

BILL ANALYSIS

Senate Research Center
78R12750 PAM-D

C.S.H.B. 2249
By: Howard (Staples)
Natural Resources
5/21/2003
Committee Report (Substituted)

DIGEST AND PURPOSE

Currently, the School Land Board (SLB) does not have the authority to use brokers to market land, charges no reinstatement fee, and allows a purchaser five years to reinstate a claim. C.S.H.B. 2249 changes the Permanent School Fund's handling of forfeitures of delinquent property contracts and gives SLB authority to use brokers to market land. This bill also requires a 1.5 percent reinstatement fee for delinquent amounts, changes the time period allowed to reinstate a claim to six months, and deletes references to "asylum land."

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 51.001, Natural Resources Code, by amending Subdivision (7) and adding Subdivisions (10) and (11) to define "appraiser," "land," "real property," and "market value." Deletes existing text related to the definition of "asylum land."

SECTION 2. Amends Section 51.011, Natural Resources Code, as follows:

Sec. 51.011. New heading: SALE AND LEASE OF PUBLIC SCHOOL. Deletes existing text "AND ASYLUM" from the heading. Deletes existing text related to various asylum funds.

SECTION 3. Amends Section 51.012, Natural Resources Code, to make a conforming change.

SECTION 4. Amends Section 51.0125, Natural Resources Code, to delete existing term "fair" as a modifier for market value regarding compensation to the permanent school fund by a state agency for using permanent school fund land.

SECTION 5. Amends Section 51.013, Natural Resources Code, as follows:

(a) Requires the Commissioner of the General Land Office (commissioner), as the public interest may require, to classify or reclassify all public land and requires the commissioner to include a designation of the land, rather than to designate the land, including a certain classification or combination of certain classifications based on the facts in the particular case. Deletes existing text related to the value or revalue of all public school land. Makes conforming and nonsubstantive changes.

(b) Provides that after the classification and determination of market value, rather than appraisement, is entered on the records of the land office, no further action needs to be taken by the commissioner and no notice is required to be given to the county clerk for the classification and determination of market value, rather than appraisement to be effective.

SECTION 6. Amends Section 51.018, Natural Resources Code, to make a conforming change.

SECTION 7. Amends Section 51.052, Natural Resources Code, by amending Subsections (d),

(e), (f), (g), (h), (i), and (j) and by adding Subsection (k), as follows:

(d) Requires the appraiser, rather than the appraisers for the land office, to appraise the land at its market value and file a copy of the appraisal with the commissioner, before the land under this chapter, rather than subchapter, is sold.

(e) Requires the owner of land that surrounds land in a tract, rather than a tract of 700 acres or less, to have a preference right to purchase the tract before the land is made available for sale to any other person, provided the person having the preference right pays not less than the market value for the land as determined by the School Land Board.

(f) Requires the owners of land with a common boundary with a tract of 1,200 acres, rather than 700 acres, or less that is for sale, if the surrounding land is owned by more than one person, to have a preference right to purchase the tract before it is made available to any other person, provided the person with the preference right pays not less than the market value of the land as determined by the board and the board finds use of the preference to be in the best interest of the state.

(g) and (h) Make conforming changes.

(i) Authorizes the asset management division of the land office to solicit proposals or negotiate a sale, exchange, or lease of the land, rather than property, to any person, if no bid meeting minimum requirements is received for a tract of land offered at a sealed bid sale under Subchapter D, Chapter 32 (Sale and Lease of Land) of this code. Authorizes the asset management division to also contract for the services of a real estate broker or of a private brokerage or real estate firm to assist in the real estate transaction. Prohibits the sale price from being less than the market, rather than appraised, value. Requires the School Land Board (SLB) to approve any negotiated sale, exchange, or lease of any land under this section. Deletes existing language related to the determination of the asset management division.

(j) Makes a conforming change.

(k) Authorizes the asset management division of the land office, if an award of a bid under this section does not result in a final transaction, to contract for the services of a real estate broker or of a private brokerage or real estate firm to assist in the real estate transaction.

SECTION 8. Amends Section 51.054(c), Natural Resources Code, to make a conforming change.

SECTION 9. Amends Section 51.056(a), Natural Resources Code, to make a conforming change.

SECTION 10. Amends Section 51.057(a), Natural Resources Code, to make a conforming change.

SECTION 11. Amends Section 51.064(a), Natural Resources Code, to make a conforming change.

SECTION 12. Amends Section 51.065(b), Natural Resources Code, to make a conforming change.

SECTION 13. Amends Section 51.070, Natural Resources Code, as follows:

Sec. 51.070. New heading: UNPAID PRINCIPAL AND INTEREST ON PUBLIC SCHOOL LAND SALES. (a) Requires unpaid and delinquent principal and interest on sales of public school land to bear interest at a rate set by SLB, which principal and interest is required to be payable at the times and on such terms as are established by SLB

by rule or by contract.

(b) Authorizes no patent to be issued for any public school land until all unpaid principal and compounded interest is paid to the time of issuing the patent.

(c) Provides that any principal and interest is considered delinquent on the 30th day after the date payment of the principal and interest is due for the obligation.

(d) Requires notice of delinquency and subsequent potential forfeiture to be provided by certified mail, return receipt requested, to the last known address of the obligee and to be documented in the records of the land office, after the payment of principal and interest becomes delinquent under the obligation.

