COMMONWEALTH OF KENTUCKY STATE FISCAL NOTE STATEMENT
LEGISLATIVE RESEARCH COMMISSION
2017 REGULAR SESSION

MEASURE

2017 BR NUMBER **1247** **SENATE** BILL NUMBER **238GA**

RESOLUTION NUMBER_____ AMENDMENT NUMBER

SUBJECT/TITLE An ACT relating to construction and declaring an emergency.

SPONSOR Senator David Givens

NOTE SUMMARY

FISCAL ANALYSIS: ☒ IMPACT ☐ NO IMPACT ☐ INDETERMINABLE IMPACT

LEVEL(S) OF IMPACT: ☒ STATE ☐ LOCAL ☐ FEDERAL

BUDGET UNIT(S) IMPACT: **Finance and Administration Cabinet/Any state agency occupying space in the 300 Building or new Capital Plaza complex**

FUND(S) IMPACT: ☒ GENERAL ☐ ROAD ☒ FEDERAL ☒ RESTRICTED AGENCY _____ ☐ OTHER

FISCAL SUMMARY

FISCAL ESTIMATES	2016-2017	2017-2018	ANNUAL IMPACT AT FULL IMPLEMENTATION
REVENUES			Indeterminable
EXPENDITURES		Indeterminable	Indeterminable
NET EFFECT		(Indeterminable)	(Indeterminable)

( ) indicates a decrease/negative

MEASURE'S PURPOSE: The measure allows the Finance and Administration Cabinet to assess renovation costs to state agencies occupying a building that the Commonwealth currently leases and will own upon termination or expiration of the lease. At present, this applies only to the 300 Building in Frankfort, Kentucky, which currently houses the Energy and Environment and Education and Workforce Development Cabinets, as well as the Kentucky Department of Education. The measure also authorizes the Commonwealth to enter into a public-private partnership for the renewal of the Capital Plaza in downtown Frankfort, Kentucky.

PROVISIONS/MECHANICS: Section 1 amends KRS 56.813 to allow the Finance and Administration Cabinet to use up to $600,000, without additional approval by the General Assembly, in funds from state agencies to improve, renovate, or refit a facility occupied by these state agencies to better satisfy their needs. The facility would be a building that the state will own upon termination of the lease or expiration of the lease term and for which no modification of the lease may be made to amortize improvements to the property.

Section 2 amends KRS 56.823 to require reporting to the Capital Projects and Bond Oversight Committee (CPBOC) of potential improvements, renovations, or refitting of a facility that the state will own upon termination of the lease or expiration of the lease term and for which no modification of the lease may be made to amortize improvements to the property. This section also specifies the elements to be included in the reporting to CPBOC.

Section 3 authorizes the Department for Facilities and Support Services (DFSS) within the Finance and Administration Cabinet to enter into a public-private partnership (explicitly identified for a capital project with an aggregate value of $25,000,000 or more as required by KRS 45A.077), built-to-suit, or lease-purchase for the renewal of the Capital Plaza in downtown Frankfort, Kentucky under KRS 45.763.

Section 4 notes that in addition to the security and vandalism risks for the state, costs for maintaining the existing Capital Plaza Tower could reach $800,000 per year when vacant. This section also includes an emergency clause, allowing the legislation to become effective immediately upon approval by the Governor rather than 90 days after adjournment.

FISCAL EXPLANATION:

Sections 1 and 2

By statute, when state agencies occupy leased premises and have no intention of owning the facility, they are required to amortize the costs rather than pay the costs upfront when requesting improvements greater than $10,000. Therefore, the annual fiscal impact to agencies would be dependent upon the costs of the improvements and the method in which the Finance and Administration Cabinet assesses the costs of any improvements to state agencies accommodated in the 300 Building and future buildings in which the Commonwealth leases and eventually plans to own. No costs would be associated with the reporting requirements to the CPBOC.

Sections 3 and 4

As the Request for Proposal has not been issued for the renewal of the Capital Plaza, there are no cost estimates for the project at this time. Payments made by the Commonwealth would be determined by the scope of the project, financing vehicle and financial market conditions, and level of local and private investment (if any).

As reported in official statements (disclosure documents presented to potential investors) for debt issued by the State Property and Buildings Commission, only one facility was referenced as financed through a public-private partnership for the benefit of the Commonwealth: the 300 Building in Frankfort, Kentucky. Certificates of Participation in the amount of $68,575,000 were issued to fund the 300 Building and rental payments under a lease agreement with the developer total $4.4 million per year for 35 years. The rental payments are comprised of a base rent component, which is equal to the principal and interest on the Certificates as well as the trustee fees, and an additional rent component (operations and maintenance). The aggregate additional cost to the agencies (state employees were consolidated from seven locations) was about $600,000 per year (inclusive of utilities/janitorial and exclusive of furniture). This equated to around $410 per staff person.

If financing is accessed via the capital markets in a similar manner to the public-private partnership for the 300 Building, then the lease signed by the Commonwealth with the developer would act as security for the financing of the renewal of the Capital Plaza. The obligation to pay base rent under the lease agreement would be comparable to the obligation to pay rent under leases securing bonds issued by the Commonwealth. While transactions for public-private partnerships secured by lease agreements are not included in the Commonwealth's "rule of thumb" six percent debt service to revenue ratio, they could be, with the exception of universities, included in net-tax supported debt (NTSD) as calculated by the rating agencies. Terms for these financings may not be as favorable as utilizing proceeds from debt issued by the State Property and Buildings Commission.

Rental payments from state agencies are not anticipated to begin until occupancy of the renewed Capital Plaza. The typical mechanism for delaying rental payments until occupancy is capitalizing interest which may add around seven percent to the project costs, depending upon length of construction. Therefore, there would be no fiscal impact until approximately fiscal year 2020 (assuming a 24-month construction period).

The fiscal impact to state entities that would rent space in the Capital Plaza would be the difference between current rental payments (agencies either pay rent to DFSS for buildings owned by the Commonwealth or to outside entities) and new rental payments. When factoring the annual cost statewide, up to $800,000 for maintenance of the current structure would need to be deducted.

DATA SOURCE(S): **LRC Staff, Finance and Administration Cabinet**
PREPARER: **Katherine L. Halloran** **NOTE NUMBER**: **156** **REVIEW**: **JRS** **DATE**: **3/13/2017**