

1-1 By: Turner, et al. (Senate Sponsor - Van de Putte) H.B. No. 3147
1-2 (In the Senate - Received from the House May 10, 2005;
1-3 May 12, 2005, read first time and referred to Committee on
1-4 Government Organization; May 17, 2005, reported favorably by the
1-5 following vote: Yeas 7, Nays 0; May 17, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to authorizing the Texas Building and Procurement
1-9 Commission to enter into more favorable lease with option to
1-10 purchase agreements with regards to certain space currently
1-11 occupied under lease with option to purchase agreements.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter J, Chapter 2166, Government Code, is
1-14 amended by adding Section 2166.454 to read as follows:

1-15 Sec. 2166.454. MORE FAVORABLE LEASE WITH OPTION TO PURCHASE
1-16 AGREEMENTS WITH REGARD TO CERTAIN LEASED SPACE. (a) This section
1-17 applies only in relation to space currently occupied by a state
1-18 agency under one of seven leases with an option to purchase
1-19 agreements:

1-20 (1) entered into by the state before December 1994,
1-21 for the benefit of the Texas Commission on Environmental Quality or
1-22 its predecessor agency, the office of the attorney general, the
1-23 successor of the Department of Human Services, the Department of
1-24 Family and Protective Services, or the Texas Department of
1-25 Transportation; and

1-26 (2) under which the state may acquire title to the
1-27 space by paying the purchase price remaining under the terms of the
1-28 agreement on September 1 of an odd-numbered year.

1-29 (b) If the commission determines that it is advantageous to
1-30 the state, the commission may enter into a more favorable lease with
1-31 an option to purchase agreement with regard to any or all of the
1-32 space to which this section applies by taking the actions
1-33 authorized by this section under the conditions prescribed by this
1-34 section.

1-35 (c) The commission may issue sale and lease purchase revenue
1-36 obligations in accordance with this section and use the proceeds of
1-37 the revenue obligations to:

1-38 (1) pay the commission's expenses in connection with
1-39 issuing the revenue obligations;

1-40 (2) purchase any or all of the space to which this
1-41 section applies according to the terms of the applicable existing
1-42 lease with an option to purchase agreement or agreements; and

1-43 (3) if it is advisable to make capital improvements to
1-44 the space, pay for making the capital improvements.

1-45 (d) The revenue obligations issued under Subsection (c)
1-46 must be paid in their entirety immediately after issuance by using
1-47 the proceeds of the concurrent sale of the space by the commission
1-48 to a third party who agrees to lease the space back to the state with
1-49 an option to purchase under the following conditions:

1-50 (1) the term of the new lease with an option to
1-51 purchase agreement does not exceed the remaining term on the
1-52 applicable existing lease with an option to purchase agreement, as
1-53 of the date on which the transactions described by this section
1-54 occur; and

1-55 (2) the cost to the state under the new lease with an
1-56 option to purchase agreement is less than the cost to the state
1-57 under the existing lease with an option to purchase agreement and
1-58 the difference in cost justifies any costs incurred by the
1-59 commission and the state in taking actions under this section with
1-60 regard to the space.

1-61 (e) Any sale and lease purchase revenue obligations issued
1-62 by the commission under this section and any lease with an option to
1-63 purchase agreement entered into under this section must be
1-64 submitted to the attorney general for review and approval. If the

2-1 attorney general determines that the obligation or agreement, as
2-2 applicable, entered into under this section complies with this
2-3 section, the attorney general shall approve the issuance of the
2-4 obligation or the agreement, as applicable. On approval by the
2-5 attorney general, the obligation or agreement, as applicable, is
2-6 incontestable for any cause.

2-7 (f) The commission is not required to obtain the approval of
2-8 the Bond Review Board before issuing a sale and lease purchase
2-9 revenue obligation under this section.

2-10 (g) A sale and lease purchase revenue obligation issued
2-11 under this section is not a debt of the state or any state agency, is
2-12 not a pledge of the faith and credit or the taxing power of the
2-13 state, and may be paid only from the proceeds of the concurrent sale
2-14 of the space to which the sale and lease purchase revenue obligation
2-15 relates. A sale and lease purchase revenue obligation issued under
2-16 this section must contain a statement to that effect.

2-17 (h) A lease with an option to purchase agreement entered
2-18 into under this section must contain a statement that the agreement
2-19 is not a debt of the state or any state agency and is contingent on
2-20 continued legislative appropriations for making the lease
2-21 payments.

2-22 (i) This section expires December 31, 2005, except that this
2-23 section is continued in effect after that date for the limited
2-24 purpose of applying with regard to any transaction authorized by
2-25 this section that occurs before that date.

2-26 SECTION 2. This Act takes effect immediately if it receives
2-27 a vote of two-thirds of all the members elected to each house, as
2-28 provided by Section 39, Article III, Texas Constitution. If this
2-29 Act does not receive the vote necessary for immediate effect, this
2-30 Act takes effect on the 91st day after the last day of the
2-31 legislative session.

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