



Date Amended:	01/26/10	Bill No:	AB 151
Tax:	Administration	Author:	Jones and Runner
Related Bills:		Position:	Support as Sponsor

BILL SUMMARY

This Board of Equalization (BOE)-sponsored bill would authorize the Department of General Services (DGS) to investigate the potential terms of a sale, exchange, lease, or any combination thereof, of the current BOE headquarters building located at 450 N Street in Sacramento.

Summary of Amendments

Since the previous analysis, the bill was amended to delete “and negotiate” in regards to DGS’s authority under this bill.

ANALYSIS

CURRENT LAW

Existing law authorizes the DGS to perform various functions with regard to state property and provides for the sale, lease, or transfer of surplus state property, if authorized or contemplated by law.

Existing Article 2 (commencing with Section 14660) of Chapter 2 of Part 5.5 of Division 3 of Title 2 of the Government Code, authorizes DGS to acquire, construct, lease, or transfer state property, as specified, and when specifically authorized by the Legislature.

Government Code Section 14660 authorizes DGS to acquire title to real property in the name of the State whenever the acquisition of real property is authorized or contemplated by law, if no other state agency is specifically authorized and directed to acquire it.

Government Code Section 14669 authorizes DGS to hire, lease, lease-purchase, or lease with an option to purchase any real or personal property for the use of any state agency if DGS deems the hiring or leasing is in the State’s best interest and is specifically authorized to do so by the Legislature.

PROPOSED LAW

This bill would authorize DGS to investigate the potential (1) terms of a sale, exchange, lease, or any combination thereof, of all or a portion of the Sacramento property, as defined, and (2) use of anticipated net proceeds from that sale, exchange, or lease to acquire the land and facilities necessary to serve as a headquarters for the BOE. The bill specifies that DGS is not authorized to dispose of the Sacramento property or to acquire land and facilities.

This bill defines the following terms:

“Lease” or “leases” means the selection and acquisition of a lease-purchase, lease-purchase finance, or lease with an option to purchase.

“Sacramento property” means “within the City of Sacramento, approximately 610,000 gross square feet of office space, with improvements, on city blocks bounded by “N” Street on the north, 5th Street on the east, “O” Street on the south, and 4th Street on the west that is currently used for state offices, including offices of the State Board of Equalization.”

This bill states that it is the intent of the Legislature, in the 2010-11 Budget Act, to transfer operating funds from the BOE to DGS to pay for DGS’s actual costs for actions taken pursuant to this bill.

As a non-urgency measure, this bill would take effect on January 1, 2011.

BACKGROUND

The BOE headquarters building located at 450 N Street is owned by the State of California and has property management services provided by DGS. The BOE is the single tenant and pays rent as identified annually by the DGS to occupy the building including any additional costs to upgrade, operate, or fund other special repairs to the building.

Purchase and Repairs. In 1993, the State, through the DGS, entered in to a lease/purchase agreement with CalPERS for the 450 N Street building. In 2006, the State exercised its option to purchase the building. A loan of \$81,001,600 was approved from the Pooled Money Investment Account effective in 2007. As of November 20, 2009, the State has an outstanding balance of \$90,763,037 for the loan payments, accrued interest and administrative fees.

In 2005, repairs to the building were estimated at \$15.5 million. After several assessments of the building, including water intrusion and infrastructure studies, the current estimate for all building repairs is approximately \$68 million, including \$24.6 million spent to date, and steadily rising. This is a \$52.5 million increase from the original estimate.

Issues and Challenges. The following explains the issues and challenges related to the 450 N Street building.

Tenant Rights. As a tenant with no ownership interest, BOE should not be responsible for paying for the extensive repairs needed for the State’s 450 N Street building. However, since 2005, BOE has been responsible for requesting additional funding from the Department of Finance or redirecting funds away from both its operating budget and BOE’s mission to fund the building repairs. Moreover, BOE has continued to pay full rent for the building, including space unavailable due to water intrusion and other infrastructure problems.

Ongoing Problems. BOE moved into the 450 N Street building in 1993 and immediately experienced water intrusion during the first season of heavy rains. DGS has attempted to repair the building, but the problems continue.

Another major problem was the curtain wall window system failure, which was identified in 1998, in which windows leaked and fell to the street below and onto the surface of the attached parking garage (7 windows fell between 1999 and 2005). This necessitated a \$15.5 million repair project that was funded by the Budget Item 9840 funds for contingencies/emergencies and through BOE’s operating budget.

The curtain wall project was nearing completion in 2007 when mold growth caused by ongoing water intrusion was discovered on the top floors (22, 23 and 24) of the building, resulting in the closure of those floors and implementation of a mold remediation

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project. Approximately 200+ employees were required to be relocated outside of the building due to the mold and resultant floor closures. The discovery of mold growth on the top floors and continued water intrusion events necessitated an inspection of the entire 450 N Street building. These inspections led to the discovery of mold growth on every floor of the building. DGS's consultants recommended remediation of this mold and DGS's current estimate for the remediation project is \$32 million.

