

**SUBSTITUTE FOR
HOUSE BILL NO. 6484**

A bill to amend 1964 PA 183, entitled

"An act creating the state building authority with power to acquire, construct, furnish, equip, own, improve, enlarge, operate, mortgage, and maintain facilities for the use of the state or any of its agencies; to act as a developer or co-owner of facilities as a condominium project for the use of the state or any of its agencies; to authorize the execution of leases pertaining to those facilities by the building authority with the state or any of its agencies; to authorize the payment of true rentals by the state; to provide for the issuance of revenue obligations by the building authority to be paid from the true rentals to be paid by the state and other resources and security provided for and pledged by the building authority; to authorize the creation of funds; to authorize the conveyance of lands by the state or any of its agencies for the purposes authorized in this act; to authorize the appointment of a trustee for bondholders; to permit remedies for the benefit of parties in interest; to provide for other powers and duties of the authority; and to provide for other matters in relation to the authority and its obligations,"

by amending sections 1 and 7 (MCL 830.411 and 830.417), as amended by 2005 PA 67, and by adding section 8b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

1 (a) "Building authority" means the state building authority
2 created by this act.

3 (b) "State" means the legislative, executive, and judicial
4 branches of state government and includes institutions of higher
5 education.

6 (c) "Existing facilities" means all existing buildings and
7 other facilities, the sites for the buildings or facilities, and
8 furnishings or equipment for the buildings or facilities located on
9 real property acquired by the building authority under the terms of
10 this act.

11 (d) "Facilities" means furnishings or equipment, capital
12 maintenance improvements, existing facilities, and all new
13 buildings, parking structures and lots, **RAIL TRANSPORTATION**
14 **PROJECTS, NEW FIXED-GUIDEWAY TRANSIT INFRASTRUCTURE PROJECTS,** and
15 other facilities, the sites for the buildings, structures, or
16 facilities, and furnishings or equipment for the buildings,
17 structures, or facilities in any way acquired or constructed by the
18 building authority under this act.

19 (e) "True rental" means the rental required to be paid by the
20 state to the building authority under a lease between the state and
21 the building authority entered into under this act. The true rental
22 shall be paid by the state to the building authority or its
23 assignee periodically as specified in the lease with the building
24 authority and shall be in periodic amounts that do not exceed the
25 economic or market value to the state of the leased facilities. The
26 economic or market value to the state of the leased facilities
27 shall be determined by the state administrative board before the

1 execution of a lease by the state under this act by an appraisal
2 made by or for the state using commonly employed procedures that
3 will fairly determine economic or market value. When using
4 procedures commonly employed by appraisers, an appraisal may set
5 forth a range for the true rental that reflects variations that may
6 occur in the components upon which the appraisal is based. If a
7 lease is only for furnishings or equipment, the state
8 administrative board may employ an appraiser to determine the
9 economic or market value to the state of the furnishings or
10 equipment, or the state administrative board may approve an
11 alternative method to determine the economic or market value to the
12 state of the furnishings or equipment. The alternative method may
13 include the determination of the economic or market value to the
14 state by a person who is in the business of leasing furnishings or
15 equipment.

16 (f) "Board" means the board of trustees of the building
17 authority.

18 (g) "Bond" or "obligation" means a bond, note, or other debt
19 obligation issued by the building authority under section 8.

20 (h) "Institution of higher education" means a college or
21 university listed in section 4 or 5 of article VIII of the state
22 constitution of 1963 or described in section 6 of article VIII of
23 the state constitution of 1963 or a community or junior college
24 established under section 7 of article VIII of the state
25 constitution of 1963.

26 (i) "Equipment" means machinery, hardware, or any other type
27 of equipment or a group of integrally related equipment, which

1 shall meet all of the following:

2 (i) The equipment or the predominant portion of the group of
3 integrally related equipment is located in or is physically
4 connected to a state occupied building or facility or is located on
5 state owned property.

6 (ii) The portion of the group of integrally related equipment
7 that is not described in subparagraph (i) is integral to the
8 functioning of the integrally related equipment described in
9 subparagraph (i).

10 (iii) The projected useful life of the equipment is 5 years or
11 more.

12 (j) "Party in interest" includes an owner of an obligation
13 issued under this act; a counterparty to an agreement relating to
14 security or management of payment, revenue, or interest rate
15 exposure, including, but not limited to, a bank, bond insurance
16 provider, or security firm, as its interest appears; and a trustee
17 or fiduciary duly designated by the building authority or otherwise
18 to act on behalf of 1 or more owners or counterparties.

19 (k) "Capital maintenance improvements" means an expenditure to
20 provide capital maintenance that is an asset depreciable under the
21 internal revenue code that is used by this state or an institution
22 of higher education.

