

CHAPTER 613

S.B. No. 261

An Act relating to the continuation, membership, operation, and powers and duties of the Board for Lease of University Lands and to requirements under certain leases issued by the Board of Regents of The University of Texas System; providing certain penalties; amending the Education Code, as amended, by amending Section 66.62, as amended, and Subdivision (4), Subsection (a), Section 66.74, as amended; adding Subdivisions (6), (7), (8), and (9) to Subsection (a), Section 66.74 and adding Sections 66.81, 66.82, 66.83, and 66.45.

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

SECTION 1. Section 66.62, Education Code, as amended, is amended to read as follows:

“Section 66.62. **BOARD FOR LEASE.** (a) The Board for Lease of University Lands is composed of the commissioner of the general land office, ~~and~~ two members of the board of regents of *The University of Texas System* selected by the board of regents of *that system*, and one member of the board of regents of *The Texas A&M University System* selected by the board of regents of *that system*. In the event that a regent member of the Board for Lease of University Lands is unable to attend any meeting of that board, the chairman of the board of regents of the *applicable system* shall appoint another member of the board of regents as a substitute member of the Board for Lease of University Lands to attend the meeting that the regular regent member is unable to attend. The substitute regent member of the Board for Lease of University Lands shall exercise all the powers, duties, and responsibilities of the absent regent member during the conduct of the meeting for which he was appointed. Any substitute regent member of the Board for Lease of University Lands is subject to the provisions of this subchapter.

“(b) A ~~Neither~~ regent member may not be directly or indirectly employed by, or be an officer of or an attorney for, an oil or gas company.

“(c) An officer, employee, or paid consultant of a trade association in the oil and gas industry may not be a member or employee of the board, nor may a person who cohabits with or is the spouse of an officer, managerial employee, or paid consultant of a trade association in the oil and gas industry be a member of the board or an employee of the board grade 17 or over, including exempt employees, according to the position classification schedule under the General Appropriations Act.

“(d) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9c, Vernon’s Texas Civil Statutes), by virtue of his activities for compensation in or on behalf of a profession related to the operation of the board, may not serve as a member of the board or act as the general counsel to the board.

“(e) Members of the board, other than the Commissioner of the General Land Office, serve two-year terms expiring February 1 of each odd-numbered year.

“(f) The Commissioner of the General Land Office serves as chairman of the board.

“(g) A majority of the board has the power to act for the board.

“(h) ~~(e)~~ The board shall perform the duties prescribed by this subchapter and shall keep a public record of all its proceedings.

“(i) It is a ground for removal from the board if a member:

“(1) does not have at the time of appointment the qualifications required by Subsection (a) of this section for appointment to the board;

“(2) does not maintain during the service on the board the qualifications required by Subsection (a) of this section for appointment to the board;

“(3) violates a prohibition established by Subsection (c) or (d) of this section;

“(4) is unable to discharge his duties for a substantial portion of the term for which he was appointed because of illness or disability; or

“(5) is absent from more than one-half of the regularly scheduled board meetings which the member is eligible to attend during each calendar year, except when the absence is excused by majority vote of the board.

“(j) The validity of an action of the board is not affected by the fact that it was taken when a ground for removal of a member of the board existed.

“(k) If the agency head has knowledge that a potential ground for removal exists, he shall notify the chairman of the board of such ground. The chairman of the board shall then notify the governor that a potential ground for removal exists.

“(l) ~~(e)~~ The Board for Lease of University Lands is subject to the Texas Sunset Act. *Unless [; and unless] continued in existence as provided by that Act the board is abolished effective September 1, 1997 [1985].*”

SECTION 2. Subdivision (4), Subsection (a), Section 66.74, Education Code, as amended, is amended to read as follows:

“(4) If any royalty is not paid when due, a penalty of one percent shall be added to the unpaid amount due. If the royalty is not paid within seven days after the due date, a penalty of an additional four percent of the royalty due is imposed. If the royalty is not paid within 30 days after the due date, a penalty of an additional five percent is imposed. The minimum penalty under this subdivision is \$25. Penalty under this subdivision may not be added [Any royalty not paid or affidavits and supporting documents not filed when due shall become delinquent, and a delinquency penalty of one percent for each 30/day period of delinquency or fractional part of that period shall be added to the amount owed;

however, no penalty may be less than \$5 per month per lease. Payment of this penalty in no way operates to prohibit the state's right of forfeiture as provided by law and does not postpone the date on which royalties were originally due. The penalty does not apply in cases of title dispute as to the state's portion of the royalty or to that portion of the royalty in dispute as to fair market value. Except as provided in Subsection (g), Section 66.68 of this code, royalty payments shall be made in cash, by a bank draft drawn on a state or national bank in Texas, by a post-office or express money order, or in any other form that the law may provide for making payments to the State Treasury and are payable to the Board of Regents of The University of Texas System."

