

# CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5/30/2009  
Date

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 3632 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

[Signature]  
AVERETT  
[Signature]  
EKTIFE  
[Signature]  
HEGAR  
[Signature]  
URESTI  
  
On the part of the Senate  
DUNCAN

[Signature]  
Rep. Hamilton  
[Signature]  
Rep. Homer  
[Signature]  
Rep. Ritter  
  
Rep. Harless  
[Signature]  
On the part of the House  
Rep. Geren

**Note to Conference Committee Clerk:**

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

# CONFERENCE COMMITTEE REPORT

3<sup>rd</sup> Printing

H.B. No. 3632

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the authority of the state to acquire, sell, or exchange  
3 certain land.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 31.065, Natural Resources Code, is  
6 amended by amending Subsections (a) and (c) and adding Subsections  
7 (d) and (e) to read as follows:

8 (a) In the absence of any law to the contrary, the  
9 commissioner may, if the commissioner [~~he~~] determines it to be in  
10 the best interest of the state, accept grants, gifts, devises, or  
11 bequests, either absolutely or in trust, of money or real or  
12 personal property on behalf of the state. Real property so acquired  
13 by the state becomes public free school land unless the person  
14 making the grant, gift, devise, or bequest provides that the real  
15 property is to be possessed, administered, or used by a particular  
16 state agency, board, commission, department, or other particular  
17 state entity or provides that it is to be held in some other manner  
18 by the state.

19 (c) If the commissioner determines that the real property  
20 acquired by the state by grant, gift, devise, or bequest is not  
21 suitable for the purpose for which the grant, gift, devise, or  
22 bequest was originally made, the commissioner together with the  
23 agency, board, commission, department, or other state entity, if  
24 any, designated to possess, administer, or use the real property

1 may exchange the real property for real property that is suitable  
2 for such purpose.

3 (d) If real property acquired by grant, gift, devise, or  
4 bequest is not held as part of the permanent school fund or  
5 possessed, administered, or used by a particular state agency,  
6 board, commission, department, or other particular state entity,  
7 the commissioner may manage that real property or sell or exchange  
8 the real property under terms and conditions the commissioner  
9 determines to be in the best interest of the state. Real property  
10 sold under this subsection must be sold in accordance with Section  
11 31.158. Proceeds of the sale that are not required for the  
12 management of real property under this subsection shall be  
13 deposited in the Texas farm and ranch lands conservation fund  
14 established under Chapter 183. Real property acquired under this  
15 subsection may be dedicated by the commissioner to any state  
16 agency, board, commission, or department, a political subdivision  
17 or other governmental entity of this state, or the federal  
18 government, for the benefit and use of the public in exchange for  
19 nonmonetary consideration, if the commissioner determines that the  
20 exchange is in the best interest of the state.

21 (e) The commissioner may adopt rules necessary to implement  
22 this section.

23 SECTION 2. Section 31.066, Natural Resources Code, is  
24 amended by amending Subsections (a) and (c) and adding Subsection  
25 (d) to read as follows:

26 (a) If it is necessary for the United States government to  
27 acquire real property in this state to conduct remedial action at a

1 site listed on the National Priorities List under the federal  
2 Comprehensive Environmental Response, Compensation and Liability  
3 Act of 1980 (42 U.S.C. Section 9601 et seq.), the commissioner [~~land~~  
4 ~~office~~] may accept transfer on behalf of the state of the title and  
5 interest in the real property from the United States government.  
6 The commissioner [~~land-office~~] may accept a transfer following  
7 completion of remedial action at a site only on the condition that  
8 the state will not incur any liability under that federal law solely  
9 by acquiring the title and interest in the real estate.

10 (c) Any title and interest in real property acquired by the  
11 commissioner [~~land-office~~] under this section shall be held in the  
12 name of the state. Title or interest acquired under this section  
13 does not become a part of the permanent school fund or any other  
14 fund created by the Texas Constitution.

