

CHAPTER 923

H.B. No. 1952

An Act relating to the powers and duties of the General Land Office and the School Land Board, agreements with the United States relating to certain information about oil and gas production, the management of certain public land and natural resources, and the acquisition and sale of property subject to escheat.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 33.103, Natural Resources Code, is amended to read as follows:

Sec. 33.103. **INTERESTS WHICH MAY BE GRANTED BY THE BOARD.** The board may grant the following interests in coastal public land for the indicated purposes:

- (1) leases for public purposes;
- (2) easements for purposes connected with:
 - (A) ownership of littoral property; or
 - (B) the operation of a facility operated by an existing channel and dock corporation that was issued articles of incorporation under Chapters 13 and 14, Title 32, Revised Statutes;
- (3) permits authorizing limited continued use of previously unauthorized structures on coastal public land not connected with ownership of littoral property; and
- (4) channel easements to the holder of any surface or mineral interest in coastal public land for purposes necessary or appropriate to the use of the interests.

SECTION 2. Section 33.111, Natural Resources Code, is amended to read as follows:

Sec. 33.111. **GRANTING EASEMENTS.** (a) The board may grant easement rights to the owner of adjacent littoral property authorizing the placement or location of a structure on coastal public land for purposes connected with the ownership of littoral property.

(b) *The board may grant easement rights to construct channels, wharves, docks, and marinas to an existing corporation that was issued articles of incorporation under Chapters 13 and 14, Title 32, Revised Statutes.*

(c) *Notwithstanding any provision in its charter or articles of incorporation to the contrary, a corporation described in Subsection (b) of this section may only obtain the use of or acquire property from the state as provided by that subsection.*

SECTION 3. Section 51.054, Natural Resources Code, is amended by adding Subsection (e) to read as follows:

(e) *An oil, gas, or other mineral lease on land in which the state reserves a mineral or royalty interest is not effective until a certified copy of the recorded lease is filed in the General Land Office.*

SECTION 4. Section 51.176, Natural Resources Code, is amended as follows:

Sec. 51.176. **FILING FEE.** At the time the application is filed, the applicant shall pay to the county surveyor a filing fee *set by the board of not less than \$5.*

SECTION 5. Section 51.188, Natural Resources Code, is amended by adding Subsection (e) to read as follows:

(e) *The hearing shall be conducted in accordance with the provisions of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).*

SECTION 6. Section 51.191, Natural Resources Code, is amended to read as follows:

Sec. 51.191. **SUIT TO RECOVER LAND.** A good-faith claimant of a vacant or unsurveyed tract of land has 30 ~~[90]~~ days after the sale or lease of the land to the applicant ~~[by the commissioner]~~ to institute suit to set aside the sale or lease of the land. If the suit is not instituted within the 30-day ~~[90-day]~~ period by the good-faith claimant, he loses all preferential rights to purchase or lease the land.

SECTION 7. Section 51.197(b), Natural Resources Code, is amended to read as follows:

(b) The consideration for the lease shall not be less than \$~~1~~ an acre, and the lease shall be for a primary term *set by the board of not more than five years.*

SECTION 8. Section 51.201, Natural Resources Code, is amended to read as follows:

Sec. 51.201. **RESERVATION OF MINERALS.** (a) If a good-faith claimant purchases a vacancy located within five miles of a well producing oil, gas, or other minerals in commercial quantities, *not less than a free royalty of one-eighth of all oil, gas, sulphur, and other minerals shall be reserved to the state.*

(b) If a vacancy that is not covered by Subsection (a) of this section is sold, *not less than a free royalty of one-sixteenth of all oil and gas production and one-eighth of all sulphur and other minerals shall be reserved to the state.*

(c) If a good-faith claimant fails to exercise his preferential right to purchase a vacancy within 90 days after the commissioner determines the existence of the vacancy, the *mineral interest [royalty]* reserved by the state shall be *not less than a free royalty of one-eighth of the oil and gas and not less than a free royalty of one-sixth of the sulphur and other minerals.*

(d) The state shall reserve *not less than [as] a free royalty of [at least] one-eighth of all oil, gas, sulphur, and other minerals on vacancies that are leased by the state as determined by the board.*

(e) *An oil, gas, or other mineral lease on land in which the state reserves a free royalty interest is not effective until a certified copy of the recorded lease is filed in the General Land Office.*

