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AN ACT

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

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

SECTION 1. Subchapter J, Chapter 2166, Government Code, is amended by adding Sections 2166.454, 2166.4541, and 2166.4542 to read as follows:

Sec. 2166.454. PURCHASING OR OBTAINING MORE FAVORABLE LEASE WITH OPTION TO PURCHASE AGREEMENTS WITH REGARD TO CERTAIN LEASED SPACE. (a) This section and Sections 2166.4541 and 2166.4542 apply only in relation to space currently occupied by a state agency under one of seven lease with an option to purchase agreements:

(1) entered into by the state before December 1994, 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; and

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

(b) If the commission determines that it is advantageous to

1 the state, the commission may:

2 (1) request the Texas Public Finance Authority to
3 issue revenue bonds to finance the purchase of any or all of the
4 space to which this section applies in accordance with Section
5 2166.4542 and Chapter 1232, if the commission determines that it is
6 more advantageous to the state to purchase the space than to enter
7 into a more favorable lease with an option to purchase agreement
8 under Section 2166.4541 for that space; or

9 (2) enter into a more favorable lease with an option to
10 purchase agreement with regard to any or all of the space to which
11 this section applies by taking the actions authorized by Section
12 2166.4541 under the conditions prescribed by Section 2166.4541, if
13 the commission determines that it is more advantageous to the state
14 to enter into a more favorable lease with an option to purchase
15 agreement for that space than to purchase the space under Section
16 2166.4542 and Chapter 1232.

17 (c) This section expires September 2, 2008, except that this
18 section is continued in effect after that date for the limited
19 purpose of applying with regard to any transaction authorized by
20 this section and Section 2166.4541 or 2166.4542 that occurs before
21 that date.

22 Sec. 2166.4541. ENTERING INTO MORE FAVORABLE LEASE WITH
23 OPTION TO PURCHASE AGREEMENTS. (a) Subject to Section
24 2166.454(b), the commission may issue sale and lease purchase
25 revenue obligations in accordance with this section and use the
26 proceeds of the revenue obligations to:

27 (1) pay the commission's expenses in connection with

1 issuing the revenue obligations;

2 (2) purchase any or all of the space described by
3 Section 2166.454(a) according to the terms of the applicable
4 existing lease with an option to purchase agreement or agreements;
5 and

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

8 (b) The revenue obligations issued under Subsection (a)
9 must be paid in their entirety immediately after issuance by using
10 the proceeds of the concurrent sale of the space by the commission
11 to a third party who agrees to lease the space back to the state with
12 an option to purchase under the following conditions:

13 (1) the term of the new lease with an option to
14 purchase agreement does not exceed the remaining term on the
15 applicable existing lease with an option to purchase agreement, as
16 of the date on which the transactions described by this section
17 occur; and

18 (2) the cost to the state under the new lease with an
19 option to purchase agreement is less than the cost to the state
20 under the existing lease with an option to purchase agreement and
21 the difference in cost justifies any costs incurred by the
22 commission and the state in taking actions under this section with
23 regard to the space.

24 (c) The commission shall obtain the approval of the Bond
25 Review Board before issuing a sale and lease purchase revenue
26 obligation under this section.

27 (d) Any sale and lease purchase revenue obligations issued

1 by the commission under this section and any lease with an option to
2 purchase agreement entered into under this section must be
3 submitted to the attorney general for review and approval. If the
4 attorney general determines that the obligation or agreement, as
5 applicable, entered into under this section complies with this
6 section, the attorney general shall approve the issuance of the
7 obligation or the agreement, as applicable. On approval by the
8 attorney general, the obligation or agreement, as applicable, is
9 incontestable for any cause.

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

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

22 (g) This section expires September 2, 2008, except that this
23 section is continued in effect after that date for the limited
24 purpose of applying with regard to any transaction authorized by
25 Section 2166.454 and this section that occurs before that date.

26 Sec. 2166.4542. PURCHASING CERTAIN LEASED SPACE. (a)
27 Subject to Section 2166.454(b), the commission may purchase any or

1 all of the space described by Section 2166.454(a) in accordance
2 with this section and Chapter 1232.

3 (b) The commission shall request the Texas Public Finance
4 Authority to issue revenue obligations to finance the purchase
5 price of any or all of the space described by Section 2166.454(a)
6 that the commission elects to purchase under this section. The
7 authority shall issue the revenue obligations in accordance with
8 and subject to all provisions of Chapter 1232 applicable to revenue
9 obligations, including all provisions relating to ensuring that the
10 revenue obligations are paid, except that Section 1232.108(2) does
11 not apply.

12 (c) The authority shall issue the revenue obligations in
13 amounts sufficient to:

14 (1) pay the authority's expenses in connection with
15 issuing the revenue obligations;

16 (2) pay the purchase price of the space described by
17 Section 2166.454(a) included in the request of the commission
18 according to the terms of the applicable existing lease with an
19 option to purchase agreement or agreements; and

20 (3) if the commission considers it advisable to make
21 capital improvements to the space, pay for making the capital
22 improvements.

23 (d) At the time that a building is purchased under this
24 section, money specifically appropriated by the legislature to an
25 agency occupying space in the building for lease payments under the
26 applicable lease with an option to purchase agreement, or the money
27 available to and budgeted by the agency for that purpose, shall be

1 transferred to the commission and used by the commission only to
2 make the required lease or rental payments to the authority during
3 the remainder of the state fiscal biennium during which the
4 building was purchased under this section.

5 (e) This section expires September 2, 2008, except that this
6 section is continued in effect after that date for the limited
7 purpose of applying with regard to any transaction authorized by
8 Section 2166.454 and this section that occurs before that date.

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

David Dewhurst

President of the Senate

Jim Caddell

Speaker of the House

I certify that H.B. No. 3147 was passed by the House on May 9, 2005, by the following vote: Yeas 144, Nays 0, 3 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3147 on May 24, 2005, by the following vote: Yeas 140, Nays 2, 1 present, not voting.

Robert Haney
Chief Clerk of the House

I certify that H.B. No. 3147 was passed by the Senate, with amendments, on May 23, 2005, by the following vote: Yeas 31, Nays 0.

Patsy Spaw
Secretary of the Senate

APPROVED: 18 JUNE '05

Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
16:20 AM O'CLOCK

Roger Williams
JUN 18 2005
Secretary of State