SECTION 3. Subsection (a), Section 66.74, Education Code, as amended, is amended by adding Subdivisions (6), (7), (8), and (9) to read as follows:

"(6) Interest shall accrue on delinquent royalties beginning 60 days after the due date. The annual interest rate on delinquent royalties is 12 percent. Interest accrued under this subdivision shall be in addition to any delinquency penalty accrued under Subdivision (4) of this subsection.

"(7) The Board of Regents of The University of Texas shall add a penalty of 25 percent to any delinquent royalties if the delinquency is due to fraud or an intent to evade the provisions of this subchapter on the part of the lessee or his agents, employees, or assignees.

"(8) If any report, affidavit, supporting document, or any other instrument required to be filed under this subsection is not filed when due, a penalty accrues in the amount of \$10 per document or a higher amount established by the Board of Regents of The University of Texas, for each 30-day period of delinquency or fractional part of that period.

"(9) Collection of penalty and interest charges under this subsection are in addition to any rights, including forfeiture, that the board may exercise for failure to pay a royalty or to submit a report or other instrument when due."

SECTION 4. Subchapter D, Chapter 66, Education Code, as amended, is amended by adding Section 66.81 to read as follows:

"Section 66.81. **FINANCIAL REPORT REQUIRED.** The board shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the board during the preceding year. The form of the annual report shall be that provided in the General Appropriations Act. The report shall be distributed with the report required by Section 66.05 of this code."

SECTION 5. Subchapter D, Chapter 66, Education Code, as amended, is amended by adding Section 66.82 to read as follows:

"Section 66.82. **AUDIT.** The State Auditor shall audit the financial transactions of the board as part of each audit of The University of Texas System."

SECTION 6. Subchapter D, Chapter 66, Education Code, as amended, is amended by adding Section 66.83 to read as follows:

"Section 66.83. **POLICIES ON PUBLIC HEARINGS.** The board shall develop and implement policies which will provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board."

SECTION 7. Subchapter C, Chapter 66, Education Code, as amended, is amended by adding Section 66.45 to read as follows:

"Section 66.45. **SOIL AND WATER CONSERVATION PLANS.** Under each lease issued under this subchapter for agricultural or grazing purposes, the lessee shall be required to implement a soil and water conservation plan reviewed and approved by the board of regents of The University of Texas System under procedures adopted by the board. The board, in reviewing a plan, and the lessee, in implementing a plan, may be assisted by the United States Department of Agriculture Soil Conservation Service."

SECTION 8. (a) The addition of members to the Board for Lease of University Lands under Section 66.62, Education Code, as amended by this Act, does not affect the validity of any action taken by the board as constituted before amendment of that section by this Act.

(b) A member of The Texas A&M University System Board of Regents shall be appointed to the board as soon as possible after the effective date of this Act for a term expiring February 1, 1987.

SECTION 9. Subsection (a), Section 66.74, as amended by this Act, applies only to interest charges for late payment of royalties or penalties for late filings of any report, affidavit, supporting document, or other instrument for those royalties or filings due on or after the effective date of this Act. Any interest charge or penalty for a royalty or filing due before the effective date of this Act is governed by the law in effect when the royalty or filing was due, and that law is continued in effect for that purpose.

SECTION 10. Section 66.45, Education Code, as added by this Act, applies only to a lease issued on or after the effective date of this Act. A lease issued before the effective date of this Act is governed by the law in effect at the time the lease was issued and that law is continued in effect for that purpose.

SECTION 11. This Act takes effect September 1, 1985.

SECTION 12. 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 the Senate on March 7, 1985, by a viva-voce vote; Senate concurred in House amendment on May 26, 1985, by a viva-voce vote; passed the House, with amendment, on May 22, 1985, by a non-record vote.

Approved: June 14, 1985

Effective: September 1, 1985