

## **BILL ANALYSIS**

Senate Research Center  
77R5209 BCH-D

S.B. 642  
By: Duncan  
State Affairs  
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As Filed

### **DIGEST AND PURPOSE**

Currently, the state leases almost 12 million square feet of office space for more than \$110 million a year. The state's leasing process is cumbersome for property owners and often fails to attract enough bidders, which can lead to unnecessarily high rents. The General Services Commission (GSC) staff in charge of leasing space for the state is also overworked and undertrained. Some properties are not properly inspected before the state enters into lease agreements, an oversight that results in inadequate facilities for the state. As proposed, S.B. 642 requires the GSC's Facilities Leasing Program to partner with private real estate firms to procure leased space and charge an hourly rate to agencies that are exempt from using the program, and changes the program's role to that of overseer and lease manager.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the General Services Commission SECTION 1, (Section 2167.051, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 2167.003, Government Code, to require the General Services Commission (commission) and the private brokerage or real estate firm obtaining leased space on behalf of the commission, in leasing space for the use of a state agency, to give first consideration to a building that is designated as a historic structure under Section 442.001 or to a building that has been designated a landmark by a local governing authority, under certain conditions. Requires the private brokerage or real estate firm obtaining leased space on behalf of the commission, when it considers leasing space for a state agency, to notify individuals and organizations that meet certain requirements. Requires the commission, at the end of a biennium, to report to the legislature the reasons for rejecting during the biennium the lease of any historic structure that was offered as lease space to the state.

SECTION 2. Amends Section 2167.0051(b), Government Code, to require an institution of higher education to include provisions to obtain a lease contract for classroom and instructional space in accordance with Section 2167.053 (rather than 2167.055) when leasing through a competitive bidding process or a process of competitive sealed proposals or negotiating for that space on making a determination that competition is not available. Deletes references to Sections 2167.053 and 2167.054.

SECTION 3. Amends Section 2167.007(c), Government Code, to require the commission to charge an hourly rate under Subdivision (1) for the time during which a commission employee is providing the services. Makes a conforming change.

SECTION 4. Amends Chapter 2167B, Government Code, as follows:

Sec. 2167.051. USE OF PRIVATE FIRMS TO OBTAIN SPACE. (a) Requires the commission, using a competitive bidding process, to contract with one or more private brokerage or real estate firms to obtain lease space for state agencies on behalf of the commission under this chapter. Authorizes the commission to adopt rules the commission

considers necessary to administer this section.

(b) Authorizes a private brokerage or real estate firm with which the commission contracts under Subsection (a) to negotiate on behalf of the commission in leasing facilities under this chapter. Requires the firm, in negotiating on behalf of the commission, to attempt to secure a leasing arrangement that is the best value available and that is in the state's best interest.

(c) Requires the commission to approve any leasing arrangement negotiated by a private brokerage or real estate firm on behalf of the commission under this section. Provides that the leasing arrangement is considered to be a lease contract entered into by the commission, and that the commission retains lease oversight and management functions under the lease contract.

Sec. 2167.052. New heading: LEASING SPACE FROM ANOTHER GOVERNMENTAL ENTITY OR FROM PRIVATE SOURCE. Redesignates text from Section 2167.051. Authorizes space to be leased through a negotiated contract from any private source.

Deletes existing Section 2167.052 (LEASING SPACE FROM PRIVATE SOURCE).

Deletes existing Section 2167.053 (LEASING SPACE THROUGH COMPETITIVE BIDDING).

Deletes existing Section 2167.054. (LEASING SPACE THROUGH COMPETITIVE SEALED PROPOSALS).

Sec. 2167.053. Redesignates existing Section 2167.055 (CONTRACT FOR LEASE OF SPACE) as Section 2167.053. Deletes text regarding the lease contract reflecting certain provisions.

Sec. 2167.054. Redesignates existing Section 2167.056 (OPTION TO PURCHASE) as Section 2167.054.

SECTION 5. (a) Requires that as soon as possible after the effective date of this Act, the General Services Commission enter into one or more contracts with private brokerage or real estate firms to obtain leased space for state agencies on behalf of the commission under Chapter 2167, Government Code, as amended by this Act. Provides that Chapter 2167, Government Code, as amended by this Act, applies to a subsequent leasing arrangement negotiated by a private brokerage or real estate firm on behalf of and entered into by the commission.

(b) Authorizes the commission, until June 1, 2002, to enter into a lease contract under Chapter 2167, Government Code, as it existed immediately before the effective date of this Act, to lease space in an area of the state for which the commission has not yet contracted with one or more private brokerage or real estate firms to negotiate leasing arrangements on behalf of the commission.

(c) Provides that a lease contract entered into by the commission under Subsection (b) of this section or entered into before the effective date of this Act under Chapter 2167, Government Code, is governed during the remaining term of the lease by Chapter 2167, Government Code, as it existed immediately before the effective date of this Act, and the prior law is continued in effect for this purpose. Provides that Chapter 2167, Government Code, as amended by this Act, applies to the renewal of a lease described by this subsection.

SECTION 6. Effective date: September 1, 2001.