

CHAPTER 102

S.B. No. 43

An Act relating to the acquisition, disposition, accounting, and management of certain state property; to the creation and use of the Texas capital trust fund; to establishing an asset management division in the General Land Office and the powers and duties of the division and the Commissioner of the General Land Office; and to transfer of real estate records from the State Purchasing and General Services Commission to the asset management division; adding Article 601e to Title 20, Revised Statutes; adding Subchapter E to Chapter 31, Natural Resources Code; amending Subsection (a), Section 8.01; Section 8.02; and Subsection (a), Section 8.09, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes).

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

SECTION 1. Title 20, Revised Statutes, is amended by adding Article 601e to read as follows:

"Article 601e. TEXAS CAPITAL TRUST FUND

"Section 1. FUND CREATED. The Texas capital trust fund is created in the State Treasury. Except as provided by Section 2 of this article, the fund may be used only to finance:

"(1) the acquisition, construction, repair, improvement, or equipping of a building by a state agency for a state purpose;

"(2) the acquisition of real or personal property necessary for a state agency to undertake an activity described by Subdivision (1) of this section; or

"(3) the administration of the asset management division of the General Land Office.

"Section 2. RESTRICTIONS ON USE. The fund may not be used to fund any activity undertaken by:

"(1) the State Department of Highways and Public Transportation;

“(2) an institution of higher education as defined by Section 61.003, Education Code;

“(3) the Texas State Technical Institute; or

“(4) the Southwest Collegiate Institute for the Deaf.

“Section 3. RELATION TO GENERAL REVENUE FUND. Income from the fund shall be deposited in the General Revenue Fund. At the end of each fiscal biennium, if the unencumbered balance of the fund exceeds \$500 million, the excess amount shall be transferred to the General Revenue Fund.

“Section 4. INTERFUND BORROWING. This article does not prohibit interfund borrowing from or by the fund if the borrowing does not impair the purposes of the fund, as determined by the comptroller of public accounts.”

SECTION 2. Chapter 31, Natural Resources Code, is amended by adding Subchapter E to read as follows:

“SUBCHAPTER E. REAL PROPERTY ACCOUNTING AND MANAGEMENT

“Section 31.151. DEFINITIONS. In this subchapter:

“(1) ‘Division’ means the asset management division.

“(2) ‘Institution of higher education’ means the Texas State Technical Institute, the Southwest Collegiate Institute for the Deaf, or an institution of higher education (other than a public junior college) as defined by Section 61.003, Education Code.

“(3) ‘Real estate transaction’ means a sale, exchange, gift, grant, or other conveyance of property and includes a lease.

“(4) ‘State agency’ means a board, commission, department, institution, office, or other agency of the state government, including an institution of higher education but not including a special purpose district or authority.

“Section 31.152. ASSET MANAGEMENT DIVISION. (a) The asset management division is established in the land office.

“(b) The commissioner shall employ a deputy commissioner of asset management. The deputy commissioner shall administer the division.

“Section 31.153. PROPERTY ACCOUNTING AND RECORDS. (a) All real property owned by the state shall be accounted for by the state agency that possesses the property.

“(b) Each state agency shall maintain a record of each item of real property it possesses. The record must include the following information and, on the request of the division, shall be furnished to the division:

“(1) a description of each item of property by reference to a volume number, and page or image number or numbers of the official public records of real property in a particular county, or if not applicable, by a legal description;

“(2) the date of purchase of the property, if applicable;

“(3) the purchase price of the property, if applicable;

“(4) the name of the state agency holding title to the property for the state;

“(5) a description of the current uses of the property and of the projected future uses of the property during the next 15 years; and

“(6) a description of each building or other improvement located on the property.

“(c) If the description of real property required by this section is excessively voluminous, as in the case of parkland, the division may direct the agency in possession of the real property to furnish the description only in summary form, as agreed to by the division and the state agency involved.

“Section 31.154. PROPERTY INVENTORY. The division shall review and keep inventory records of all real property owned by the state. The division shall compile the inventory records from the information submitted to the division under Sections 31.153 and 31.155 of this subchapter.

“Section 31.155. SPECIAL STATUS OF CERTAIN AGENCIES. (a) The division is not responsible for maintaining the inventory records of the real property administered by the State Department of Highways and Public Transportation or an institution of higher education. The agencies administering the property shall maintain those records.

“(b) The State Department of Highways and Public Transportation, on the request of the division, shall submit its real property inventory records to the division. The real property inventory records of an institution of higher education, on the request of the division, shall be submitted to the division for information purposes only.

“(c) The division shall review and verify the department’s records and make recommendations regarding the department’s real property, and the commissioner shall prepare a report involving the property to the same extent that the division and commissioner perform these functions with regard to the records and property of other state agencies.

“(d) The duty under this subchapter of the division to review and verify real property records and to make recommendations regarding real property and of the commissioner to prepare a report involving real property does not apply to:

“(1) the real property of an institution of higher education; or

“(2) the real property that is part of a fund created or specifically authorized by the constitution of this state and that is administered by or with the assistance of the land office.

