

## **Raise the Dollar Value of Equipment Lease-Purchase Agreements Requiring Specific Legislative Authority**

### **ANALYSIS**

The legislation would increase the CRS 24-82-801 (2) dollar amount for equipment lease-purchase payments from \$50,000 to \$500,000. The measure also would modify the definition of lease-purchase agreement in CRS 24-82-801 and CRS 24-82-102 to an agreement that meets one of the four FASB 13 criteria for capital lease, and modify CRS 24-82-1201 to eliminate confusion over the applicability of this provision.

### **BACKGROUND:**

CRS 24-82-801 (2) requires a state agency to obtain legislative authority by separate a bill, other than the general appropriations act or a supplemental appropriations act, or authorized by appropriation in the annual general act before executing a lease-purchase agreement for equipment when the total payments exceed \$50,000 after April 9, 1990. A large percentage of contemporary state IT equipment and other purchases now exceed \$50,000, making the priority to obtain special legislation for such a small dollar amount of equipment low. To circumvent the statute, agencies routinely entering into three to seven year "operating" leases for equipment with a similar useful life and at rental rates that fully pay the cost of the equipment, without the agency receiving the benefit of title to the equipment. These operating leases would meet the FASB 13 definition of "capital" leases. Agencies are not willing to use their limited opportunity to introduce legislation for such a small procurement. Requiring the legislature to pass special legislation for numerous small equipment purchases is not a wise use of legislative time. The measure will set the equipment lease dollar amount threshold to the current dollar amount requiring CDC approval, an appropriate amount to require special legislation for equipment purchases. The measure would eliminate the excessive use of equipment operating leases to circumvent the statute. The definition of lease-purchase applied to both real and personal property would eliminate this abuse.

CRS 24-82-1201 authorizes an agency to obtain approval for up to a 30-year operating lease for a new building project without a special legislative bill. Since this statute was adopted, a federal government audit of the Los Angeles County California long-term operating lease practice resulted in a commitment by the County not to enter into long-term real estate operating leases. All future County long-term leases would be capital leases. The federal government pays the state depreciation expense for state-owned buildings or buildings being acquired by a capital lease.

### **BENEFITS:**

- Allow state agencies and institutions to negotiate more equipment lease-purchase agreements, rather than operating agreements, and receive title to the property.
- Reduce state agency cost to lease equipment.
- Reduce the number of equipment lease-purchase agreements that require special legislative approval.

**SUPPORT/OPPOSITION:** All state agencies are expected to support the legislation to raise the equipment lease dollar amount. Agencies may object to defining lease-purchase agreement as meeting one FASB 13 capital lease criteria because they do not want to seek legislative approval.