15 (d) The commissioner may sell any title or interest acquired  
16 by the state under this section in accordance with Section 31.158.  
17 Proceeds of the sale shall be deposited in the Texas farm and ranch  
18 lands conservation fund established under Chapter 183.

19 SECTION 3. Section 31.167, Natural Resources Code, is  
20 amended by amending Subsection (c) and adding Subsections (d) and  
21 (e) to read as follows:

22 (c) The special board of review must file a copy of the  
23 development plan in the deed records of the county in which the real  
24 property is located. Revisions to the development plan that are  
25 requested after the later of the 10th anniversary of the date on  
26 which the development plan was promulgated by the special board of  
27 review or the date on which the state no longer holds a financial or

1 property interest in the real property subject to the plan are  
2 governed by local development policies and procedures.

3 (d) After issuance of an order establishing a development  
4 plan for real property that is not part of the permanent school fund  
5 or in which the permanent school fund does not have a financial  
6 interest, the composition of any future special board of review  
7 called to consider revision of that order must consist of:

8 (1) the presiding officer of the governing board of  
9 the agency or institution possessing the real property or the  
10 presiding officer's designated representative;

11 (2) two members who are employed by the agency or  
12 institution possessing the real property, appointed by the  
13 presiding officer of the governing board of the agency or  
14 institution or the presiding officer's designated representative;

15 (3) the county judge of the county in which the real  
16 property is located; and

17 (4) if the real property is located within the  
18 corporate boundaries or extraterritorial jurisdiction of a  
19 municipality, the mayor of the municipality.

20 (e) The member described by Subsection (d)(1) serves as the  
21 presiding officer of the special board of review.

22 SECTION 4. Section 183.058(a), Natural Resources Code, is  
23 amended to read as follows:

24 (a) The Texas farm and ranch lands conservation fund is an  
25 account in the general revenue fund that may be appropriated only to  
26 the land office to be used as provided by Subsection (b). The fund  
27 may not be used for grants to purchase or acquire any right or

1 interest in property by eminent domain. The fund consists of:

- 2 (1) money appropriated by the legislature to the fund;
- 3 (2) public or private grants, gifts, donations, or  
4 contributions; ~~and~~
- 5 (3) funds from any other source, including proceeds  
6 from the sale of bonds, state or federal mitigation funds, or funds  
7 from any local, state, or federal program;
- 8 (4) proceeds of the sale of real property not required  
9 for the management of real property under Section 31.065(d); and
- 10 (5) proceeds of the sale of real property under  
11 Section 31.066(d).

12 SECTION 5. Sections 191.021(b) and (d), Natural Resources  
13 Code, are amended to read as follows:

14 (b) If an institution of higher education notifies the  
15 committee in a timely manner (as established by the committee's  
16 rules) that it protests the proposed designation of a building or  
17 land under its control as a landmark, the matter becomes a contested  
18 case under the provisions of Sections 12 through 20 of the  
19 Administrative Procedure and Texas Register Act. In the conduct of  
20 proceedings under the Administrative Procedure and Texas Register  
21 Act, both the hearing officer in his or her recommendations to the  
22 committee and the committee in its determinations of findings of  
23 fact and conclusions of law shall consider, in addition to such  
24 other objective criteria as the committee may establish pursuant to  
25 Section 191.091 of this chapter:

- 26 (1) that the primary mission of institutions of higher  
27 education is the provision of educational services to the state's

1 citizens;

2           (2) that the authority for expenditure of the portion  
3 of the state's resources allocated to institutions of higher  
4 education for construction and repair purposes is entrusted to the  
5 governing boards of institutions of higher education for the  
6 purpose of the furtherance of the primary mission of the respective  
7 institutions of higher education;

8           (3) whether the benefit to the state from landmark  
9 designation outweighs the potential inflexibility of use that may  
10 be a consequence of the designation; and

11           (4) whether the cost of remodeling and/or restoration  
12 that might be required under the permit procedures of the committee  
13 if the building were designated as a landmark may be so  
14 substantially greater than remodeling under procedures established  
15 by law for the review of remodeling projects for higher education  
16 buildings not so designated as to impair the proper use of funds  
17 designated by the state for educational purposes at the  
18 institution.