“Section 31.156. **PROPERTY REVIEW.** (a) The division shall review the real property inventory of each state agency not less than every four years, and a review shall be made during the calendar year before the agency is scheduled for abolition under the Texas Sunset Act (Article 5429k, Vernon’s Texas Civil Statutes). The division may verify the accuracy of inventory records provided by an agency.

“(b) The division shall identify the real property not being used or being substantially underused and make recommendations to the commissioner regarding the use of the property or regarding a real estate transaction involving the property. The recommendations shall include an analysis of the highest and best use to which the property may legally be placed. It shall include recommendations for alternative uses of the property addressing potential for commercial or agricultural lease of the property or any other real estate transaction or use that the division may deem to be in the best interest of the state. The division shall solicit proposals and shall accept any unsolicited proposals about real estate transactions involving the property that would be of significant benefit to the state.

“(c) The division shall, on completion of a review, submit to the commissioner any information pertinent to the evaluation of a real estate transaction involving the real property, including the current market value of the property and including an evaluation of any proposals received from private parties that would be of significant benefit to the state. If the division submits an evaluation of a sale of property, it must also submit an evaluation of the lease potential of the property.

“Section 31.157. **REPORT.** (a) The commissioner shall prepare a draft report of a proposed real estate transaction involving the real property incorporating the results and findings of the evaluation of the property.

“(b) The draft report shall be submitted to the State Purchasing and General Services Commission which shall further evaluate the potential use of the property by another state agency or department. The commission may comment on any findings or recommendations made by the commissioner and may make additional recommendations regarding the use of the property. The commission shall complete the review of the draft report within 60 days of the receipt of the report and forward the comments to the commissioner.

“(c) The commissioner shall prepare and issue a final report incorporating the recommendations of the commission regarding use of the property by another state agency and addressing all comments received from the commission.

“(d) The final report shall be submitted to the governor, the presiding officers of both houses of the legislature, the Legislative Budget Board, and the governor’s budget office not later than September 1 of the year preceding a regular session of the legislature. If the report contains an evaluation of a sale of property, it must also contain an evaluation of the lease potential of the property.

“Section 31.158. **REAL ESTATE TRANSACTION.** (a) If the legislature authorizes a real estate transaction involving real property owned by the state, the division shall take possession and control of the property and shall complete the transaction on behalf of the state. Proceeds from the real estate transaction shall be deposited in the Texas capital trust fund unless the proceeds are dedicated by the constitution of this state to another fund or unless the enabling legislation ordering the real estate transaction provides otherwise.

“(b) The division may not take possession and control under this section of real property administered by a state agency that, under Article 601e, Revised Statutes, is ineligible to benefit from the Texas capital trust fund.

“Section 31.159. **FIRST OPTION TO PURCHASE.** (a) If the real estate transaction authorized by the legislature is a sale of real property, the School Land Board has a first option to purchase the real property by cash purchase at current fair market value as determined by an independent appraisal.

“(b) The division must give to the School Land Board a written notice of the proposed sale. To exercise the option, the School Land Board, not later than the 30th day after the date the notice can first be considered by the board at a regular meeting, must give written notice to the division stating that the board has decided to exercise the option. The School Land Board must complete the cash purchase not later than the 120th day after the date the division receives the notice from the board.

“(c) If the School Land Board fails to complete the purchase within the time permitted, the division may extend the time for completing the purchase or dispose of the real property as authorized by the legislature.

“(d) Current fair market value shall be determined in accordance with the following procedure: simultaneously with the giving of the written notice described in the Subsection (b) above, the division shall appoint an appraiser, and such appointment shall be described in such notice. Within 21 days of the receipt of said notice, the School Land Board shall appoint a second appraiser. If the School Land Board fails to appoint the second appraiser, the division shall appoint a second appraiser within 10 days of the expiration of said 20-day period. The two appraisers shall meet promptly and shall attempt to reach agreement on the current fair market value. If the two appraisers so selected do not reach agreement within 10 days of such meeting, the two original appraisers shall appoint another appraiser whose appraisal shall be final and binding on both parties if said appraisal is at least as high as the lower of the appraisals of the two original appraisers. If said appraisal is not at least as high as the lower of the two original appraisals, the two original appraisers shall continue to appoint additional appraisers until an additional appraiser’s appraisal is at least as high as the lower of the two original appraisals, and that appraisal shall be final and binding. Each appraiser shall be qualified and disinterested and shall have M.A.I. or other comparable professional designation, and the appointment of each appraiser shall only be made by the appointing party following receipt of at least three competitive bids, and if the cost of the appraisal is reasonably expected to exceed \$10,000, the appointing party shall utilize the notification procedure set out in Chapter 454, Acts of the 65th Legislature, Regular Session, 1977 (Article 6252-11c, Vernon’s Texas Civil Statutes), and all time periods described in this Act shall be extended for the number of days necessary to comply with said notification procedure. The appointing party shall award the appraisal services contract to the bidder submitting the lowest and best bid, and in determining who has submitted the lowest and best bid, the appointing party shall consider the factors set out in Subdivisions (1) through (9) of Subsection (e) of Section 3.11, State Purchasing and General Services Act (Article 601b, Vernon’s Texas Civil Statutes). Expense of the appraisal shall be paid by the division.