Operating Systems. As the building is approximately 17 – 18 years old, DGS commissioned an infrastructure study to determine the useful life remaining in the 450 N Street building mechanical systems (i.e., HVAC, water pumps, and elevators). Based on the study's findings, recommendations for additional work include:

- Elevator modernization/infrastructure with an estimated \$2.3 million cost.
- Various infrastructure repairs with an estimated \$18 million cost.

If funding can be identified, these additional repair projects would continue over the next five years.

Mold Remediation Plan. It appears as though the DGS mold remediation plan calls for the remediation of mold growth in the occupied areas and work spaces. Mold inside wall cavities or in other inaccessible areas will not be remediated. After completion of the project, mold will remain in the interstitial spaces (spaces where staff have no access) of the building. When the work is complete, the State will have spent a projected \$32 million for repairs related to water damage and mold and end up with a building that requires special management protocols.

These cost estimates assume no new problems arise. Unfortunately, the State will still have a building with encapsulated mold growth which will require special protocols for on-going air quality monitoring by industrial hygienists to ensure the health and safety of the occupants. Although DGS and its consultants assure us that the mold growth in the interstitial spaces will not pose a health risk to the building occupants, many BOE employees and their unions believe that the presence of mold growth in the building is adversely impacting their health. These perceptions will also continue after the projected \$32 million repair effort.

Loss of Productivity and Revenue. All of the remediation work is being performed in the building while occupied by BOE employees. This requires moving staff from their current floors to a 'swing space' while their floor is being remediated. Once remediation is complete, staff must then move back to their original floors. This approach has created huge disruptions in the workplace and loss of employee productivity. As BOE is responsible for generating one-third of the State's revenues, loss of productivity equals lost revenue for the State. Based on the 'swing space' approach, BOE is estimating a loss of productivity of 111 personnel years at a cost of \$8,325,000 in personnel costs during the planned 18-month remediation period. As many of these positions are revenue generating, BOE also estimates a revenue loss to the State of California of \$22.0 million due to the workload disruptions.

When taken in total, the estimated price-tag for the State of California is \$98 million, including the costs of remediation of the 450 N Street building, lost productivity, and revenue loss.

Insufficient to Meet BOE's Business Needs. Lastly, the 450 N Street building no longer meets BOE's business operation needs. The Headquarters operation has grown from approximately 2,200 to approximately 2,900 employees. However, the 450 N Street building was designed to accommodate a maximum of 2,200 employees.

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COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the BOE in an effort to begin the process of moving out of the 450 N Street building and potentially resolving the long term financial issues surrounding the building.

The BOE believes it is time for the State to take a step back and perform a thorough independent economic analysis to determine the most cost beneficial manner for the State to address the 450 N Street building. Continuing to spend millions of taxpayer dollars per year on a host of building issues does not adequately address the long-term building problems for the State. The current approach continues to drain the State's budget without any assurance that it will stop. The BOE Members believe that this is an opportunity to make a strategic determination as to what is in the best financial interest for the State, especially during this current fiscal crisis. An economic development/economic analysis would provide the State with the following high-level benefits:

- A thorough review of the remaining repairs needed at the 450 N Street building and their associated costs.
 - Suggestions for addressing the debt service on the building and repair costs.
 - Opportunities to partner with private sector developers to address the short and long-term use of the building.
 - Opportunities to sell the building or locate a back-fill tenant behind BOE.
 - Options to meet BOE's Headquarters' space needs with a facility of the appropriate size.
2. **The January 26, 2010** amendments, among other technical changes, delete "and negotiate" before "the terms of a sale, exchange, lease, . . . of all or a portion of the Sacramento property . . ." since the bill does not authorize an actual sale of the property. The amendments allow DGS to investigate only the *potential* terms to sell, exchange, or lease any portion of the 450 N Street property.
 3. **This bill provides DGS with specific statutory authority to explore alternative options for addressing the 450 N Street building.** In BOE staff's discussions with DGS, they stated that they need legislative authority in order to explore the marketplace and begin discussions with developers and other interested parties about the disposition of the 450 N Street building. This bill represents the first step in a lengthy journey. Unlike most State-owned buildings, there are numerous unique issues and challenges relating to the 450 N Street building. When and if negotiations are successful in addressing all these issues and challenges, additional legislative authority will be necessary to authorize DGS to proceed with a sale, exchange, lease, or any other disposition of the building that is deemed to be in the best interest of the State.

COST ESTIMATE

Because the bill would only authorize DGS to investigate the potential terms of a sale, exchange or lease of the existing BOE headquarters and to investigate the acquisition of a new BOE headquarters site, the bill's provisions would not affect the BOE's administrative costs. However, DGS may incur nonabsorbable costs related to identifying opportunities and solutions to the BOE existing and new headquarters facility. To address any potential costs, the bill would provide that it is the intent of the Legislature, as part of the 2010-11 Budget Act, to transfer funds from the BOE to DGS to pay for that department's costs associated with any studies or negotiations.

REVENUE ESTIMATE

This measure would not impact any revenues.

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