

- SUBJECT:** Revising powers of School Land Board and land commissioner
- COMMITTEE:** Land and Resource Management — committee substitute recommended
- VOTE:** 8 ayes — Bonnen, Farrar, Alvarado, Bolton, Hamilton, Orr, Paxton, Thibaut
- 0 nays
- 1 absent — Homer
- WITNESSES:** For — None
- Against — G.K. Sprinkle, Daily Court Review and Daily Commercial Record; (*Registered, but did not testify:* Ken Whalen, Texas Daily Newspaper Association, Texas Press Association)
- On — Jerry Patterson, General Land Office
- BACKGROUND:** Natural Resources Code, ch. 32 establishes the School Land Board (SLB), consisting of the land commissioner and one appointment each from the governor and the attorney general. The SLB has certain duties regarding the sale of public land dedicated to the Permanent School Fund (PSF) and leasing land for mineral extraction and other purposes.
- Natural Resources Code, ch. 51 provides for the management of public land administered primarily as part of the PSF. The chapter sets guidelines for the management of state school lands and grants the authority to acquire, lease, and sell this land to the land commissioner and the SLB.
- DIGEST:** CSHB 3461 would modify provisions governing the sale of state land, the School Land Board's (SLB) and land commissioner's duties in managing the sales of state land, the processes for bidding on and paying for state land, and the requirements applicable to the sale of particular classes of state land, including escheated land and vacant land.
- Sales of public land.** CSHB 3461 would revise notice requirements for the SLB for soliciting bids prior to executing a sale, lease, or other contractual agreement to develop land from four notices in daily

newspapers to four notices in daily newspapers or other publications, two of which could be Internet-based journals, trade publications, newsletters, or similar news media likely to reach interested public parties. Notices would include instructions on how to obtain additional information about the subject land and would be posted at least 30 days before the date bids are due.

The bill would modify provisions governing the sale of land that is presumably vacant and that give surrounding landowners a preference right to purchase vacant land that becomes available. The commissioner would investigate the ownership interests of land claimed to be vacant to ensure all interested parties had been located. The investigation would have to be completed within 60 days after the application for purchase of the land was opened. If the investigation found evidence that an interested party may not have been identified and located, the commissioner would appoint an attorney ad litem to identify and locate all parties that may have an interest in the vacant property.

Following a search of public land records with relevant information supplied by the commissioner, if the attorney ad litem could not locate an interested party, the attorney would represent the interests of the absent party. A party with a preferential right to purchase the vacant land would have 121 days to purchase or lease the interest after the date the terms and conditions were determined by the SLB.

Procedures governing land and mineral sales would be modified by allowing the SLB to waive the special fee on land sales to any state agency or other governmental entity. The bill would delete procedures regarding buyers who fail to pay the special fee and would require the commissioner to collect the special fee before accepting the bid and completing the transaction.

Management of public land. CSHB 3461 would add land that was acquired on behalf of the Permanent School Fund (PSF) to statutory references to land managed by the SLB and the commissioner and would subject this land to processes governing other land dedicated to the PSF. The bill would delete a provision requiring the commissioner to submit all rules necessary to carry out provisions regarding the management of state land to the governor for approval. The valuation of all public school land would be removed from current duties of the commissioner.

The bill would allow PSF land to be traded to acquire land for the use and benefit of the PSF, if the SLB determined this to be in the best interest of the state.

The bill would revise provisions relating to the forfeiture of previously purchased state land by adding late charges and other fees and expenses as required by terms established by the SLB and would recodify such land as “sovereign land.” Sovereign land would be defined as land that had not been sold and severed by the sovereign.

Bids and payments for public land. CSHB 3461 would modify the current preference right to purchase for owners of land surrounding a tract for sale from those of 1,200 acres or less to those with land adjoining any land approved for sale by the SLB.

The bill would modify provisions regarding an application to purchase land by striking language establishing specific application requirements and would allow requests to be made in a form the commissioner designated. Provisions executing a land sale on the date of the receipt of the application for the land along with initial payment and requiring the application to declare that all land was sold without condition of settlement and with a reservation of minerals rights, would be deleted.

The bill would amend statutes assessing interest on any unpaid principal and interest balances by deleting unpaid interest from the charges that compound.

Provisions governing escheated land would be modified to strike language requiring that such land be sold to the highest bidder at a price greater than \$2.50 per acre. The bill would provide that escheated land would be sold in the same manner as other public school land.

Repeal of existing statutes. The bill would repeal existing law requiring:

- public school land to be sold without condition of settlement and residence;
- an application for the purchase of public school land to be delivered to the land office in a sealed envelope addressed to the commissioner with the words “application to buy land”;
- various procedures to take place upon receipt of an application, which must include the required first payment;

- the comptroller to collect immediately all remittances and the commissioner to retain all first payments until notified of the final disposition of the applications;
- the commissioner to reject all bids and re-sell the land if two or more applicants submitted the same bids in the highest amount;
- that any public school land offered for sale for which no application has been received may to be sold to any person who files a proper application in the land office in the manner provided by law;
- payments of principal, interest, and lease rental to be accounted for separately from first payments on land;
- no land to be appraised at less than \$2 an acre, and land located west of the Pecos River to be appraised at no less than \$1 an acre; and
- the initial payment for escheated land must be in cash and may not be less than one-tenth of the purchase price.

The bill also would delete a section providing that no sale made without a condition of residence can be questioned by the state or any person after one year from the date of the sale.

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, 2009.

**SUPPORTERS
SAY:**

CSHB 3461 would update provisions regarding the sale, purchase, and management of public land in the statutes governing the SLB and the land commissioner, many of which have not been modified since 1977. Most of the provisions that would be modified either no longer are followed in current practice or are only formally complied with to fulfill statutory obligations. For instance, the procedures for submitting and processing bids have changed substantially, yet the statutes from 1977 still require an envelope submission and a variety of associated processes that no longer apply.

CSHB 3461 also would make a number of changes to outdated processes associated with particular types of land sales. The bill would make minor changes to processes that govern vacant land — land that reverts to the state as a result of correcting a flawed survey — to streamline processes for selling this land and investigating interested parties that might have a claim to the land. The bill would allow the commissioner to search for interested parties first, before assigning this responsibility to an appointed

attorney, as in current law. The bill also would delete a provision, last updated in 1977, requiring the governor to approve rules adopted by the commissioner in order to implement provisions governing land sales in the state. For many years, the governor has simply signed off on the commissioner's rules, and this has proved an administrative inconvenience for both offices involved.

CSHB 3461 would amend notification requirements to provide more options for posting notice for bids online and in other sources that may be targeted to interested parties. The bill would preserve the option of posting notice requirement in public newspapers, but technological advances have made other options more effective for conveying important sales information.

**OPPONENTS
SAY:**

Reducing newspaper notice requirements could effectively leave in the dark those who rely on paper copies of newspapers to get information about sales notices. Many people do not have access to online sources and other lower-circulation publications and could be placed at a disadvantage by a change in policy that loosens requirements to post in standard paper newspapers. Further, many of the larger papers place postings both in print and online, where they are able to achieve maximum exposure.

NOTES:

The committee substitute added a provision that the asset management division of the General Land Office could assist in “any sale, lease, or exchange of land” governed by provisions applying to public school land.