

By: Cook of Colorado

H.B. No. 3039

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the lease of space for state agencies by the Texas  
3 Building and Procurement Commission.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 2167.001, Government Code, is amended to  
6 read as follows:

7 Sec. 2167.001. APPLICABILITY. (a) This chapter applies  
8 to:

9 (1) office space;

10 (2) warehouse space;

11 (3) laboratory space;

12 (4) storage space exceeding 1,000 gross square feet;

13 [~~and~~]

14 (5) boat storage space;

15 (6) vehicle parking space; and

16 (7) a combination of those kinds of space.

17 (b) This chapter does not apply to:

18 (1) aircraft hangar space;

19 (2) radio antenna space;

20 (3) [~~boat storage space,~~

21 [~~(4) vehicle parking space,~~

22 [~~(5)] residential space for a Texas Department of  
23 Mental Health and Mental Retardation program;~~

24 (4) [~~(6)] residential space for a Texas Youth~~

1 Commission program;

2           (5) [~~(7)~~] space to be used for less than one month for  
3 meetings, conferences, conventions, seminars, displays,  
4 examinations, auctions, or similar purposes;

5           (6) [~~(8)~~] district office space for members of the  
6 legislature;

7           (7) [~~(9)~~] space used by the Texas Employment  
8 Commission;

9           (8) [~~(10)~~] residential property acquired by the Texas  
10 Department of Housing and Community Affairs or the Texas State  
11 Affordable Housing Corporation that is offered for sale or rental  
12 to individuals and families of low or very low income or families of  
13 moderate income; or

14           (9) [~~(11)~~] except as provided by Section 2167.007,  
15 classroom and instructional space for an institution of higher  
16 education.

17           SECTION 2. Section 2167.005, Government Code, is amended by  
18 adding Subsection (d) to read as follows:

19           (d) The commission may revoke a delegation of authority made  
20 under this section.

21           SECTION 3. Section 2167.0051(b), Government Code, is  
22 amended to read as follows:

23           (b) An institution of higher education may lease classroom  
24 and instructional space through [~~competitive bidding in accordance~~  
25 ~~with Section 2167.053 or through~~] competitive sealed proposals in  
26 accordance with Section 2167.054 or may negotiate for that space on  
27 making a determination that competition is not available and shall

1 include provisions to obtain a lease contract for classroom and  
2 instructional space in accordance with Section 2167.055.

3 SECTION 4. Section 2167.007(c), Government Code, is amended  
4 to read as follows:

5 (c) The commission may [~~shall~~] establish a system of charges  
6 and billings to assure the recovery of the cost of providing  
7 services under Subsection (a) and may [~~shall~~] submit, after the  
8 close of each month, a purchase voucher or journal voucher to an  
9 agency for which services were provided.

10 SECTION 5. Section 2167.052(a), Government Code, is amended  
11 to read as follows:

12 (a) Space may be leased from a private source through:

13 (1) [~~competitive bidding,~~  
14 [~~(2)~~] competitive sealed proposals under Section  
15 2167.054; or

16 (2) [~~(3)~~] direct negotiation.

17 SECTION 6. Section 2167.054(d), Government Code, is amended  
18 to read as follows:

19 (d) As provided in a request for proposals and under rules  
20 adopted by the commission, the commission may discuss acceptable or  
21 potentially acceptable proposals with offerors to assess an  
22 offeror's ability to meet the solicitation requirements and to  
23 obtain the most advantageous lease contract for the state. The  
24 commission may [~~shall~~] invite a leasing state agency to participate  
25 in discussions and negotiations conducted under this section.  
26 After receiving a proposal but before making an award, the  
27 commission may permit the offeror to revise the proposal to obtain

1 the best final proposal.

2 SECTION 7. Section 2167.055, Government Code, is amended by  
3 amending Subsections (b), (d), and (f) to read as follows:

4 (b) A lease contract entered into under Section [~~2167.053~~  
5 ~~or~~] 2167.054 must reflect the provisions contained in the  
6 invitation for bids or request for proposals, the successful bid or  
7 proposal, and the award of the contract.

8 (d) A lease contract that does not contain an option to  
9 renew may, on agreement of the parties, be renewed under terms to  
10 which all parties to the contract agree [~~once under the provisions~~  
11 ~~of the original contract for a term that does not exceed one year~~].

12 (f) The obligation of the lessor to provide lease space and  
13 of the commission to accept the space is binding on the execution of  
14 the lease [~~award of the~~] contract.

15 SECTION 8. Section 2167.101, Government Code, is amended to  
16 read as follows:

17 Sec. 2167.101. CERTIFICATION OF AVAILABLE MONEY. A state  
18 agency occupying space leased under this chapter shall certify to  
19 the commission, at least 60 days before the beginning of each fiscal  
20 biennium during the lease term, that money is available to pay for  
21 the lease until the end of the next fiscal biennium.

22 SECTION 9. The following laws are repealed:

- 23 (1) Section 2167.003(c), Government Code;  
24 (2) Section 2167.004(b), Government Code;  
25 (3) Section 2167.053, Government Code; and  
26 (4) Section 2167.106, Government Code.

27 SECTION 10. (a) This Act takes effect September 1, 2003.

1           (b) A lease contract entered into by the Texas Building and  
2 Procurement Commission before September 1, 2003, under Chapter  
3 2167, Government Code, is governed during the remaining term of the  
4 lease by Chapter 2167, Government Code, as it existed immediately  
5 before September 1, 2003, and the prior law is continued in effect  
6 for this purpose. Chapter 2167, Government Code, as amended by this  
7 Act, applies to the renewal of a lease described by this subsection.