

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 693  
By: Brown  
Natural Resources  
3-11-97  
Committee Report (Substituted)

### **DIGEST**

Currently, there are no regulations regarding standing to sue on a restrictive covenant affecting state property. In certain instances, the legislature has issued land patents to political subdivisions of the state to promote a public purpose, such as the construction and operation of public facilities. These patents convey state property to the political subdivision and restrict the use of the property to certain public, but not commercial, uses. In attempting to enforce the public use restrictions of a patent, the courts have ruled that both the Office of Attorney General and the General Land Office lack standing to sue. This bill will grant the commissioner of the General Land Office and the attorney general standing to enforce restrictive covenants affecting state property.

### **PURPOSE**

As proposed, C.S.S.B. 693 grants the commissioner of the General Land Office and the attorney general standing to enforce restrictive covenants affecting state property.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 31C, Natural Resources Code, by adding Section 31.068, as follows:

Sec. 31.068. STANDING TO ENFORCE RESTRICTION. Provides that the commissioner of the General Land Office or the attorney general have standing to enforce restrictive covenants affecting real property owned by the permanent school fund or a state agency, and restrictions expressed in any transfer document, or any legislative act, conveying real property then owned by the state. Authorizes the attorney general on his own, or acting on behalf of the commissioner of the General Land Office, to bring suit to enforce the rights of the state under this section.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Emergency clause.  
Effective date: upon passage.

### **SUMMARY OF COMMITTEE CHANGES**

Amends SECTION 1, Section 31.068, Natural Resources Code, to provide that the attorney general and commissioner of the General Land Office have standing to enforce restrictive covenants, rather than are authorized to bring suit to enforce restrictive covenants, affecting certain real property. Authorizes the attorney general on his own, or on behalf of the commissioner of the General Land Office, to bring suit to enforce the state's rights.

Amends SECTION 2, to make application of this Act prospective.