

BILL ANALYSIS

Senate Research Center
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S.B. 654
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Natural Resources
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Legislature has authorized the School Land Board (SLB) and the commissioner of the Texas General Land Office (GLO) to manage state-owned real property and real property interests dedicated to the Permanent School Fund (PSF) under Article VII, Sections 4 and 5, Texas Constitution. The portfolio contains millions of acres, including ranching and grazing properties in West Texas, timberlands in East Texas, urban properties in a variety of locales, Gulf Coast beaches and bays, and the "submerged" lands extending 10.3 miles from the shoreline. The GLO and the SLB lease state land for a variety of purposes, including agriculture and hunting, oil and gas exploration and production, commercial development, and sustainable energy development.

Subchapter D, Chapter 51 (Sections 51.121-51.131), Natural Resources Code, authorizes the commissioner to lease PSF lands for "any purpose the commissioner determines is in the best interest of the state, under terms and conditions set by the commissioner." There are provisions, however, that limit the commissioner in his ability to negotiate and set terms and conditions that are truly in the best interest of the state. The same problem exists with the provisions of Subchapter G (Sections 51.291-51.307), which relates to the granting of easements authorizing various uses of this public land.

Situations often arise where property may be subject to conditions or circumstances that affect its marketability in a way that requires the negotiation of special or innovative terms and conditions in order to achieve the best return of the state. The commissioner may have knowledge about a property or about the market that indicates that it may be in the interest of the PSF to obtain a market value or better return for a particular property after considering all relevant factors.

In other instances, the commissioner may be called upon to consider a proposed use of these lands that cannot or should not be memorialized through lease or easements documents. For instance, these uses may be important scientific or educational projects, of short duration with no permanent effect on the land. These are more suited to the grant of a license or a simple access permit, uses not presently specified in the statute.

As proposed, S.B. 654 modifies Chapter 51, Natural Resources Code, so that the commissioner may determine the terms and conditions of leases and easements that authorize the use of public lands for private purposes. Existing provisions that require specific terms and conditions or limit the ability of the commissioner to determine the terms and conditions that are in the best interest of the state are amended or eliminated.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 51.073(a), Natural Resources Code, to delete existing text relating to leases that have been cancelled from the list of leases the commissioner of the General Land Office (commissioner) is required to determine the market value of and classify.

SECTION 2. Amends Sections 51.121(a), (b), and (d), Natural Resources Code, as follows:

(a) Prohibits improvements, rather than commercial improvements, on unsold public school land under this subsection from becoming the property of the state and taxed in the same manner as private property.

(b) Provides that improvements made to land leased under Subsection (a) are not required to be removed prior to the lease's expiration if the commissioner believes this to be in the state's best interest and includes this in the terms and conditions of the lease, rather than a renewal or extension of the lease that has been finalized prior to the lease's expiration. Deletes existing text providing that commercial improvements become state property if not removed prior to a lease's expiration and without renewal or extension. Makes a conforming change.

(d) Requires that all sales under this subsection be for a price, rather than not less than market value, determined by the School Land Board, rather than an appraiser. Deletes existing text specifying that a commissioner is authorized to grant a lessee a preference right to purchase leased premises only to leases granted from terms of 20 years or more.

SECTION 3. Amends Section 51.127, Natural Resources Code, as follows:

Sec. 51.127. New heading: RECORDING MEMORANDUM OF LEASE. (a) Requires the commissioner to prepare a descriptive memorandum of the lease at the time the lease is executed and deliver the lease and memorandum to the lessee, rather than the clerk of the county in which the leased land is located (clerk). Deletes existing text providing that this occur after the lessee has paid the rent for land one year in advance.

(b) Requires the lessee to deliver a memorandum of the lease to the clerk. Deletes existing text requiring the clerk, when a lease is filed for record, to prepare a memorandum or abstract of the lease and record the memorandum or abstract in a well-bound book or microfilm in his office.

(c) Requires the clerk to record the memorandum in the county clerk's office. Deletes existing text setting forth certain information the abstract must contain.

(d) Requires the clerk, upon payment of the recording fee, rather than fee required by law, to deliver the recorded memorandum to the lessee. Requires the lessee to provide the commissioner a certified copy of the recorded memorandum.

(e) Deletes existing text providing that no other record of lease is required except for the record made under this section.

SECTION 4. Amends Section 51.291(a), Natural Resources Code, to authorize the commissioner to execute grants of easements, as well as other interests in property for rights-of-way, as well as access across, through, and under certain land. Makes a conforming change.

SECTION 5. Amends Section 51.292, Natural Resources Code, to authorize the commissioner to execute grants of easements or leases for purposes the commissioner determines to be in the best interest of the state.

SECTION 6. Amends Section 51.295, Natural Resources Code, as follows:

Sec. 51.295. CONDITIONS FOR EASEMENT. Deletes existing text prohibiting the granting of certain easements that do not provide for the annual privilege fee of a minimum of two and one-half cents a lineal rod a year.

SECTION 7. Amends Section 51.301(a), Natural Resources Code, to require payments under this subchapter (Interest on Past Due Payments) that are past due to bear an interest rate equal to the rate imposed by the comptroller of public accounts under Section 111.060, Tax Code, for delinquent payments due to the state unless the commissioner or the board of regents of The University of Texas System has entered into an agreement with the grantee of the easement or lease specifying a lower rate, rather than a rate of 10 percent a year.

SECTION 8. Repealer: Sections 51.121(c) (Prohibiting escheated land that is part of a permanent school fund from being leased for any purpose other than grazing for more than two years. Requires the lessee to pay rent with money), 51.128 (Cancellation of Lease), 51.130 (Removal of Improvements), 51.294 (Forms for Grant), 51.298 (Annual Privilege Fee), and 51.301(b) (Sets forth the amount of interest that should be paid on unpaid annual fees if no date for payment is provided in a contract or a written contract has not been executed), Government Code.

SECTION 9. Effective date: upon passage or September 1, 2007.