

SUBJECT: Disposal of unused or underused state property

COMMITTEE: Land and Resource Management — favorable, without amendment

VOTE: 7 ayes — Saunders, Mowery, Combs, Hamric, Howard, Krusee, B. Turner
0 nays
2 absent — Alexander, Hilderbran

SENATE VOTE: On final passage, April 24 — voice vote

WITNESSES: (*On House companion, HB 2374*)
For — None
Against — None
On — Garry Mauro, general land commissioner

BACKGROUND: The General Land Office Asset Management Division was created in 1985 and is required to review and keep inventory records of all real property owned by the state, except for real property administered by Texas Department of Transportation, the Texas National Research Laboratory Commission, institutions of higher education, the Teacher Retirement System and the Employees Retirement System. The division is required to identify real estate not being used or being substantially underused and make recommendations on the use or transaction of the property to the land commissioner. The land commissioner is required to submit a final report on the disposition of the property to the governor, lieutenant governor, speaker of the House, the Legislative Budget Board and the governor's budget office by September 1 of each even-numbered year. If the Legislature acts on the recommendations, then the division is required to take possession and control of the property and negotiate and close real estate transactions on behalf of the state.

VACS art. 5421t was enacted in 1989 to authorize the governor and the Legislative Budget Board to approve transactions regarding state real estate when the Legislature is not in session.

The Texas Capital Trust Fund was established to finance acquiring, constructing, repairing, improving or equipping state buildings or acquiring real or personal property for state buildings or the administration of the asset management division of the General Land Office. The fund may not be used to pay for activity of the Texas Department of Transportation, institutions of higher education, the Texas State Technical College System, the Southwest Collegiate Institute for the Deaf, the Employees Retirement System or the Teacher Retirement System.

DIGEST: SB 1262 would make a number of changes to the procedures for real estate transactions involving unused or underused state real property.

The bill would require that the asset division submit a copy of its draft report on unused or underused property to the agencies that own or hold in trust property outlined in the report, at the same time it submits a copy to the General Services Commission for review. It would require that the land commissioner submit a final report to the governor, lieutenant governor, speaker of the House, the Legislative Budget Board (LBB) and the governor's budget office by September 1 of each year.

The bill would authorize the land commissioner to execute a transaction on unused or underused real estate unless the governor or LBB disapproves the recommendation. The governor would have to notify the land commissioner in writing, within 90 days, of disapproval of the commissioner's recommendation. The LBB could disapprove a transaction if a majority of the board filed written letters of disapproval with the executive director of the LBB within 90 days of receiving the recommendation. The executive director of the LBB would be required to notify the board's disapproval to the land commissioner within 10 days.

The bill would prohibit the agency that owns land that the land commissioner has recommended for sale, lease, transfer or trade from developing, selling or otherwise disposing of the property before the governor or LBB rejects the recommended real estate transaction, or earlier

than two years from the deadline for the LBB and governor to act on the commissioner's recommendation.

If the agency intends to dispose of or change the use of property deemed unused or underused, the agency would be required to submit to the governor and the LBB a general development plan for future use of the property no later than 30 days prior to the time the real estate transaction could be disapproved by the governor or the LBB. The governor and the LBB could take the agency plan into consideration in deciding whether to reject the land commissioner's recommendation.

The bill would allow the proceeds from the transactions to be deposited to the Texas capital trust fund, if allowed by law. The LBB could to allocate the funds from a transaction to another agency or for another purpose within 90 days of closing the transaction unless the transaction was made on real property of an institution of higher education, the Permanent University Fund, the Permanent School Fund, the Employees Retirement System or the Teacher Retirement System.

The bill would repeal VACS art. 5421t subsections (d) through (l), which outlines the current timetable for surrounding the state property real estate transactions during the interim.

The bill would take effect September 1, 1995. The bill would require the asset management division to make a report of underused and unused property to the governor and the LBB by November 1, 1995.

**SUPPORTERS
SAY:**

SB 1262 would revise the statutes allowing the state to dispose of underused or unused land and would streamline the procedures involved in recommending and approving these real estate transactions. The state has upward of \$100 million invested in underused and unused real estate that could be better used or sold and the revenue could help fund the state. The current system is cumbersome and unworkable — if the governor fails to proposed a real estate transaction, it cannot proceed, yet no governor has approved a transaction in 10 years. The bill would allow the state to more efficiently and effectively use the resources it has on hand and would permit funds to be used where needed.

The bill would give state agencies adequate due process to contest any decision made by the General Land Office. It would require that state agencies be notified before recommendations are made to the governor and the LBB to sell, lease, transfer, or trade unused state real estate and give the agencies the opportunity to make a case for retaining the land to the LBB and the governor before a decision was made on the land. However, the bill would also keep state agencies from blocking the sale of unneeded real estate by altering it before it could be leased, transferred, sold or traded.

**OPPONENTS
SAY:**

This bill calls into question a central policy issue regarding who controls the assets of an agency: Is it the agency governing boards appointed by the governor or the General Land Office, the governor and the LBB? This bill would usurp the authority of the appointed boards to meet their responsibilities.

The bill would allow the General Land Office to determine what state property is unused and underused and to recommend disposition of the land. State agencies would have little time to counteract the land commissioner's recommendations. Furthermore, the land commissioner's decision would be approved unless disapproved by the governor or the LBB. This would be a backward way to extract the governor's and/or the LBB's consent to transact a piece of state property through their inaction. The bill would create a situation in which a recommendation by the land commissioner could be approved if "lost" for 90 days.

It is questionable whether the General Land Office is in the best position to assess whether a piece of property is used or underused. For example, the Texas Department of Transportation purchases right-of-way years before it is needed. On the surface it may appear that this land is underused, but the right-of-way is needed for future roads.

The bill also opens up the question of the disposition of proceeds of sale transactions on pieces of property that were originally purchased with constitutionally dedicated monies. Would the proceeds from the sale of this type of land be constitutionally dedicated?