

SUBJECT: Exempting General Land Office appraisals from public disclosure

COMMITTEE: Land and Resource Management — committee substitute recommended

VOTE: 7 ayes — Walker, Crabb, F. Brown, Geren, Howard, Krusee, Truitt

0 nays

2 absent — Mowery, B. Turner

WITNESSES: For — David Dewhurst, Texas General Land Office

Against — None

On — Mark A. McAnally, Texas General Land Office

BACKGROUND: In 1995, the 74th Legislature revised Government Code, ch. 552, which had been designated as the Open Records Law, as the Texas Public Information Act. This law requires that information collected by governmental bodies in the state be generally available to the public, with a few limited exceptions.

The General Land Office (GLO) manages public school lands, veterans board land, and other property held by the state. Other statutes authorize the GLO to serve as the state's real estate agent in buying or selling land held by other state agencies.

Before 1999, GLO appraisals prepared for the sale or purchase of land were considered confidential and exempt from disclosure until the formal disposition of the property. Recent attorney general's opinions (OR99-0036, February 22, 1999; also OR2000-4499, November 22, 2000, and OR2001-0262, January 24, 2001) held that appraisal reports are completed reports that are subject to disclosure under changes in the Public Information Act enacted in 1999.

DIGEST: CSHB 2138 would add a new section to the Natural Resources Code Chapter 11, Subchapter D to keep information about the location, purchase price or sales price of GLO-managed land or any state land handled by GLO confidential and exempt from disclosure under the Public Information Act until the purchase or sale of the land was completed. An appraisal, completed report, evaluation, or investigation to locate or determine the sale price would remain confidential and exempt from disclosure.

Appraisal information also would not be subject to subpoena to the School Land Board, Veterans' Land Board, GLO, attorney general or governor.

This 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, 2001.

SUPPORTERS SAY: CSHB 2138 would restore a traditionally accepted exemption for GLO appraisal reports on the purchase or sale of state land. The GLO conducts more than 17,000 appraisals a year for lands it manages or other state agencies. Premature disclosure of the information before the bid opening would preclude the state from receiving the highest price for its own land or interfere with its ability to purchase land at a reasonable cost. The financial cost for real estate transactions for above or below market value justifies restoring this limited exception to the Public Information Act.

OPPONENTS SAY: No apparent opposition.

NOTES: The committee substitute differs from the original bill in requiring that any report prepared in anticipation of purchasing or selling property for or by the School Land Board, the GLO, or the land commissioner would be confidential and exempt from disclosure under the Public Information Act.

The companion bill, SB 1414 by Lindsay, was reported favorably, without amendments, by the Senate Natural Resources Committee on April 18 and recommended for the Local and Uncontested Calendar.