

BILL ANALYSIS

Senate Research Center

S.C.R. 71
By: Madla
Finance
4-29-97
As Filed

DIGEST

Mr. Orian R. Gardner alleges that his property in Presidio, Texas, was purchased in error on or about November 1, 1949, by the Texas Department of Transportation from a person with no power or right to convey such property, and has since been used for the construction of F.M. 170. Mr. Gardner was living in California at the time and was not made aware of the acquisition until his return to Texas in 1990. He has continuously paid taxes on the property from the time it was deeded to him to the present. The department initially acknowledged his ownership of the property but has since claimed that the statute of limitations has run and has refused to offer him compensation rightfully owed to him for the use of his property. S.C.R. 71 grants permission to Mr. Gardner to sue the State of Texas and the Texas Department of Transportation.

PURPOSE

As proposed, S.C.R. 71 submits the following resolutions:

To grant permission to Mr. Orian R. Gardner to sue the State of Texas and the Texas Department of Transportation subject to Chapter 107, Civil Practice and Remedies Code.

To provide that payment of any damages awarded in a suit authorized by this resolution from the state treasury is subject to appropriation.

To provide that it is the intent of the 75th Legislature of the State of Texas, that, if any damages are awarded in a suit authorized by this resolution, the damages shall be paid from money appropriated to or otherwise available to the Texas Department of Transportation and that additional money should not be appropriated for the purpose of paying such damages.

Authorizes Mr. Orian R. Gardner and the Texas Department of Transportation to agree to submit the matter that is the subject of this resolution to binding arbitration.

To provide that the provisions of this resolution are not severable, and if any provision of this resolution is finally held to be invalid by a court of competent jurisdiction, the remaining provisions are also invalid and this resolution has no force or effect and no suit is authorized by this resolution.

To provide that the executive director of the Texas Department of Transportation be served process as provided by Section 107.002(a)(3), Civil Practice and Remedies Code.