

CHAPTER 624

S.B. No. 493

An Act relating to management of public lands, to the continuation, administration, powers, and duties of the School Land Board, to the powers and duties of the commissioner of the General Land Office, to the authority of the Board of Regents of The University of Texas System to execute grants of easements on university land, to the powers and duties of boards for lease of land owned by the Texas Department of Parks and Wildlife and the Texas Department of Corrections, and to the abolition of certain boards for lease of state departments, boards, and agencies, including the Board for Lease of Eleemosynary and State Memorial Park Lands, and the transfer of those boards' leasing authority to the School Land Board; creating certain special funds in the State Treasury; amending the following sections and subsections of the Natural Resources Code: 21.041, 21.072(b), 32.001(4), 32.018, 32.061, 32.062, 32.107(c), 34.002, 34.011, 34.051, 34.057, 34.064, 51.019, 51.121, 51.124, 51.125, 51.291, 51.296, 51.299, 51.302(a), 52.016, 52.131(c) and (e), 52.172, 52.321, 52.322, 52.324, and 53.163; adding Subchapter E to Chapter 31 and Subchapter E to Chapter 32 and Subchapter I to Chapter 51 and the following Sections and Subsections 32.002, 32.003, 32.0121, 32.0122, 32.0123, 32.0171, 32.024, 32.025, 32.026, 32.064, 32.065, 32.066, 32.1071, 32.1072, 32.1073, 32.157, 34.0131 through 34.0135, 34.0191, 34.0192, 34.065, 34.066, 51.131, 51.293(c), 52.131(f), (g), (h), and (i), 52.187, 52.297, and 53.155; and repealing Sections 31.101 through 31.108, 1 32.108, 34.058 through 34.063, 34.101 through 34.185, 51.055, and Chapters 35 and 36, and Section 4, Chapter 11, Acts of the 68th Legislature, 1983.

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

SECTION 1. Section 21.041, Natural Resources Code, is amended to read as follows:

"Section 21.041. **FIELD NOTES OF A SURVEY OF PUBLIC LAND.** The field notes of a survey of public land shall state:

"(1) the county in which the land is located;

"(2) the authority under which the survey is made and a true description of the survey;

"(3) the land by proper field notes with the necessary calls and connections for identification, observing the Spanish measurement by varas;

"(4) a diagram of the survey;

"(5) the *State Plane Co-ordinates based on the Texas Co-ordinate System values for the beginning point on the survey with appropriate reference to zone, mapping angle, grid distances, acreage and the N.G.S. Station to which the survey is tied* [~~variation at which the running was made~~];

"(6) the names of the *field survey personnel* [~~chain carriers~~];

"(7) the date the survey was made; and

“(8) the signature of the surveyor.”

SECTION 2. Subsection (b), Section 21.072, Natural Resources Code, is amended to read as follows:

“(b) *Except as provided in Section 21.041 of this code [Notwithstanding any other provisions of this subchapter], the use of the system is not required, and the provisions of this subchapter shall not be construed to set aside or disturb any corner or survey already established.*”

SECTION 3. Chapter 31, Natural Resources Code, is amended by adding Subchapter E to read as follows:

“SUBCHAPTER E. GRANTS

“*Section 31.201. APPLICATION FOR GRANT. A lessee of land owned by the permanent school fund and used for grazing or agricultural purposes may apply to the commissioner for a grant to construct a permanent improvement on the leased property.*”

“*Section 31.202. SOURCE OF GRANT MONEY. Grants under this subchapter shall be made from money collected for surface damages under Sections 52.297 and 53.155 of this code.*”

“*Section 31.203. APPRAISAL REQUIRED. (a) Before a grant is made under Section 31.201 of this subchapter, an appraiser employed by the land office must appraise the effect of the improvement for which a grant is sought on the value of the permanent school fund property.*”

“*(b) If the appraiser finds that the improvement will increase the value of the property in an amount at least equal to the amount the improvement will cost, the commissioner may authorize the disbursement of money to construct the improvement.*”

“*Section 31.204. EVIDENCE OF EXPENDITURE REQUIRED. The commissioner shall require each lessee who receives a grant to provide copies of receipts, vouchers, or other evidence of expenditures for improvements.*”

“*Section 31.205. IMPROVEMENTS ARE PROPERTY OF PERMANENT SCHOOL FUND. Any improvement constructed with money disbursed under this subchapter is the property of the permanent school fund.*”

“*Section 31.206. MAINTENANCE. As a condition for any grant under this subchapter, the commissioner shall require the grantee to agree in writing to maintain the improvement in a manner that will protect the best interest of the permanent school fund.*”

“*Section 31.207. RULES. The commissioner shall adopt any rules necessary to carry out this subchapter, including rules providing a procedure for applying for a grant under Section 31.201 of this subchapter and for monitoring the maintenance of the improvement.*”

SECTION 4. Subdivision (4), Section 32.001, Natural Resources Code, is amended to read as follows:

“(4) ‘Land’ means:

“(A) land dedicated to the permanent school fund and the asylum funds by the constitution and laws of this state;

“(B) [and] the mineral estate in areas within tidewater limits, including islands, lakes, bays, and the bed of the sea which belong to the state;

“(C) [; and] the mineral estate in river beds and channels; and

“(D) land owned or held in trust for the use and benefit of a department, board, or agency of the state.”

