

By: Phillips

H.B. No. 2137

A BILL TO BE ENTITLED

AN ACT

relating to the construction or improvement of buildings by the Texas Department of Transportation.

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

SECTION 1. Section 201.1055, Transportation Code, is amended to read as follows:

Sec. 201.1055. AGREEMENTS WITH PRIVATE ENTITIES. (a) Notwithstanding any other law, including Subchapter A, Chapter 2254, Government Code, Chapters 2165, 2166, and 2167, Government Code, and Sections 202.052, 202.053, 203.051, 203.052, and 223.001 of this code, the department and a private entity that offers the best value to the state may enter into an agreement that includes:

(1) site development and the ~~[both]~~ design and construction of a building and related facility that supports department operations on:

(A) department-owned real property; or

(B) real property owned by the private entity ~~[district office headquarters facility located in a county with a population of 3.3 million or more];~~

(2) a lease of department-owned real property ~~[in a district that includes a county with a population of 3.3 million or more]~~ to the private entity;

(3) a provision authorizing the private entity to construct and retain ownership of a building or related facility on

1 property owned by the entity or leased to the entity under
2 Subdivision (2); [~~and~~]

3 (4) a provision under which the department agrees to
4 enter into an agreement to acquire or lease with an option or
5 options to purchase real property described in Subdivision (1) that
6 is owned by the private entity, and a building and related facility
7 constructed on the property or on property leased to the entity
8 under Subdivision (2); and

9 (5) a provision under which the department agrees to
10 enter into an agreement to exchange department-owned real property
11 as whole or partial consideration for a building and related
12 facility described in Subdivision (1).

13 (b) Notwithstanding Section 202.024, the commission may
14 authorize the executive director to execute a deed exchanging
15 department-owned real property under Subsection (a)(5).

16 (c) Prior to signing an agreement under this section to
17 lease with an option or options to purchase, the Texas
18 Transportation Commission shall determine whether bond financing
19 or lease with an option or options to purchase is the most
20 cost-effective alternative for the acquisition of the building or
21 related facility.

22 (d) A lease agreement under this section shall provide for
23 the lease payments to apply to the purchase price of the building or
24 related facility and shall contain the agreed price to purchase the
25 building or related facility if the department exercises that
26 option.

27 (e) Prior to signing an agreement under this section to

1 exchange department-owned property with a private entity for a
2 building or related facility described in Subsection (a)(1), the
3 commission shall determine whether the value of the building or
4 related facility owned by the private entity is equal to or greater
5 than the value of the department-owned property.

6 SECTION 2. Section 221.001(1), Transportation Code, is
7 amended to read as follows:

8 (1) "Highway" includes a public road or part of a
9 public road and a bridge, culvert, building, or other necessary
10 structure related to a public road.

11 SECTION 3. Section 2166.302, Government Code, is amended by
12 amending Subsection (a) and adding Subsection (c) to read as
13 follows:

14 (a) Except as provided by Subsections [~~Subsection~~] (b) and
15 (c), the commission shall adopt uniform general conditions to be
16 incorporated into all building construction contracts made by the
17 state, including a contract for a project excluded from this
18 chapter by Section 2166.003, but not including a contract for a
19 project excluded from this chapter by Section 2166.004.

20 (c) Subsection (a) does not apply to a project constructed
21 by and for the Texas Department of Transportation.

22 SECTION 4. The changes in law made by this Act to Section
23 2166.302, Government Code, apply only to a contract for which the
24 Texas Department of Transportation first advertises or otherwise
25 solicits bids, proposals, offers, or qualifications on or after the
26 effective date of this Act. A contract for which the Texas
27 Department of Transportation first advertised or otherwise

1 solicited bids, proposals, offers, or qualifications before that
2 date is governed by the law in effect when the first advertisement
3 or solicitation was given, and the former law is continued in effect
4 for that purpose.

5 SECTION 5. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2005.