“Section 31.160. INFORMATION FOR ANTIQUITIES COMMITTEE. (a) Each state agency, annually at the time set by the division, shall furnish to the division information identifying and giving the age of buildings:

“(1) that were acquired by the agency after the date such information was furnished the preceding year and that are at least 45 years old on the date of the current submission; or

“(2) that are possessed by the agency and have become 45 years old since the date such information was furnished the preceding year.

“(b) The information must be accompanied by a photograph of each of the buildings.

“(c) The division shall give the information and the photographs to the Antiquities Committee.”

SECTION 3. The State Purchasing and General Services Commission shall transfer to the asset management division of the General Land Office the records that are in the custody of the commission and that relate to the real property accounting and inventory system formerly existing under Article 8, State Purchasing and General Services Act (Article 601b, Vernon’s Texas Civil Statutes). The transfer shall be made as soon as possible after the effective date of this Act but not later than September 1, 1985.

SECTION 4. The asset management division established under Subchapter E, Chapter 31, Natural Resources Code, shall ascertain and compile a list of the current market values of all state-owned real property not later than September 1, 1988.

SECTION 5. Subsection (a), Section 8.01, State Purchasing and General Services Act (Article 601b, Vernon’s Texas Civil Statutes), is amended to read as follows:

“(a) This article applies to personal property belonging to the state. All ~~real and~~ personal property belonging to the state shall be accounted for by the head of the agency which has possession of the property.”

SECTION 6. Section 8.02, State Purchasing and General Services Act (Article 601b, Vernon’s Texas Civil Statutes), is amended to read as follows:

“Section 8.02. RESPONSIBILITY FOR PROPERTY ACCOUNTING. (a) All state agencies shall comply with the provisions of this article and keep the property records required.

“(b) ~~[All real property owned by the state shall be accounted for by the agency which possesses the property. Except as herein provided, each agency shall maintain a record of each item of real property it possesses that shall include the following information; to be furnished upon request to the commission as part of the agency’s annual inventory under Section 8.03(f) of this Act:~~

“(1) a description of each item of property by reference to a volume number, and page or image number or numbers of the official public records of real property in a particular county, or where not applicable, by a legal description;

“(2) the date of purchase of the property, where applicable;

"(3) the purchase price of the property, where applicable;

"(4) the name of the agency holding title to the property for the state; and

"(5) a description of the uses of the property. However, where the description of real property required by this subsection would be excessively voluminous, as in the case of highway right-of-way or park land, the commission may direct the agency in possession of that real property to furnish such description only in summary form, as agreed to by the commission and the agency involved. In addition, the real property administered by the General Land Office shall be accounted for by that office and not by the system prescribed herein; and the real property administered by the permanent funds established by the legislature and people shall be accounted for by the agency now charged with its administration and not by the system prescribed herein. Neither the General Land Office nor the agency charged with administration of the permanent funds may be required to furnish the commission with the records described in this subsection.

"(e) All personal property owned by the state shall be accounted for by the agency that possesses the property. The commission shall by regulation define what is meant by personal property for the purposes of this article, but such definition shall not include nonconsumable personal property having a value of \$250 or less per unit. In promulgating such regulations, the commission shall take into account the value of the property, its expected useful life, and if the cost of record keeping bears a reasonable relationship to the cost of the property on which records are kept. The commission shall consult with the state auditor in making such regulations and the auditor shall cooperate with the commission in the exercise of this rulemaking power by giving technical assistance and advice.

"(c) (d) All equipment and supplies which are purchased through a program, contract, or grant with the Texas Department of Health by or for qualified entities, including but not limited to individuals, corporations, local units of government and other state agencies and which are used to promote and maintain public health are exempt from the property accounting system prescribed by this article. The qualified entities shall maintain complete equipment and supply records. The Texas Department of Health may request the return of any usable equipment or supplies purchased with funds provided by the department upon the termination of the program, contract, or grant.

"(e) As part of the state agency's annual inventory under Subsection (f) of Section 8.03 of this Act, each agency shall furnish to the commission information listing the identification and age of buildings that were acquired by the agency since the preceding annual inventory that are at least 45 years old on the date of the inventory or that are possessed by the agency and have become 45 years old since the preceding annual inventory and shall furnish a photograph of each of those buildings. The commission shall give this information and the photographs to the Antiquities Committee."

SECTION 7. Subsection (a), Section 8.09, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

"(a) Any state agency is authorized to transfer any personal property of the state under its control or jurisdiction to any other state agency with or without reimbursement between the agencies [; provided, however, that the provisions of this article shall not apply to any real property]."

SECTION 8. 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, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on February 21, 1985, by the following vote: Yeas 27, Nays 0;
Senate concurred in House amendments on May 7, 1985, by the following
vote: Yeas 31, Nays 0; passed the House, with amendments, on May 2, 1985, by
the following vote: Yeas 138, Nays 0, one present not voting.

Approved: May 15, 1985

Effective: Immediately