19           (d) Weighing the criteria set forth in Subsections (b) and  
20 (c) of this section against the criteria it adopts pursuant to  
21 Section 191.092 of this chapter and such criteria as it may adopt  
22 with regard to permit requirements, the committee shall designate a  
23 building or land under the control of an institution of higher  
24 education as a landmark or include a requirement in a permit only if  
25 the record before the committee establishes by clear and convincing  
26 evidence that such designation or inclusion would be in the public  
27 interest.

1           SECTION 6. This Act does not make an appropriation. A  
2 provision in this Act that creates a new governmental program,  
3 creates a new entitlement, or imposes a new duty on a governmental  
4 entity is not mandatory during a fiscal period for which the  
5 legislature has not made a specific appropriation to implement the  
6 provision.

7           SECTION 7. This Act takes effect immediately if it receives  
8 a vote of two-thirds of all the members elected to each house, as  
9 provided by Section 39, Article III, Texas Constitution. If this  
10 Act does not receive the vote necessary for immediate effect, this  
11 Act takes effect September 1, 2009.



**House Bill 3632**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 31.065, Natural Resources Code, is amended by amending Subsections (a) and (c) and adding Subsections (d) and (e), as follows:

(a) and (c)

(d) Among other provisions, authorizes the Commissioner of the General Land Office, if real property acquired by grant, gift, devise, or bequest is not held as part of the permanent school fund or possessed, administered, or used by a particular *state agency*, to manage that real property or sell or exchange the real property under terms and conditions the commissioner determines to be in the best interest of the state. Authorizes the commissioner to dedicate property acquired under this subsection to any state agency, board, commission, political subdivision, or other governmental entity of this state, or the federal government, for the benefit and use of the public in exchange for nonmonetary consideration, if the commissioner determines that the exchange is in the best interest of the state.

(e)

SECTION 2. Section 31.066, Natural Resources Code, is amended by amending Subsections (a) and (c) and adding Subsection (d).

SENATE VERSION

SECTION 1. Same as House version except as follows:

(a) and (c) Same as House version.

(d) Same as House version except adds real property possessed, administered, or used by a particular *board, commission, department, or other particular state entity*. Adds any state *department* to the entities to which the commissioner is authorized to dedicate real property acquired under this subsection.

(e) Same as House version.

SECTION 2. Same as House version.

CONFERENCE

SECTION 1. Same as House version, except as follows:

(a) and (c) Same as House version.

(d) Same as Senate version.

(e) Same as House version.

SECTION 2. Same as House version.

**House Bill 3632**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

SECTION 3. Section 31.167, Natural Resources Code, is amended by amending Subsection (c) and adding Subsections (d) and (e).

SECTION 3. Same as House version.

SECTION 3. Same as House version.

SECTION 4. Amends Section 183.058(a), Natural Resources Code.

SECTION 4. Same as House version.

SECTION 4. Same as Senate version.

No equivalent provision.

SECTION 5. Amends Sections 191.021(b) and (d), Natural Resources Code, to make a conforming change relating to the designation of land under the control of an institution of higher education as a landmark.

SECTION 5. Same as Senate version.

No equivalent provision.

SECTION \_\_. Amends the heading to Section 2165.2035, Government Code.

Same as House version.

No equivalent provision.

SECTION \_\_. Subchapter E, Chapter 2165, Government Code, is amended by adding Section 2165.204, Lease of Space in State-Owned Parking Lots and Garages; Excess Individual Parking Spaces, and Section 2165.2045, Lease of Space in State-Owned Parking Lots and Garages; Excess Blocks of Parking Space.

Same as House version.

No equivalent provision.

SECTION \_\_. Requires the Texas Facilities Commission to conduct a study on the actual usage of

Same as House version.

**House Bill 3632**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

state parking facilities by state employees and report the results to the governor and Legislative Budget Board not later than September 1, 2010.

