

SUBJECT: Allowing political subdivisions to lease property to other political entities

COMMITTEE: County Affairs — favorable, without amendment

VOTE: 7 ayes — W. Smith, Naishtat, Farabee, Harless, Heflin, Leibowitz,
T.Smith

0 nays

2 absent — Bolton, Coleman

WITNESSES: For — Donald Lee, Texas Conference of Urban Counties; Jose Homero Ramirez, Webb County. (*Registered, but did not testify:* Ken Campbell, State Association of Fire and Emergency Districts; Mark Mendez, Tarrant County Commissioners Court; Ignacio Madera, Jr.)

Against — None

BACKGROUND: Local Government Code, ch. 272 governs the sale or lease of property by municipalities, counties, and certain other local governmental entities.

Local Government Code, sec 263.007 allows a county commissioners court to adopt a procedure by which the county may sell or lease through a sealed-bid or sealed-proposal procedure any real property, including space in a building, owned by the county. Counties that elect to lease land must do so according to the procedures set forth in the section.

DIGEST: HB 2618 would add Local Government Code sec 272.005, allowing a political subdivision to lease property or office space it owned to another political subdivision or state or federal agency. Any lease granted under these conditions would have to be established with the intent of promoting and maintaining a public purpose. The bill would allow political subdivisions to lease property or office space at below-market rates and would not require the entities to comply with competitive purchasing procedures or honor associated noticing and publishing requirements.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

SUPPORTERS
SAY:

HB 2618 would give political subdivisions the flexibility to lease public land and office space to other governmental entities without having to go through exacting purchasing procedures. Current statutory provisions require political entities to go through lengthy purchasing and notification processes in order to lease any land owned by that entity. For instance, counties interested in reaching a leasing agreement with a local, state, or federal agency must put the lease terms up for a competitive bid and award the contract to the highest bidder. These procedural restrictions have resulted in unnecessary hardships for counties attempting to reach shared use agreements with other governmental entities.

The bill would allow political subdivisions to reach lease agreements with other governmental entities and offer the lease at a below-market value without putting it up for bid. It would provide for the centralization of valuable governmental services for ease of use. For example, the bill would allow a county to lease office space to a state or federal agency that regulates agricultural matters. This would enable citizens who had similar business with county offices to make one visit to access multiple governmental services. HB 2618 would promote cooperation on many levels of local government and would encourage efficiency by enabling governmental entities to share resources and make the best use of taxpayer funds.

HB 2618 would be permissive, allowing political subdivisions to lease land to governmental entities so long as such leases had a clear public purpose. Counties and other governmental entities would not be prevented from adopting procedures to regulate such leases. Leases would be open to public scrutiny and could be reversed through public demand or court proceedings if they did not achieve clear public purposes. The bill would be strictly limited to leases. Any fiscal impact the bill would have on political entities by collecting less revenue from lessees would be outweighed by improved services to citizens and savings to other governmental organizations that would pay reduced lease fees.

OPPONENTS
SAY:

HB 2617 could have local fiscal repercussions in the form of opportunity costs incurred as a result of removing the requirement to award leases to the highest bidder. Because the bill would allow a wide variety of political subdivisions to lease land to a similarly wide variety of organizations with few restrictions and at below-market rates.

OTHER
OPPONENTS
SAY:

Under certain conditions, lease agreements effectively can take on the characteristics of land transfers. Whether this is true depends on the length of a lease, the organization's right to control any land involved in a lease during its term, and the organization's right to make improvements upon the termination of a lease. Leases that are long-term and not subject to periodic renewal effectively can become much like transfers.

Transfers or exchanges of public land should adhere to stricter statutory provisions. The bill should include a limitation on the maximum duration of leases that it would enable. Including such a limitation would allow for lease renewals while giving governmental entities the opportunity to renegotiate lease terms if necessary.

NOTES:

The companion bill, SB 1868 by Zaffirini, has been referred to the Senate Intergovernmental Relations Committee.