SECTION 5. Chapter 32, Natural Resources Code, is amended by adding Section 32.002 to read as follows:

“*Section 32.002. APPLICATION OF CHAPTER. (a) This chapter does not apply to:*

“(1) land dedicated by the constitution or a law of this state to The University of Texas System, land donated by a will or instrument in writing or otherwise to The University of Texas System, as trustee, for a scientific, educational, or other charitable or public purpose, or any other land under the control of the Board of Regents of The University of Texas System;

“(2) land whose title is vested in the state for the use and benefit of any part of The Texas A&M University System or land under the control of the Board of Regents of The Texas A&M University System;

“(3) land subject to lease under Subchapter F, Chapter 52 of this code, commonly known as the Relinquishment Act;

“(4) land owned by the state that was acquired to construct or maintain a highway, road, street, or alley;

“(5) land owned by the state under the jurisdiction or control of the State Highway and Public Transportation Commission;

“(6) land owned by the Texas Parks and Wildlife Department; or

“(7) land owned by the Texas Department of Corrections.

“(b) Notwithstanding Subsection (a), the provisions of this chapter do apply to the leasing of the following types of land for the development of minerals other than oil and gas:

“(1) land owned by the state that was acquired to construct or maintain a highway, road, street, or alley; or

“(2) land owned by the state under the jurisdiction or control of the State Highway and Public Transportation Commission.

“(c) If title to land subject to Subchapter F, Chapter 52 of this code, commonly known as the Relinquishment Act, is acquired by a department, board, or agency of the state, the land shall be leased as provided by Chapter 52 of this code for the leasing of unsold public school land.”

SECTION 6. Chapter 32, Natural Resources Code, is amended by adding Section 32.003 to read as follows:

“Section 32.003. **APPLICATION OF SUNSET ACT.** The School Land Board is subject to the Texas Sunset Act. Unless continued in existence as provided by that Act, the board is abolished effective September 1, 1997.”

SECTION 7. Chapter 32, Natural Resources Code, is amended by adding Section 32.0121 to read as follows:

“Section 32.0121. **APPOINTMENTS WITHOUT DISCRIMINATION.** Appointments to the board shall be made without regard to the race, color, handicap, sex, religion, age, or national origin of the appointees.”

SECTION 8. Chapter 32, Natural Resources Code, is amended by adding Section 32.0122 to read as follows:

“Section 32.0122. **DISQUALIFICATION OF LOBBYISTS.** 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.”

SECTION 9. Chapter 32, Natural Resources Code, is amended by adding Section 32.0123 to read as follows:

“Section 32.0123. **CONFLICTS OF INTEREST PROHIBITED.** An officer, employee, or paid consultant of a statewide or national trade association in the oil and gas or mining 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 statewide or national trade association in the oil and gas or mining industry be a member of the board or an employee of the board grade 17 and over, including exempt employees, according to the position classification schedule under the General Appropriations Act.”

SECTION 10. Chapter 32, Natural Resources Code, is amended by adding Section 32.0171 to read as follows:

“Section 32.0171. **REMOVAL OF BOARD MEMBER.** (a) 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 Section 32.012 of this code for appointment to the board;

“(2) does not maintain during the service on the board the qualifications required by Subsection (a) of Section 32.012 of this code for appointment to the board;

“(3) violates a prohibition established by Section 32.0122 or 32.0123 of this code;

“(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.

“(b) 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.

“(c) If the commissioner has knowledge that a potential ground for removal exists, he shall notify the governor that a potential ground for removal exists.”

SECTION 11. Section 32.018, Natural Resources Code, is amended to read as follows:

“Section 32.018. **EMPLOYMENT OF GEOLOGIST AND MINERALOGIST.** The commissioner may employ a geologist and a mineralogist who shall be informed about minerals on [public school] land under the board’s jurisdiction and activities under pending applications and previous leases and sales. The geologist and mineralogist shall report to the board any information relating to these subjects.”

SECTION 12. Chapter 32, Natural Resources Code, is amended by adding Section 32.024 to read as follows:

“Section 32.024. FINANCIAL REPORT REQUIRED. The board shall prepare annually a complete and detailed written report accounting for all funds received and disbursed by the board during the preceding year. The commissioner shall include the report as part of the report required by Section 31.060 of this code.”