SECTION 14. Amends Section 51.071(a), Natural Resources Code, to delete existing text “or” and replace it with “and,” related to circumstances when the principal and, rather than or, interest on a sale of land is not paid when due.

SECTION 15. Amends Section 51.072, Natural Resources Code, to provide that the original obligations and reinstatement fees, rather than penalties, are as binding as if no forfeiture occurred, in cases of forfeiture.

SECTION 16. Amends Section 51.073(a), Natural Resources Code, to require the commissioner to classify and determine the market value of land on which leases have been canceled or have expired and land forfeited to the state, before it is sold.

SECTION 17. Amends Section 51.074, Natural Resources Code, as follows:

(a) Authorizes the purchasers or their vendees, heirs, or legal representatives, who claim land that has been forfeited for nonpayment of principal and interest, to have the claim reinstated on written request by paying into the State Treasury the amount of all principal and interest due on the claim up to the date of reinstatement, if no rights of third persons have intervened.

(b) Provides that the right to reinstate a claim under this section is limited to the last purchaser from the state, or his vendees, heirs, or legal representatives, and must be exercised within six months, rather than five years, from the date of the forfeiture. Deletes existing Subsection (c) related to a valid outstanding lease that prevents reinstatement within the time provided in Subsection (b).

SECTION 18. Amends Section 51.076, Natural Resources Code, to make conforming changes.

SECTION 19. Amends Section 51.077, Natural Resources Code, to provide that the lien is in addition to any right and remedy that the state has for enforcement of the payment of principal and interest due and unpaid, up to and including the period required to reinstate the land award and obligation. Makes conforming and nonsubstantive changes.

SECTION 20. Amends Subchapter C, Chapter 51, Natural Resources Code, by adding Section 51.0771, as follows:

Sec. 51.0771. REINSTATEMENT FEE. (a) Provides that a reinstatement fee is due when a forfeited award is reinstated. Provides that the reinstatement fee is calculated at one and one-half percent of all amounts delinquent at the time of the reinstatement.

(b) Requires the comptroller of public accounts of the State of Texas to receive the reinstatement fee before the forfeited award is reinstated.

(c) Provides that amounts received in the form of a reinstatement fee are considered proceeds from the sale of permanent school fund land and requires reinstatement fees to be deposited in the permanent school fund.

SECTION 21. Amends Section 51.079(a), Natural Resources Code, to make a conforming change.

SECTION 22. Amends Sections 51.121(a), (d), and (e), Natural Resources Code, as follows:

(a) Authorizes unsold public school land to be leased for any purpose the commissioner determines is in the best interest of the state, rather than for agricultural, grazing, or commercial purposes, under terms and conditions set by the commissioner. Makes a conforming change.

(d) and (e) Make conforming changes.

SECTION 23. Amends Section 51.131(a), Natural Resources Code, to authorize, rather than require, the commissioner, for each lease issued under this subchapter for agricultural or grazing purposes, to require the lessee to implement a soil and water conservation plan approved by the commissioner. Authorizes the commissioner, in reviewing a plan, and the lessee, in implementing a plan, to be assisted by the United States Department of Natural Resources Conservation Service, rather than the United States Department of Agriculture Soil Conservation Service.

SECTION 24. Amends Section 51.174(c), Natural Resources Code, to make a conforming change.

SECTION 25. Amends Section 51.175(b), Natural Resources Code, to add “real” as a modifier for “property law” relating to rules adopted under this subsection.

SECTION 26. Amends Section 51.246(b), Natural Resources Code, to make a conforming change.

SECTION 27. Amends Subchapter G, Chapter 51, Natural Resources Code, by adding Section 51.2995, as follows:

Sec. 51.2995. WAIVER OR REDUCTION OF EASEMENT FEES IN CERTAIN CIRCUMSTANCES. Authorizes the commissioner to waive or reduce an easement fee if the easement granted is to improve the infrastructure of the land, including production and transportation of alternative or renewable energy resources.

SECTION 28. Amends Section 51.302(g), Natural Resources Code, to require notice of ownership, for facilities or structures located on coastal public land and connected with the ownership of adjacent littoral property, to be filed in the county in which the adjacent littoral property is located, rather than property on which the facility or structure is located. Deletes text relating to certain information a notice under this subsection is required to contain. Makes conforming changes.

SECTION 29. Amends Section 51.342, Natural Resources Code, as follows:

Sec. 51.342. New heading: SALE OR LEASE OF TIMBER. Requires timber located on public land to be sold or leased in full tracts for cash at its market value. Makes a conforming change.

SECTION 30. Amends Section 51.402, Natural Resources Code, to authorize SLB to use the money designated under Section 51.401 of this subchapter to acquire real property and to pay the expenses of acquisitions and sales for certain purposes. Makes conforming changes.

SECTION 31. Amends Section 51.403, Natural Resources Code, as follows:

(a) Makes conforming changes.

(b) Requires a sale under this chapter to be for not less than market value and under any

other terms and conditions that the commissioner determines are in the best interest of the state.

(c) Redesignated from existing Subsection (b). Makes conforming changes.

SECTION 32. Amends Section 51.404, Natural Resources Code, to make conforming changes.

SECTION 33. Makes application of Sections 51.070, 51.071, 51.074, and 54.076, Natural Resources Code, prospective.

SECTION 34. Effective date: upon passage or September 1, 2003.