

- SUBJECT:** Revising General Land Office's asset management duties
- COMMITTEE:** Land and Resource Management — committee substitute recommended
- VOTE:** 6 ayes — Mowery, J. Jones, Pickett, Guillen, Haggerty, Noriega
0 nays
2 absent — Hochberg, Howard
- WITNESSES:** For — Commissioner Jerry Patterson, General Land Office
Against — None
On — Bo Tanner and Susan Maldonado, General Land Office; John Campbell and Zane Webb, Texas Department of Transportation; (*Registered but did not testify:*) Tom Gouris, Texas Department of Housing and Community Affairs; Mark A. McAnally and Charles W. Richards, General Land Office
- BACKGROUND:** Natural Resources Code, ch. 31 governs the General Land Office's (GLO) duties in administering transactions for state-owned real property. GLO's asset management division regularly must review each state's real property inventory and identify property that is being underused substantially. The land commissioner must issue a report to the governor on any proposed real estate transaction, including GLO's evaluation of the property and recommendations by relevant state agencies. An agency's authority to sell the property depends on the governor's acceptance or rejection of the land commissioner's recommendation about the proposed transaction.
- In 2001, the 77th Legislature enacted HB 3623 by Flores, requiring GLO to solicit recommendations from the Texas Department of Housing and Community Affairs (TDHCA) regarding the suitability of underused state property for affordable and accessible housing. If TDHCA recommends a property as suitable, the land commissioner's report must incorporate a recommendation that the property be transferred to the appropriate political subdivision for purposes of affordable and accessible housing.

If the Legislature authorizes a transaction, GLO's asset management division takes control of the property and negotiates the transaction on the state's behalf. The transaction may occur through a sealed bid or public auction, and the highest bid must be accepted.

DIGEST:

CSHB 2044 would recodify portions of the Natural Resources Code to update language, eliminate references to abolished agencies, define terms more specifically, and rearrange or repeal provisions. The bill also would make some policy changes relating to transactions of state-owned real property and the authority of GLO's asset management division.

Agency authority to sell property. CSHB 2044 would authorize a state agency or political subdivision directly to sell or exchange real property held jointly with the School Land Board. The property would have to be sold at market value and would benefit the Permanent School Fund. Public notice requirements under Local Government Code, sec. 272.001 would not apply to this type of transaction.

GLO authority to conduct certain transactions. GLO's asset management division could sell to a political subdivision any real property owned by the state if the Legislature or the governor authorized the sale and if the land commissioner determined the sale to be in the state's best interest. The governor would have to approve any such sale, and the property would have to be sold for market value.

Historic properties. GLO would not have to make recommendations or prepare an inventory report on the Alamo, the Capitol, the French Legation, the Texas State Cemetery, the Governor's Mansion, and property owned by the Texas Historical Commission or administered by the State Preservation Board.

Affordable housing. CSHB 2044 would eliminate the practice of TDHCA recommending to GLO that underused property be used for affordable housing before the land commissioner makes recommendations to the governor. The Legislature or the governor could authorize the transfer of real property to an entity for use as affordable housing. The bill also would eliminate current language that refers to "affordable and accessible" housing and would replace it with references to affordable housing.

Allowing use of a real estate broker. For real estate transactions authorized by the Legislature, CSHB 2044 would add the use of a real estate broker to the current options of a sealed bid or public auction. The asset management division could contract with a broker or real estate firm to sell property if the commissioner determined those services to be in the state's best interest.

Other provisions. CSHB 2044 would reorganize and rewrite provisions authorizing the School Land Board to exercise its first-purchase option on state property for sale. It would specify the way in which an appraisal value is chosen when an agency and the School Land Board disagree over a property's value. It also would repeal a provision authorizing the state to retain mineral rights in land traded under a statute governing a superconductor site.

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, 2003.

**SUPPORTERS
SAY:**

By updating convoluted and confusing portions of the Natural Resources Code, CSHB 2044 would streamline and simplify asset management at GLO. Many of the laws governing asset management were written more than a century ago, and others have been amended and changed to the extent that some sections are confusing even to a regular user. A thorough recodification of GLO's asset management duties would aid administrators who carry out the agency's functions and legislators who must be able to understand this important area of the code.

CSHB 2044 would eliminate duplicative and inefficient steps that the state must take when selling property. Currently, an entity that wants to sell land held with the School Land Board must initiate a simultaneous sale with the Permanent School Fund, which ultimately sells the property to the third party. The bill would eliminate this archaic and inefficient practice by allowing an agency or political subdivision to sell such property directly.

The bill also would allow GLO to sell property to a political subdivision, provided that the land commissioner and governor approved of the sale. The governor would have the final authority to approve any sale authorized by the Legislature or the land commissioner, assuring openness and accountability in each real estate transaction.

The bill wisely would allow GLO to use a real estate broker when selling state property if the land commissioner deemed such a contract to be in the state's best interest. This would enable the state to benefit from the services of professional real estate agents. The bill would stipulate that this property be sold at market value, establishing a necessary safeguard for any transaction handled by a broker.

CSHB 2044 would honor the intent of HB 3623 by Flores by transferring to the Legislature or the governor the authority to recommend that state property be used for affordable housing.

**OPPONENTS
SAY:**

The bill should not authorize the use of commercial brokers to sell state property, since the fees charged by these agents would reduce the state's financial benefit from such a sale.

CSHB 2044 would weaken TDHCA's ability to recommend that some state property be used for affordable housing. The bill would not require explicitly that the use of a state building for affordable housing be considered in the real estate transaction process. The bill should allow TDHCA to continue to advise the land commissioner or the governor on these matters.

NOTES:

The committee substitute added the provision allowing GLO to contract with a real estate broker. It also deleted language in the original bill that would have allowed TDHCA to evaluate the land commissioner's draft report for the potential suitability of underused property for affordable housing. The substitute would add language requiring the governor to approve a sale by the School Land Board of land purchased from a state agency under the board's first option to purchase and would modify the procedure for adopting an appraisal under that option. The bill initially included language stating that the chapter would apply only to transactions authorized by the governor.

The companion bill, SB 1121 by Staples, was considered in a public hearing by the Senate Natural Resources Committee on April 15 and left pending.

On May 2, the House passed to engrossment a similar bill, HB 2249 by Howard, which, among other provisions, would allow the School Land Board to use a real estate agent for land transactions.