SECTION 9. Section 51.202, Natural Resources Code, is amended to read as follows:

Sec. 51.202. **MINERAL RESERVATIONS UNDER SALE MADE TO CLAIMANT AFTER 90-DAY DEADLINE.** ~~[(a)]~~ If a good-faith claimant does not exercise his preferential right to purchase until after 90 days after the decision of the commissioner determining the existence of a vacancy, the sale made to the claimant shall be subject to a reservation to the state of *not less than a free royalty of one-eighth of all oil, gas, sulphur, and other minerals and subject to any lease made by the state to the applicant [of not more than thirteen/sixteenths mineral interest as provided in this chapter].*

~~[(b) If the commissioner has previously executed a mineral lease on a larger portion of the minerals under the land, the lease shall be amended to cover only thirteen/sixteenths of the minerals so that it will conform to preferential rights given to good-faith claimants.]~~

SECTION 10. Section 51.203, Natural Resources Code, is amended to read as follows:

Sec. 51.203. **ROYALTY FOR APPLICANT.** If there is a valid subsisting application previously filed by an applicant on the date that the good-faith claimant files his application to purchase under a preferential right, and if the good-faith claimant exercises his preferential right to purchase within 90 days after the commissioner's decision under this subchapter, a free royalty of one-sixteenth of all oil, gas, sulphur, and other minerals that may be produced from the land shall be added to the ~~[free]~~ royalty interest reserved to the state and shall be awarded by the state to the applicant. The free royalty shall be deducted proportionately from the good-faith claimant's award.

SECTION 11. Section 51.205, Natural Resources Code, is amended by adding Subsection (f) to read as follows:

(f) *The suit must be filed in accordance with the provisions of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) relating to appeals from agency decisions.*

SECTION 12. Section 51.297(b), Natural Resources Code, is amended to read as follows:

(b) The person who obtains the easement shall furnish to the commissioner a *certified copy of [certificate showing that] the easement [has been recorded].*

SECTION 13. Section 52.020, Natural Resources Code, is amended to read as follows:

Sec. 52.020. **RETURN OF PAYMENTS ON REJECTED APPLICATIONS.** The State Treasurer or commissioner shall return all amounts paid on rejected applications.

SECTION 14. Sections 52.0301(c) and (d), Natural Resources Code, are amended to read as follows:

(c) *After [Until 90 days after] the board enters an order in its minutes stating that the cause for suspension has ceased to exist, the oil and gas lease shall remain in status quo, and all obligations and conditions existing under the lease or any of those obligations or conditions that are suspended by the board are inoperative and of no force and effect except for the obligation to pay delay rentals.*

(d) *After [Ninety days after] the board enters its order stating the cause for suspension has ceased to exist, the oil and gas lease shall again become operative if the rental payments have been made during the period of suspension, and all suspended obligations and conditions, including the payment of rentals, shall again attach and be in force. In the case of the suspension of the primary and principal terms of the lease, the lease shall continue in force for a period equivalent to the unexpired term of the lease on the date the cause of suspension began.*

SECTION 15. Subchapter B, Chapter 52, Natural Resources Code, is amended by adding Section 52.035 to read as follows:

Sec. 52.035. **AGREEMENTS WITH U.S. GOVERNMENT.** (a) *The governor may execute agreements on behalf of the state to obtain access to confidential and proprietary information from the secretary of the United States Department of the Interior regarding exploration, development, or production of oil or gas on the outer continental shelf. The governor may agree to waive sovereign immunity and other defenses as prescribed by this section, and may agree to indemnify the United States government from unauthorized disclosure of the information obtained.*

(b) *The information obtained from the Department of the Interior under an agreement executed under Subsection (a) of this section is confidential and may not be used publicly, opened to public inspection, or disclosed, except that the information may be examined and used by the governor and the commissioner of the General Land Office, or their designees, for the administration of their official duties and to assure a fair and equitable division of federal revenues derived from leasing lands adjacent to the boundaries of this state.*

(c) *The state waives its right to claim sovereign immunity in any action commenced against the state for unauthorized disclosure of the confidential information obtained from the Department of the Interior under an agreement executed by the governor under Subsection (a) of this section, and waives its right to claim that an employee who revealed privileged information was acting outside the scope of employment by disclosing the information.*

(d) *The state agrees to hold the United States government harmless from any actions or damages brought as a result of the acts or omissions of the state or its employees in releasing proprietary information obtained under an agreement executed under Subsection (a) of this section.*

SECTION 16. Section 52.076(b), Natural Resources Code, is amended to read as follows:

(b) The board shall advertise the proposals and conduct the sales as provided in Subchapter D, Chapter 32, ~~[Section 32-107]~~ of this code.

