

BILL ANALYSIS

Senate Research Center
79R7923 JRD-D

H.B. 3147
By: Turner (Van de Putte)
Government Organization
5/14/2005
Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Before December 1994, the state, acting through the Texas Building and Procurement Commission (commission) entered into seven lease agreements with an option to purchase for the benefit of the Texas Commission on Environmental Quality or its predecessor agency, the Office of the Attorney General, the successor of the Department of Human Services, the Department of Family and Protective Services, or the Texas Department of Transportation.

It is now apparent that the commission should be able to refinance these seven lease agreements at a savings to the taxpayers and to revise the leases to be in conformity with the current leases utilized by the commission. H.B. 3147 allows the commission to issue revenue obligations to accomplish this savings only if the revenue obligations are to be paid in their entirety immediately after issuance by using the proceeds of the concurrent sale of the space by the commission to a third party who agrees to lease the space back to the state with an option to purchase under certain conditions.

This bill allows the commission to enter into a more favorable lease arrangement for any or all of seven leases entered into by the state before December 1994. The bill also allows the commission to issue revenue obligations only under certain conditions.

The obligations authorized by this bill may not be a debt of the state or any state agency, are not a pledge of the faith and credit or the taxing power of the state, and may be paid only from the proceeds of the concurrent sale of the space to which the sale and lease purchase revenue obligation relates. Any lease obligation must be contingent on continued legislative appropriations for making the lease payments, as are all state leases.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter J, Chapter 2166, Government Code, by adding Section 2166.454, as follows:

Sec. 2166.454. MORE FAVORABLE LEASE WITH OPTION TO PURCHASE AGREEMENTS WITH REGARD TO CERTAIN LEASED SPACE. (a) Provides that this section applies only in relation to space currently occupied by a state agency under one of certain leases with an option to purchase agreements.

(b) Authorizes the Texas Building and Procurement Commission (commission), if it determines that it is advantageous to the state, to enter into a more favorable lease with an option to purchase agreement with regard to any or all of the space to which this section applies by taking the actions authorized by this section under the conditions prescribed by this section.

(c) Authorizes the commission to issue sale and lease purchase revenue obligations in accordance with this section and use the proceeds of the revenue obligations for certain specified purposes.

(d) Requires the revenue obligations issued under Subsection (c) to be paid in their entirety immediately after issuance by using the proceeds of the concurrent sale of the space by the commission to a third party who agrees to lease the space back to the state with an option to purchase under certain conditions.

(e) Requires any sale and lease purchase revenue obligations issued by the commission under this section and any lease with an option to purchase agreement entered into under this section to be submitted to the attorney general for review and approval. Requires the attorney general, if the attorney general determines that the obligation or agreement, as applicable, entered into under this section complies with this section, to approve the issuance of the obligation or the agreement, as applicable. Provides that on approval by the attorney general, the obligation or agreement, as applicable, is incontestable for any cause.

(f) Provides that the commission is not required to obtain the approval of the Bond Review Board before issuing a sale and lease purchase revenue obligation under this section.

(g) Provides that a sale and lease purchase revenue obligation issued under this section is not a debt of the state or any state agency, is not a pledge of the faith and credit or the taxing power of the state, and is prohibited from being paid only from the proceeds of the concurrent sale of the space to which the sale and lease purchase revenue obligation relates. Requires a sale and lease purchase revenue obligation issued under this section to contain a statement to that effect.

(h) Requires a lease with an option to purchase agreement entered into under this section to contain a statement that the agreement is not a debt of the state or any state agency and is contingent on continued legislative appropriations for making the lease payments.

(i) Provides that this section expires December 31, 2005, except that this section is continued in effect after that date for the limited purpose of applying with regard to any transaction authorized by this section that occurs before that date.

SECTION 2. Effective date: upon passage or the 91st day after adjournment.