

SUBJECT: Renewing 99-year lease of certain state property to the City of Austin

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 10 ayes — Cook, Giddings, Craddick, Farrar, Frullo, Geren, Harless,
Menéndez, Oliveira, Sylvester Turner

0 nays

3 absent — Hilderbran, Huberty, Smithee

SENATE VOTE: On final passage, April 11 — 31-0

WITNESSES: (*On House companion bill, HB 2604*)
For — Molly Alexander, Downtown Austin Alliance; Sara Hensley, City
of Austin; Julian Read, Preservation Austin; (*Registered, but did not
testify*: Charles Betts, Downtown Austin Alliance; John Donisi; Julia
Fitch, Texas Downtown Association; Kim McKnight, Preservation Austin;
Joanne Richards; Colin Wallis, Austin Parks Foundation)

Against — None

On — (*Registered, but did not testify*: LaNell Aston, General Land Office;
Terry Keel, Texas Facilities Commission)

BACKGROUND: The 33rd Legislature in 1913 enacted HB 215, granting the city of Austin the right to establish, operate, and maintain a municipal auditorium and market square between 4th and 5th streets and Guadalupe and San Antonio street (Republic Square Park). In 1917, the Legislature amended the provision to grant a 99-year lease to the city of Austin. Under the grant, the land would revert back to the state if the city of Austin did not use it as provided under the lease.

DIGEST: CSSB 1023 would grant a 99-year lease starting on August 15, 2016, to the city of Austin for three tracts of state-owned land: Republic Square Park, Wooldridge Park, and Brush Park. The Legislature could, by a concurrent resolution, terminate the lease, in part or in whole, at any time

and for any reason.

The city of Austin only could use the tracts as municipal parks for conducting theatres, operas, concerts, lectures, fairs, shows, and public exhibitions or for buying or selling produce. The city could construct, operate, and maintain public amenities on the described tracts.

The bill would take effect August 15, 2016.

**SUPPORTERS
SAY:**

CSSB 1023 would address a unique situation concerning the fate of three public squares in Austin. The bill would extend and improve an almost 175-year arrangement between the city of Austin and the state of Texas, whereby the former has been maintaining and operating public squares owned by the latter.

The tracts in question, Republic Square Park, Wooldridge Square Park, and Brush Square Park were platted as three of four public squares when Austin was declared capital of the Republic of Texas. While there is no formal lease for the city to operate Wooldridge and Brush Park, the 35th Legislature in 1917 leased Republic Square Park to the city of Austin for 99 years. A fourth square was sold and became the First Baptist church.

The squares have special historical significance for the city of Austin and the state. Brush Square Park is the site of the O'Henry Museum, historic fire station #1 and the Austin Fire Museum, and the transplanted home of Alamo survivor Susanna Dickinson. Wooldridge Park has a storied history, including distinction as the site where Lyndon Baines Johnson announced his run for U.S. Senate in 1948. And Republic Square has, since its designation in 1840, been a place for the convergence of ideas and people.

Legal questions throughout the years have affirmed the unique standing and importance of the squares. For example, an attorney general opinion from 1948 (V-741) concluded that two of the tracts in question were not part of the Public School Fund but rather were wholly within the province of the Legislature and could thus not be sold through the same channels as other public state land.

The city of Austin has and continues to invest significant resources into maintenance and operation of the squares. The city has budgeted \$1.2

million for the Republic Square Master Plan and improvements and has designated other improvements for Wooldridge and Brush Square, financed partially from voter-approved bond funding.

SB 1023 would allow the city of Austin to continue in its beneficial role as steward of the public squares while granting the state the flexibility to cancel the arrangement if the need arose. Allowing the state to cancel the contract if necessary would be a critical precondition to entering into such a long-term agreement. There is no telling what may happen over the next 100 years, and the state needs to retain the option to modify agreements of such duration if necessary.

OPPONENTS
SAY:

Instead of making decisions involving the disposition of individual parcels of land, it would be preferable for the Legislature to place the plots in question under the land and facility review processes of the Texas Facilities Commission. The Facilities Commission is accustomed to making recommendations for specific actions and working out long-term ground leases and other arrangements for specific parcels of state-owned land and would be well equipped to work out an agreement with the city of Austin and implement the agreement administratively.

OTHER
OPPONENTS
SAY:

The House substitute added language stating that the Legislature could “terminate the lease, or a portion thereof, at any time for any reason.” Given that the city of Austin is in the process of making significant investments in improving the public squares, the Legislature should be restricted to terminating the lease only for just cause.

NOTES:

The House committee substitute added language allowing the Legislature, by a concurrence of both houses, to terminate the lease with the city, in whole or in part, at any time for any reason.

The House companion bill, HB 2604 by Naishtat, was left pending in the House State Affairs Committee on March 27.