

IC 8-14.5-5

Chapter 5. Leases With the Department

IC 8-14.5-5-1

Authority and department powers

Sec. 1. (a) In addition to its other powers, the department may enter into a lease or leases with the authority under section 2 or 3 of this chapter for any or all of the purposes set forth in this article.

(b) The authority has all the powers necessary and incidental to carry out the terms and conditions of leases under this chapter.

(c) If the authority and the department decide to enter into a lease under this chapter, the authority and the department may enter into a separate lease for each project or may enter into one (1) or more master leases for several projects.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-5-2

Mandatory lease provisions

Sec. 2. (a) A lease entered into under this section must include the following:

(1) A statement that the term of the lease is for a period coextensive with the biennium used for state budgetary and appropriation purposes with a fractional period when the lease begins, if necessary.

(2) A statement that the term of the lease is extended from biennium to biennium, with the extensions not to exceed a lease term of twenty-five (25) years, unless either the authority or the department gives notice of nonextension at least six (6) months before the end of a biennium, in which event the lease expires at the end of the biennium in which the notice is given.

(3) A provision plainly stating that the lease does not constitute an indebtedness of the state within the meaning or application of any constitutional provision or limitation, and that lease rentals are payable by the department solely from biennial appropriations, for the actual use or availability for use of projects provided by the authority, with payment commencing no earlier than the time the use or availability commences.

(4) Provisions requiring the department to pay rent at times and in amounts sufficient to pay in full:

(A) the debt service payable under the terms of any bonds or notes issued by the authority and outstanding with respect to any project, including any required additions to reserves for the bonds or notes maintained by the authority; and

(B) additional rent as provided by the lease;

subject to appropriation of money to pay lease rentals.

(5) Provisions requiring the department to operate and maintain the project or projects during the term of the lease.

(6) A provision in each master lease for two (2) or more projects requiring that each project added to the master lease shall be covered by a supplemental lease describing the

particular project, stating the additional rental payable and providing that all lease covenants, including the obligation to pay the original and additional rent under any supplement, shall be unitary and include all projects covered, whether by the master lease or a supplemental lease.

(b) A lease entered into under this section may contain other terms and conditions that the authority and the department consider appropriate.

(c) The department shall request an appropriation for payment of lease rentals on any lease entered into under this section in writing at a time sufficiently in advance of the date for payment of the lease rentals so that an appropriation may be made in the normal state budgetary process.

(d) If the department fails at any time to pay to the authority when due any lease rentals on any lease under this section, the chairman of the authority shall immediately report the unpaid amount in writing to the governor and in an electronic format under IC 5-14-6 to the general assembly.

As added by P.L.68-1988, SEC.12. Amended by P.L.28-2004, SEC.73.

IC 8-14.5-5-3

Mandatory lease provisions

Sec. 3. (a) A lease entered into under this section must include the following:

(1) The term of the lease, which may not exceed weighted average useful life of the project or projects.

(2) A provision plainly stating that the lease does not constitute an indebtedness of the state within the meaning or application of any constitutional provision or limitation, and that lease rentals are payable by the department solely for the annual use or availability for use of projects provided by the authority, with payment commencing no earlier than the time the use or availability commences.

(3) Provisions requiring the department to pay rent at times and in amounts sufficient to pay in full the following:

(A) The debt service payable under the terms of any bonds or notes issued by the authority and outstanding with respect to any project, including any required additions to reserves for the bonds or notes maintained by the authority.

(B) Additional rent as provided by the lease.

(4) Provisions requiring the department to operate and maintain the project or projects during the term of the lease.

(5) A provision in each master lease for two (2) or more projects requiring that each project added to the master lease shall be covered by a supplemental lease describing the particular project, stating the additional rental payable and providing that all lease covenants, including the obligation to pay the original and additional rent under any supplement, shall be unitary and include all projects covered, whether by the

master lease or a supplemental lease.

(b) A lease entered into under this section may contain other terms and conditions that the authority and the department consider appropriate.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-5-4

Sale or conveyance of transportation system

Sec. 4. The department may sell, transfer, or convey by any means any transportation system to the authority through negotiation of a lease. The department may lease any existing transportation system or property under its control to the authority for construction of a project, which project may be leased to the department.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-5-5

Payment from revenues; lease rentals; grant anticipation revenue bonds

Sec. 5. The department shall pay lease rentals for leases entered into under this chapter and securing bonds issued under IC 8-14.5-6 from revenues transferred to the state highway road construction and improvement fund or the crossroads 2000 fund before making any other disbursements from those funds. The department shall pay lease rentals for leases entered into under this chapter and for securing grant anticipation revenue bonds or notes issued under IC 8-14.5-7 from federal highway revenues (as defined in IC 8-14.5-7-2) transferred to the grant anticipation fund before making any other disbursements from the grant anticipation fund.

As added by P.L.68-1988, SEC.12. Amended by P.L.260-1997(ss), SEC.53; P.L.246-2005, SEC.82.