SECTION 17. Section 52.080, Natural Resources Code, is amended to read as follows:

Sec. 52.080. **FORMS FOR LEASE AND CONTRACT.** Leases and contracts for the development of riverbeds and channels shall be executed on forms approved by ~~[the attorney general and]~~ the board.

SECTION 18. Section 52.182, Natural Resources Code, is amended to read as follows:

Sec. 52.182. **DAMAGES TO SOIL.** The payment of delay rentals ~~[the 10 cents per acre]~~ and the obligation to pay the owner of the soil one-sixteenth of the production and the payment of same when produced and the acceptance of same by the owner, shall be in lieu of all damages to the soil.

SECTION 19. Section 53.013(b), Natural Resources Code, is amended to read as follows:

(b) The commissioner may extend the permit for a period of one year on payment of an annual rental of *not less than 25 cents an acre.*

SECTION 20. Subchapter B, Chapter 53, Natural Resources Code, is amended by adding Sections 53.023 and 53.024 to read as follows:

Sec. 53.023. IMMEDIATE LEASE. If the commissioner determines that a certain mineral is located on a state tract subject to prospect under this subchapter, a lease for that mineral may be issued immediately on the application for the prospect permit if the applicant identifies the mineral in the application and requests the immediate issuance of the lease.

Sec. 53.024. OTHER LEASE PROVISIONS. For any lease issued under this chapter, the penalty and interest on delinquent royalties, and the penalty for failure to file a report, are assessed in the same manner and in the same amounts as provided in Section 52.131 of this code.

SECTION 21. Section 71.102(a), Property Code, is amended to read as follows:

(a) If a petition is filed under this subchapter, the district clerk shall issue citation as in other civil suits to:

- (1) each defendant alleged by the petition to possess or claim the property that is the subject of the petition;
- (2) any person required by this chapter to be cited; and
- (3) persons interested in the estate, *including lienholders of record.*

SECTION 22. Section 71.107, Property Code, is amended by amending Subsection (b) and adding Subsections (d), (e), and (f) to read as follows:

(b) If the judgment *involves* ~~is for~~ real property, ~~[the court shall fix the minimum price for which]~~ the state may sell the property *under the general laws governing the sale of Permanent School Fund lands*, and, after the second anniversary of the date of the final judgment, the court shall issue a writ of possession for the property.

(d) When the record of an escheat proceeding reflects that a lienholder or his predecessor received actual or constructive notice of the escheat proceeding, the entry of the judgment in the escheat proceeding will either satisfy or extinguish any lien which the lienholder or his predecessor claimed or could have claimed on the escheated property at the escheat proceeding.

(e) The sheriff, constable, court clerk, or other officer appointed by the judge in an escheat proceeding shall execute a writ of possession by filing the writ with the deed or map records of the county when the escheated property relates to realty and by serving the writ on any holder, tenant, or occupant of any escheated property. Additionally, the person who executes a writ of possession shall either:

- (1) post the writ for at least three consecutive weeks on the door or posting board of the county courthouse in the county where the proceeding was conducted or in the county where the property is located; or*
- (2) in the case of real property, post the writ for at least two consecutive weeks at a reasonably conspicuous place on the realty; or*
- (3) publicize the writ in any other fashion ordered by the court.*

(f) After validly executing a writ of possession, the sheriff, constable, court clerk, or other appointed officer shall note the method of the execution of the writ on the writ return and shall return the writ to the clerk to be filed in the court records of the escheat proceeding.

SECTION 23. Sections 31.020, 51.173, 51.204, 52.075, 52.077, and 52.078, Natural Resources Code, are repealed.

SECTION 24. Sections 1 and 2 of this Act apply only to property acquired after January 1, 1985. This Act does not validate actions taken before January 1, 1985, of channel and dock corporations organized under Chapters 13 and 14, Title 32, Revised Statutes, relating to the use of state land.

SECTION 25. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 9, 1985, by a non-record vote; passed by the Senate on May 21, 1985, by the following vote: Yeas 31, Nays 0.

Approved: June 15, 1985

Effective: August 26, 1985