

CHAPTER 606

H.B. No. 1169

AN ACT

relating to the acquisition and approval of existing buildings, substitution of acquisition for construction previously authorized, and issuance and approval of bonds by the Texas Public Building Authority to meet office space needs of state agencies.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Article 5, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by adding Section 5.34 to read as follows:

Sec. 5.34. ACQUISITION OF EXISTING BUILDINGS. (a) The commission may purchase real property, and any existing buildings and improvements located on the real property, not owned by a state agency or institution for use in meeting office space needs of state agencies if the commission follows the procedures and makes the determinations as provided by this Act. The commission shall continuously survey the office space needs of the state to determine the space needed and the location of the need.

(b) Before each legislative session, the commission shall submit to the Legislative Budget Board, the governor, the lieutenant governor, and the speaker of the house of representatives a survey of property in any county in which more than 50,000 square feet of usable space is needed, and that contains property available for purchase, for consideration by the legislature at that session of the purchase and the method of financing, which may include the issuance of bonds by the Texas Public Building Authority.

(c) If a prior legislative Act has permitted the issuance of bonds by the Texas Public Building Authority to acquire and renovate one or more unspecified buildings and improvements in a county and a survey by the commission determines a need for not less than 50,000 square feet of usable space in that county, the commission may advertise and receive bids, using the same procedures applicable to purchase of other property, for the purchase of buildings and improvements with bond proceeds. If evaluation of the bids by the commission demonstrates that acquisition of buildings and improvements would be an appropriate and financially advantageous means of meeting all or part of the state's office space needs in that county, the commission shall certify that fact to the authority and request the authority to issue all or any portion of its bonds previously authorized by the legislature for that purpose.

(d) If bonds have been issued by the Texas Public Building Authority pursuant to a lease with the commission for the construction of one or more buildings containing more than 50,000 square feet, at any time before a final construction contract is entered into for the buildings, the commission shall determine whether acquisition and renovation of other buildings and improvements is a more financially advantageous means of meeting current and future office space needs of the state than constructing the buildings, and if that determination is made, proceeds of the bonds may be used to finance the costs of all or a part of the acquisition and renovation of these buildings and improvements instead of construction of buildings as originally

authorized. The determination of financial advantage to the state must be made after the commission has advertised and received bids from owners of buildings and improvements, using the same procedures for purchase of other property, for the purchase of one or more buildings and improvements to provide office space generally comparable to that of the buildings proposed to be constructed. The commission shall compare construction and purchase as fairly as possible considering such factors and imputing value, but not necessarily requiring reconstruction, to determine the most advantageous action to be taken, including but not limited to consideration of the following factors:

- (1) the cost of acquiring land at current appraised market value;
- (2) the costs of converting one or more private buildings to state building specifications;
- (3) the net usable space as configured for the state's use;
- (4) the savings due to immediate availability of the purchased buildings;
- (5) the potential savings by fixing the cost of purchase and not incurring construction risks;
- (6) building enhancements such as location, accessibility, parking space, and landscaping;
- (7) the remaining useful life of mechanical components of a purchased building;
- (8) the building's ability to satisfy the functional requirements of the probable users; and
- (9) the anticipated annual cost of maintenance and operations.

(e) On a determination under Subsection (d) of this section that the purchase is more advantageous to the state, the commission may abandon plans for construction. If any additional costs over available bond proceeds must be incurred to accomplish the purchase and any necessary renovation of the purchased buildings and improvements, the commission may use any available appropriated funds or request additional bonds of the Texas Public Building Authority of up to five percent of the acquisition cost for that purpose.

(f) Any purchase under this section shall be approved by the legislature if it is in session or by the Legislative Budget Board if the legislature is not in session.

(g) Any person from whom real property or any existing buildings or other improvements are purchased under this section shall provide to the commission the name and the last known address of each person who (i) owns record legal title to the property, buildings, or other improvements or (ii) owns a beneficial interest in the property, buildings, or other improvements through a trust, nominee, agent, or any other legal entity.

SECTION 2. Section 6.04, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6.04. ~~PREFERENCE [FOR STATE-OWNED SPACE]~~. In filling a request for space, the commission shall give a preference to *the most cost-effective method of filling the space* [~~available state-owned space~~].

SECTION 3. Sections 2, 9, and 10, Texas Public Building Authority Act (Article 601d, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 2. PURPOSE. The purpose of this Act is to provide a method of financing for the acquisition, construction, repair, renovation, or other improvement of buildings for the use of state agencies and institutions in Travis County, Texas, *and in any other county in which more than 50,000 square feet of usable space is needed* and of energy efficiency improvement projects for the exclusive use by those state agencies or institutions listed in Section 24 of this Act in various counties of the State of Texas.

Sec. 9. ISSUANCE OF BONDS. The board may issue and sell bonds in the name of the authority to finance the acquisition, construction, repair, renovation, or other improvement of buildings for the use of state agencies and institutions in Travis County, Texas, and energy efficiency improvement projects for the exclusive use of state agencies or

institutions at the specific locations listed in Section 24 of this Act in various counties of the State of Texas. Upon receipt of a request described in Section 5.34, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), the board is authorized to issue bonds in amounts (1) up to the previously authorized amount of bonds for the purpose described in Subsection (c) of that section or (2) up to five percent of the acquisition cost of property for the purpose described in Subsection (d) of that section, all as described in such request.

Sec. 10. LEGISLATIVE APPROVAL REQUIRED. Except as permitted by Section 5.34, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), before [Before] the board may issue and sell bonds, the legislature by law must have authorized the specific project for which the bonds are to be issued and sold and must have authorized the estimated cost of the project or the maximum amount of bonded indebtedness that may be incurred by the issuance and sale of bonds for the project. In recognition that the cost estimates for acquisition, construction, repair, or renovation of a project to which Section 5.34, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), applies will not be final at the time the project is authorized for financing and that the bonds may be issued to fund associated costs, including but not limited to reasonably required reserve funds, capitalized interest, administrative costs of the authority, and issuing expenses, the principal amount of any bond issue for that purpose may be up to 1-1/2 the amount of the estimated cost for the project being financed. The projects authorized in Senate Bill 1355, Acts of the 68th Legislature, Regular Session, 1983, are ratified and confirmed.

SECTION 4. (a) The bond review board is composed of:

- (1) the governor;
- (2) the lieutenant governor;
- (3) the speaker of the house of representatives;
- (4) the state treasurer; and
- (5) the comptroller of public accounts.

(b) The governor is chairman of the review board.

(c) If the speaker of the house of representatives is not permitted by the Texas Constitution to serve as a voting member of the board, the speaker of the house of representatives serves as a nonvoting member of the board.

(d) Bonds may not be issued after the effective date of this Act, and proceeds of bonds issued after the effective date of this Act may not be used to finance a project unless the issuance or project, as applicable, has been reviewed and approved by the review board.

(e) The review board may adopt rules governing application for review, the review process, and reporting requirements.

(f) A member of the review board may not be held liable for damages resulting from the performance of the members' functions under this Act.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 14, 1987, by a non-record vote; that the House refused to concur in Senate amendments to H.B. No. 1169 on May 27, 1987, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 1169 on June 1, 1987, by the following vote: Yeas 112, Nays 29, 3 present, not voting. Passed by the Senate, with amendments, on May 22, 1987, by the following vote: Yeas 30, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 1169 on May 31, 1987, by the following vote: Yeas 29, Nays 0.

Approved June 19, 1987.

Effective June 19, 1987.