

SUBJECT: Revises rules affecting some property sales, public notices and payments

COMMITTEE: Land and Resource Management — favorable, without amendment

VOTE: 4 ayes — Deshotel, E. Thompson, Cyrier, Lucio

0 nays

3 absent — Bell, Krause, Sanford

WITNESSES: For — None

Against — Donnis Baggett, Texas Press Association; (*Registered, but did not testify*: Kelley Shannon, Freedom of Information Foundation of Texas)

On — Mark Havens, General Land Office

BACKGROUND: Natural Resources Code, ch. 31 contains requirements related to the sale of real property by the state and addresses cases in which the governor's signature is required.

Natural Resources Code, ch. 33 requires that the commissioner of the General Land Office (GLO) provide notice of an approved coastal boundary survey in the Texas Register and for two consecutive weeks in a general circulation newspaper in the county or counties where the land depicted in the survey is located.

Natural Resources Code, ch. 51 enables the land commissioner to remove and dispose of a facility or structure on land owned by the state under certain circumstances. Notice of the intent to remove or dispose of the facility or structure must be posted on the facility or structure and published in a general circulation newspaper in the county in which the facility or structure is located two times within 10 consecutive days.

Natural Resources Code, ch. 52 requires a lessee who intends to file a suit in protest of audit deficiency assessments to submit payment for the

amounts assessed with the lessee's written protest.

DIGEST: HB 2104 would make certain changes to the Natural Resources Code that pertain to the General Land Office (GLO).

Requirement for governor's signature. The bill would require the governor's signature to approve the sale of properties that did not receive an acceptable bid at auction and would therefore be sold through an alternative process, rather than requiring it in cases when "the governor's approval is required."

Notice requirements. Notices on approved coastal boundary surveys would have to be published on the GLO's website for two consecutive weeks within 30 days after the date of approval. A notice required under sec. 51.3021 regarding the state's intent to remove a structure or facility located on the state's land, if personal service could not be obtained or the responsible person's address was unknown, would have to be posted on the GLO's website and in the Texas Register. The bill would remove requirements that the notices be posted in general circulation newspapers in the relevant county or counties.

Removal of audit deficiency payment requirement. The bill would remove a provision that currently requires individuals who have been assessed to owe additional royalties resulting from an audit to pay the assessed amounts before filing a suit to protest the audit findings. It also would remove provisions addressing suits to recover these payments.

Payment deposit authority. The bill would require the comptroller, at the land commissioner's direction, to deposit certain payments collected by the GLO on behalf of other state agencies to the probable fund to which the payments belonged until the commissioner and the comptroller's office had determined where the funds properly should be directed.

Other changes. The bill would make other minor changes to the Natural Resources Code. It would reflect that descriptive information found in the School Land Registry also can be found elsewhere. It would clarify when

the local development policies and procedures would govern requested revisions to a development plan. It would repeal language stating that the land commissioner will periodically furnish a list of land areas potentially subject to sale or lease by the School Land Board.

This bill would take effect September 1, 2015, and would apply only to an audit billing notice or a final commissioner's order received by a lessee on or after that date.

SUPPORTERS
SAY:

HB 2104 would update provisions in the Natural Resources Code necessary to reflect current practices related to the General Land Office (GLO).

Requirement for governor's signature. Existing law indicates that the governor's signature may be required in transactions involving sales that do not proceed through auction. This bill would clarify and make explicit that the governor's signature is required in such cases.

Notice requirements. Requiring notice on approved coastal boundary surveys to appear online rather than in a newspaper would be cost-effective and would reflect the way an increasing number of people receive information today. Newspaper notices can be expensive and historically have not provided value in terms of responses from the public on certain issues. For instance, the GLO reported that it received no responses when posting newspaper notices regarding derelict vessels on state land. The section of the newspaper where such notices are posted — the legal notices — normally is read by those looking for them. Those stakeholders likely would find an online resource for this information equally or more convenient.

Removal of audit deficiency payment requirement. The bill would update statute to match the current practice of the GLO, which does not collect amounts assessed during an audit if the audited party is filing a suit to protest the findings. Collecting these amounts prior to final disposition of the case would be inefficient and possibly even unconstitutional.

Payment deposit authority. By restoring a previous GLO practice, the bill would enhance efficiency in accounting processes for the agency. Based on experience, the GLO typically knows which agencies will be credited with the majority of funds collected. It would make sense to use this experience to place the funds in accounts where they can accrue interest rather than putting them in a separate suspense account while the transactions are being verified and finalized.

OPPONENTS
SAY:

HB 2104's removal of the requirement to post certain notices in local newspapers could leave the public less well informed. Many people may not know to check the GLO's website for this information. These notices serve the public interest, and every reasonable effort should be made to ensure that people are able to view them. Research indicates that many Texans do not have ready access to the Internet or a computer to research matters of public interest. The trend away from non-Internet forms of public notification erodes the public's ability to be informed.