

**48.111 Governor to include in executive budget recommendation a recommended program for rental of space costing more than \$200,000 annually -- Restriction on certain leases -- Exception.**

- (1) The Governor shall include in the executive branch budget recommendation and in the draft branch budget bill for the executive branch submitted to each even-numbered-year regular session of the General Assembly pursuant to KRS 48.110, for the biennium period beginning July 1, 1992, and for each biennium thereafter, a recommended program for rental of any space for which the annual rental cost will exceed two hundred thousand dollars (\$200,000).
- (2) The recommended program for leased space shall include:
  - (a) A summary description of each specific two hundred thousand dollar (\$200,000) lease project recommended for funding during the biennium; and
  - (b) For each project:
    1. The name of the agency for which space will be leased;
    2. The purpose and justification for the lease;
    3. Whether the lease contains a purchase option which will be exercised during the biennium pursuant to KRS 56.806(4) and the estimated purchase price;
    4.
      - a. Whether the lease contains a lease-purchase which will be completed during the biennium pursuant to KRS 56.806(5) prior to the total amortization, through lease payments, of the fair market value of the leased property as of the time the lessor and the Commonwealth entered into the lease; and
      - b. The estimated sum of money that will have to be paid in addition to rent paid to complete the purchase;
    5. The estimated cost of the lease; and
    6. The recommended sources of funds.
- (3) All information required by subsection (2) of this section shall be included in the executive branch budget recommendation. The branch budget bill for the executive branch shall contain only the information specified in subparagraphs 1. and 2. of subsection (2)(b) of this section.
- (4) Except as provided in subsection (5) of this section, no lease with an annual rental cost which will exceed two hundred thousand dollars (\$200,000) shall be executed unless the lease has been identified and included in the branch budget bill. The branch budget bill for the executive branch shall authorize the expenditure by the budget unit that will occupy the premises.
- (5) A lease with an annual rental cost exceeding two hundred thousand dollars (\$200,000) may be authorized even though it is not specifically listed in the branch budget bill, subject to the following conditions and procedures:
  - (a) A lease is awarded as the result of the consolidation of leases in which case, in addition to subsection (6) of this section, the provisions of KRS 56.803 and 56.823(2) or of KRS 56.805(2) and 56.823(3) shall apply, as appropriate; or

- (b) A lease is awarded as the result of an agency occupying substantially less space than it should, under the standards for space set by the Department for Facilities Management, in which case, in addition to subsection (6) of this section, the provisions of KRS 56.803 and 56.823(2) or of KRS 56.805(2) and 56.823(3) shall apply, as appropriate. The space allocated under the new lease shall not exceed the space which should be allocated pursuant to the standards for space; or
  - (c) A lease with an annual rental cost of less than two hundred thousand dollars (\$200,000) is renewed or replaced for an annual rental cost that exceeds two hundred thousand dollars (\$200,000), but only if that request and subsequent renewal or replacement lease is:
    - 1. From the same state agency lessee whose initial lease was under two hundred thousand dollars (\$200,000);
    - 2. For the same or substantially the same square footage as the initial lease that was under two hundred thousand dollars (\$200,000);
    - 3. The result of the competitive leasing process authorized by KRS 56.803;
    - 4. For an annual lease payment of less than two hundred and fifty thousand dollars (\$250,000); and
    - 5. Effective only until June 30 of the next even-numbered year unless authorized in the branch budget bill; or
  - (d) A lease is awarded as the result of an emergency in which case the provisions of KRS 56.805(3) and (4) and KRS 56.823(5) shall apply; or
  - (e)
    - 1. Fifty percent (50%) or more of the actual cost shall be funded by federal or private funds; and
    - 2. Money specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallocated for expenditure on the lease. Money utilized shall not jeopardize any existing program and shall not require the use of current general funds specifically dedicated to existing programs; and
    - 3. The Finance and Administration Cabinet shall comply with the requirements of subsection (6) of this section.
- (6) (a) No later than five (5) business days after an advertisement for lease proposals pursuant to paragraph (a) or (b) of subsection (5) of this section, the cabinet shall provide the Capital Projects and Bond Oversight Committee with a copy of the advertisement and shall state in writing to the committee that the copy is being provided in compliance with this paragraph.
- (b) Prior to final authorization of a lease pursuant to paragraph (e) of subsection (5) of this section, the cabinet shall report to the Capital Projects and Bond Oversight Committee:
- 1. The name of the agency for which space will be leased;
  - 2. The purpose and justification for the lease;
  - 3. The estimated cost of the lease;

4. The source of funds; and
  5. Whether the requirements of paragraph (e) of subsection (5) of this section have been met.
- (c) Within thirty (30) days after the report required in paragraph (b) of this subsection has been submitted to the committee, the committee shall conduct its review and decide whether to approve or disapprove the proposed lease authorization. The Legislative Research Commission shall promptly transmit the committee's findings and determinations to the Finance and Administration Cabinet.
- (d) If the committee disapproves a proposed lease authorization, the secretary of the Finance and Administration Cabinet shall:
1. Revise the proposed lease authorization to comply with the objection of the committee; or
  2. Cancel the proposed lease authorization; or
  3. Determine to proceed with the proposed lease authorization disapproved by the committee.
- (e) The decision made by the secretary of the Finance and Administration Cabinet under paragraph (d) of this subsection shall be communicated to the committee in writing within thirty (30) days of the committee's disapproval.
- (f) The Legislative Research Commission shall maintain records of the committee's disapproval of a proposed lease authorization and the cabinet's report of its actions on a disapproved proposed lease authorization. If the committee disapproves a proposed lease authorization, the Legislative Research Commission shall transmit the committee's disapproval and the cabinet's action on the disapproval to the appropriate interim joint committee of the Legislative Research Commission and to the General Assembly when next convened in an even-numbered-year regular session.
- (g) If, after committee review, a lease is authorized, the lease shall be awarded pursuant to this section and KRS 43.050 and 56.800 to 56.823 and shall be subsequently reviewed pursuant to the appropriate subsection of KRS 56.823.

**Effective:** June 8, 2011

**History:** Amended 2011 Ky. Acts ch. 73, sec. 8, effective June 8, 2011. -- Amended 2009 Ky. Acts ch. 78, sec. 43, effective June 25, 2009. -- Amended 2001 Ky. Acts ch. 58, sec. 2, effective June 21, 2001. -- Amended 2000 Ky. Acts ch. 50, sec. 1, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 539, sec. 1, effective July 15, 1998. -- Amended 1994 Ky. Acts ch. 44, sec. 1, effective July 15, 1994; ch. 177, sec. 1, effective July 15, 1994; and ch. 387, sec. 24, effective July 15, 1994. -- Created 1990 Ky. Acts ch. 512, sec. 1, effective July 13, 1990.