

By: Turner, et al.

H.B. No. 3147

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to authorizing the Texas Building and Procurement  
3 Commission to enter into more favorable lease with option to  
4 purchase agreements with regards to certain space currently  
5 occupied under lease with option to purchase agreements.

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

7 SECTION 1. Subchapter J, Chapter 2166, Government Code, is  
8 amended by adding Section 2166.454 to read as follows:

9 Sec. 2166.454. MORE FAVORABLE LEASE WITH OPTION TO PURCHASE  
10 AGREEMENTS WITH REGARD TO CERTAIN LEASED SPACE. (a) This section  
11 applies only in relation to space currently occupied by a state  
12 agency under one of seven leases with an option to purchase  
13 agreements:

14 (1) entered into by the state before December 1994,  
15 for the benefit of the Texas Commission on Environmental Quality or  
16 its predecessor agency, the office of the attorney general, the  
17 successor of the Department of Human Services, the Department of  
18 Family and Protective Services, or the Texas Department of  
19 Transportation; and

20 (2) under which the state may acquire title to the  
21 space by paying the purchase price remaining under the terms of the  
22 agreement on September 1 of an odd-numbered year.

23 (b) If the commission determines that it is advantageous to  
24 the state, the commission may enter into a more favorable lease with

1 an option to purchase agreement with regard to any or all of the  
2 space to which this section applies by taking the actions  
3 authorized by this section under the conditions prescribed by this  
4 section.

5 (c) The commission may issue sale and lease purchase revenue  
6 obligations in accordance with this section and use the proceeds of  
7 the revenue obligations to:

8 (1) pay the commission's expenses in connection with  
9 issuing the revenue obligations;

10 (2) purchase any or all of the space to which this  
11 section applies according to the terms of the applicable existing  
12 lease with an option to purchase agreement or agreements; and

13 (3) if it is advisable to make capital improvements to  
14 the space, pay for making the capital improvements.

15 (d) The revenue obligations issued under Subsection (c)  
16 must be paid in their entirety immediately after issuance by using  
17 the proceeds of the concurrent sale of the space by the commission  
18 to a third party who agrees to lease the space back to the state with  
19 an option to purchase under the following conditions:

20 (1) the term of the new lease with an option to  
21 purchase agreement does not exceed the remaining term on the  
22 applicable existing lease with an option to purchase agreement, as  
23 of the date on which the transactions described by this section  
24 occur; and

25 (2) the cost to the state under the new lease with an  
26 option to purchase agreement is less than the cost to the state  
27 under the existing lease with an option to purchase agreement and

1 the difference in cost justifies any costs incurred by the  
2 commission and the state in taking actions under this section with  
3 regard to the space.

4 (e) Any sale and lease purchase revenue obligations issued  
5 by the commission under this section and any lease with an option to  
6 purchase agreement entered into under this section must be  
7 submitted to the attorney general for review and approval. If the  
8 attorney general determines that the obligation or agreement, as  
9 applicable, entered into under this section complies with this  
10 section, the attorney general shall approve the issuance of the  
11 obligation or the agreement, as applicable. On approval by the  
12 attorney general, the obligation or agreement, as applicable, is  
13 incontestable for any cause.

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

17 (g) A sale and lease purchase revenue obligation issued  
18 under this section is not a debt of the state or any state agency, is  
19 not a pledge of the faith and credit or the taxing power of the  
20 state, and may be paid only from the proceeds of the concurrent sale  
21 of the space to which the sale and lease purchase revenue obligation  
22 relates. A sale and lease purchase revenue obligation issued under  
23 this section must contain a statement to that effect.

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

1 payments.

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

6 SECTION 2. This Act takes effect immediately if it receives  
7 a vote of two-thirds of all the members elected to each house, as  
8 provided by Section 39, Article III, Texas Constitution. If this  
9 Act does not receive the vote necessary for immediate effect, this  
10 Act takes effect on the 91st day after the last day of the  
11 legislative session.