No equivalent provision.

SECTION \_\_. Requires the Texas Department of Transportation to transfer to Polk County certain real property not later than September 30, 2009.

Same as House version.

No equivalent provision.

SECTION 6. Specifies that this Act does not make an appropriation and that certain provisions are not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

SECTION 6. Same as Senate version.

SECTION 5. Effective date.

SECTION 7. Same as House version.

SECTION 7. Same as House version.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 30, 2009**

**TO: Honorable David Dewhurst, Lieutenant Governor, Senate**  
**Honorable Joe Straus, Speaker of the House, House of Representatives**

**FROM: John S. O'Brien, Director, Legislative Budget Board**

**IN RE: HB3632 by Geren (Relating to the authority of the state to acquire, sell, or exchange certain land.), Conference Committee Report**

**Estimated Two-year Net Impact to General Revenue Related Funds for HB3632, Conference Committee Report: a negative impact of (\$200,000) through the biennium ending August 31, 2011.**

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	(\$200,000)
2011	\$0
2012	\$0
2013	\$0
2014	\$0

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> I	Probable Savings/(Cost) from <i>New Other--Farm and Ranch Land Conservation Fund</i>	Probable Revenue Gain/ (Loss) from <i>New Other--Farm and Ranch Land Conservation Fund</i>
2010	(\$200,000)	(\$100,000)	\$100,000
2011	\$0	(\$100,000)	\$100,000
2012	\$0	(\$100,000)	\$100,000
2013	\$0	(\$100,000)	\$100,000
2014	\$0	(\$100,000)	\$100,000

**Fiscal Analysis**

The bill would authorize Land Commissioner to accept grants, gifts, devises, or bequests, either absolutely or in trust, of money or real or personal property on behalf of the state. The bill also would authorize the Land Commissioner to sell any title or interest acquired by the state in accordance with Natural Resources Code, Section 31.158. Proceeds of the sale would be deposited in the Texas Farm and Ranch Lands Conservation Fund established under Natural Resources Code, Chapter 183.

**Methodology**

This estimate assumes that the General Land Office (GLO) would likely receive revenue into the

Texas Farm and Ranch Land Conservation (FRLC) Fund due to the sale and disposition of property. This estimate assumes that in the first year after enactment, no revenues would accrue to the FRLC Fund. Instead, the General Land Office would require \$200,000 in General Revenue to establish the program, including funds to prepare for acquisitions and depositions. Beginning in fiscal year 2011, this estimate assumes that \$100,000 in revenues would accrue to the FRLC and that the agency would receive appropriations from this account in a like amount to continue to acquire and dispose of FRLC lands.

The actual amount of revenues and expenditures from the FRLC in 2011-2015 could be significantly higher or lower than the amounts shown in this estimate and would depend on the number of grants, gifts, devises, or bequests given to the state under the FRLC program and the value of such lands.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

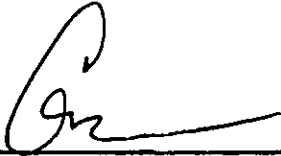
**Source Agencies:** 305 General Land Office and Veterans' Land Board

**LBB Staff:** JOB, SD, CL, SZ, ZS, TL, TP

## Certification of Compliance with Rule 13, Section 6(b), House Rules of Procedure

Rule 13, Section 6(b), House Rules of Procedure, requires that a copy of a conference committee report signed by a majority of each committee of the conference must be furnished to each member of the committee in person or if unable to deliver in person by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Section 10(a) of this rule. The paper copies of the report submitted to the chief clerk under Section 10(b) of this rule must contain a certificate that the requirement of this subsection has been satisfied, and that certificate must be attached to the printed copy of the report furnished to each member under Section 10(d) of this rule. Failure to comply with this subsection is not a sustainable point of order under this rule.

I certify that a copy of the conference committee report on H. B. 3632 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Section 10(b), Rule 13, House Rules of Procedure.



\_\_\_\_\_  
(name)

\_\_\_\_\_  
(date)