23 Sec. 7. (1) The state may lease facilities from the building
24 authority for public purposes within the concepts provided in this
25 act, upon terms and conditions agreed upon and subject to the
26 limitations and provisions provided in section 6. Before execution,
27 a lease shall be approved by the state administrative board and,

1 except as provided in subsections (3) and (4), by concurrent
2 resolution of the legislature concurred in by a majority of the
3 members elected to and serving in each house. The votes and names
4 of the members voting shall be entered in the journal. The lease as
5 approved by the building authority and the administrative board,
6 and if required, the legislature or an institution of higher
7 education, may provide for a determinable true rental as a range as
8 permitted under section 1(e).

9 (2) If a lease is approved containing a true rental stated as
10 a range, then actual rental to be paid under the lease shall be
11 fixed at an amount certified by the appraiser and, after the
12 certification, shall be approved by the state administrative board
13 and the building authority. The appraiser shall not certify, and
14 the board and authority shall not approve, a true rental amount
15 unless the amount is fixed within or below the stated range. A
16 lease shall not be executed more than 3 years after its approval by
17 the legislature. The state shall pay to the building authority or
18 its assignee the true rental at the times, in the manner, and at
19 the place specified in the lease. The governor and the budget
20 director shall include in the annual budget of the state for each
21 year an amount fully sufficient to pay the true rental required to
22 be paid by the state to the building authority or its assignee
23 required by any lease under this act. If the lease is for an
24 institution of higher education, then in addition, the lease shall
25 be authorized by the institution of higher education and signed by
26 its authorized officers.

27 (3) The state, except institutions of higher education, may

1 lease from the building authority property that is comprised only
2 of furnishings or equipment if all of the following requirements
3 are met:

4 (a) Before a lease that is only for furnishings or equipment
5 is executed, the general form of the lease shall be approved by
6 concurrent resolution of the legislature concurred in by a majority
7 of the members elected to and serving in each house. The form of
8 the lease approved by the legislature need not contain a
9 description of the property to be leased or the rental or a rental
10 range. However, before the state executes the lease, the
11 description of the property to be leased and the rental shall be
12 approved by the state administrative board as provided in
13 subsection (2). The concurrent resolution of the legislature
14 approving the form of lease shall also approve a maximum amount of
15 furnishings and equipment that may be leased during the 2 years
16 following the approval of the lease pursuant to the form of lease
17 approved.

18 (b) A lease that is only for furnishings or equipment shall be
19 executed only if the furnishings or equipment are for use by a
20 state agency as determined under the management and budget act,
21 1984 PA 431, MCL 18.1101 to 18.1594.

22 (4) Through September 30, ~~2007~~**2012**, an institution of higher
23 education, this state, and the building authority may enter into a
24 lease for capital maintenance improvements if, before a lease that
25 is only for capital maintenance improvements is executed, the
26 general form of the lease is approved by concurrent resolution of
27 the legislature concurred in by a majority of the members elected

1 to and serving in each house. The form of the lease approved by the
2 legislature need not contain a description of the capital
3 maintenance improvements to be leased or the rental or a rental
4 range. However, before this state executes the lease, the
5 description of the capital maintenance improvements to be leased
6 and the rental shall be approved by the state administrative board.

7 (5) The building authority shall retain title to capital
8 maintenance improvements during the term of a lease approved under
9 subsection (4). The building authority shall not be required to
10 have any ownership interest in the structure to which a capital
11 maintenance improvement is made. Title to the capital maintenance
12 improvement shall be evidenced by a bill of sale.

13 (6) The actual rental to be paid under a lease approved under
14 subsection (4) for a capital maintenance improvement shall be
15 determined by an appraiser or by an alternate method and, after the
16 determination, shall be approved by the state administrative board
17 and the building authority. The state administrative board shall
18 approve any alternate method for determining actual rental, and an
19 alternate method may include a determination by a person or
20 business that is in the business of providing capital maintenance
21 improvements to institutions of higher education.

22 (7) The state shall pay to the building authority or its
23 assignee the true rental at the times, in the manner, and at the
24 place specified in the lease approved under subsection (4). The
25 governor and the budget director shall include in the annual budget
26 of the state for each year an amount fully sufficient to pay the
27 true rental required to be paid by this state to the building

1 authority or its assignee required by any lease under this act.

2 SEC. 8B. THE BOARD OF THE BUILDING AUTHORITY MAY AUTHORIZE UP
3 TO \$100,000,000.00 OF BOND PROCEEDS FOR FACILITIES ASSOCIATED WITH
4 RAIL TRANSPORTATION PROJECTS OR NEW FIXED-GUIDEWAY TRANSIT
5 INFRASTRUCTURE PROJECTS.