indeterminate effect on state revenues and expenditures and no effect on local government.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1. Less Government Yes [x] No [] N/A []
2. Lower Taxes Yes [] No [] N/A [x]
3. Individual Freedom Yes [] No [] N/A [x]
4. Personal Responsibility Yes [x] No [] N/A []
5. Family Empowerment Yes [] No [] N/A [x]

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Title to state land is vested in the Board of Trustees of the Internal Improvement Trust Fund[1] (BOT). The BOT may sell state lands, however, a sale of state land must be approved by at least five of the seven members of the BOT[2]. The BOT receives administrative staffing from Division of State Lands, Department of Environmental Protection. The BOT disposes of state lands, including improvements on the land, pursuant to provisions of Ch. 253, F.S., and Ch. 18-2, F.A.C.

C. EFFECT OF PROPOSED CHANGES:

The Department of Management Services, Division of Facilities Management, is directed to sell certain public facilities under certain circumstances. A public facility must be sold if it is occupied by a majority of private business tenants and a majority of those tenants petition for sale under one or more of the following situations:

1) the public facility is over 25 years old and in need of substantial capital improvement[3],

2) the Office of Program Policy Analysis and Governmental Accountability has questioned the long-term viability of the facility in a report or states that sale of the facility is appropriate,

3) a budget request for substantial capital improvement has been made, by the state agency tenant, and denied for two consecutive years,

4) asbestos has been discovered in the facility and removal has not begun within two years of discovery,

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[1] S. 253.03, F.S. The BOT is constituted of the Governor and Cabinet pursuant to s. 253.02, F.S.

[2] S. 253.02, F.S.

[3] The bill defines substantial capital improvement to mean when the cost of an improvement exceeds 25% of the value of the facility, including the removal and replacement of any outdated facilities. Section 1(2), HB 1739.

5) a Department of Management Services budget request for substantial improvement has been unfunded for two years.

The Department of Management Services, Division of Facilities Management, is given six months to procure a maximum of three appraisals from which the offer price will be averaged. The bill mandates that a sale agreement be executed within 90 days of the return of the appraisals and gives the petitioning tenants a right of first refusal only in instances where the public facility is sold pursuant to the provisions of the bill. The proceeds of the sale must be used to cover the costs of the sale to state government and the remainder must be used to fund capital improvements to other state facilities.

D. SECTION-BY-SECTION ANALYSIS:

N/A

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See fiscal comments section below.

2. Expenditures:

See fiscal comments section below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Tenants will have the option to exercise their rights under this bill, therefore, the private sector will only be impacted to the extent that these rights are exercised.

D. FISCAL COMMENTS:

When the provisions of the bill are exercised by petitioning tenants, revenues will increase to the extent of the sale price less costs to government and expenditures will be reduced to the extent associated with the maintenance of the former public facility. The number of qualifying public facilities and their associated costs and values are unknown at this time.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

Section 1 (c), Article VII, of the Florida Constitution prohibits the drawing of funds from the Treasury without an appropriation. The redistribution of proceeds from the sale of public facilities to the capital improvement of other facilities may require that the funds be placed in a trust fund subject to the discretion of the Legislature.

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

The Department of Management Services suggests that the appropriate reference to the area of the department affected by the bill may be the Department of Management Services, generally, since Facilities Management does not exist as a division. However, since title to state lands is vested in the BOT, the bill may need to be amended to require the BOT to sell public facilities under the provisions of the bill.

The bill contains terms that may be vague or inconsistent. An amendment may be appropriate to clarify the sponsor's intent and unify the provisions of the bill in attaining its goals.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON BUSINESS REGULATION & CONSUMER AFFAIRS:

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