SECTION 13. Chapter 32, Natural Resources Code, is amended by adding Section 32.025 to read as follows:

“Section 32.025. AUDIT. The State Auditor shall audit the financial transactions of the board as part of each audit of the General Land Office.”

SECTION 14. Chapter 32, Natural Resources Code, is amended by adding Section 32.026 to read as follows:

“Section 32.026. POLICIES ON PUBLIC HEARINGS. The board shall develop and implement policies that 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 15. Section 32.061, Natural Resources Code, is amended to read as follows:

“Section 32.061. BOARD’S GENERAL DUTIES. Except as provided by Subchapter G, Chapter 51 of this code, the [The] board shall:

“(1) set the dates for the sale [and lease] of surveyed land dedicated to the permanent school fund and for the lease of land for prospecting or exploring for, mining, producing, storing, caring for, transporting, preserving, selling, or disposing of oil, gas, or other minerals leased under this chapter;

“(2) determine the prices for which [surveyed and unsurveyed] land shall be sold and leased; [and]

“(3) consult with the president, chairman, or other head of the department, board, or agency, as applicable, or with the representative of the head, on each matter before the board that affects land owned or held in trust for the use and benefit of a department, board, or agency of the state; and

“(4) perform any other duties which may be required by law.”

SECTION 16. Section 32.062, Natural Resources Code, is amended to read as follows:

“Section 32.062. ADOPTION OF RULES AND COLLECTION OF FEES. (a) The board shall adopt rules of procedure and rules for the sale and lease of land as provided [covered] by this chapter [which are not inconsistent with this chapter and laws relating to the sale and lease of school and asylum land and islands, lakes, and bays within tidewater limits and the bed of the sea which belong to the state, and the lease of the mineral estate in river beds and channels].

“(b) The board by rule shall adopt and shall collect reasonable fees necessary to carry out this chapter.”

SECTION 17. Chapter 32, Natural Resources Code, is amended by adding Section 32.064 to read as follows:

“Section 32.064. SURVEY OR SUBDIVISION OF LAND. The board may have land surveyed or subdivided into tracts, lots, or blocks based on its determination of which method will be most conducive and convenient to facilitate the advantageous sale of land or oil, gas, or mineral leases.”

SECTION 18. Chapter 32, Natural Resources Code, is amended by adding Section 32.065 to read as follows:

“Section 32.065. PERMITS FOR SURVEYS OR INVESTIGATIONS. If land other than public school land is not under a valid lease, the board may issue a permit for a geological, geophysical, or other survey or investigation of that land that will encourage the development of the land for oil, gas, or other minerals. The permit may be issued for the consideration and under the terms and conditions the board considers to be in the best interest of the state.”

SECTION 19. Chapter 32, Natural Resources Code, is amended by adding Section 32.066 to read as follows:

“Section 32.066. EASEMENTS. (a) The board may grant easements of right-of-way on any land except:

“(1) unsold public school land;

“(2) the portion of the Gulf of Mexico within the jurisdiction of the state; and

“(3) islands, saltwater lakes, bays, inlets, marshes, and reefs owned by the state within tidewater limits.

“(b) The easements may be granted on terms and conditions the board considers to be in the best interest of the state.

“(c) This section shall not apply to land owned by the State Department of Highways and Public Transportation.”

SECTION 20. Subsection (c), Section 32.107, Natural Resources Code, is amended to read as follows:

“(c) The notice shall state that land is to be offered for sale or lease on a certain date and the method of the sale and shall give notice that lists describing the land may be obtained at the land office.”

SECTION 21. Chapter 32, Natural Resources Code, is amended by adding Section 32.1071 to read as follows:

“Section 32.1071. LEASE SALES. (a) The sale of oil, gas, or other mineral leases shall be by sealed bid or at public auction or through a combination of public auction and sealed bid, as the board elects.

“(b) Sections 52.015 through 52.020 of this code apply to the sale of leases by sealed bid.”

SECTION 22. Chapter 32, Natural Resources Code, is amended by adding Section 32.1072 to read as follows:

“Section 32.1072. MINIMUM ROYALTY, BONUS, AND RENTAL. The board may not accept a bid that offers:

“(1) a royalty of less than one-eighth of the gross production of oil, gas, or other minerals;

or

“(2) a cash bonus of less than \$10 an acre.”

SECTION 23. Chapter 32, Natural Resources Code, is amended by adding Section 32.1073 to read as follows:

“Section 32.1073. FIXING ROYALTY, BONUS, AND RENTAL. In offering land for lease under this subchapter, the board may:

“(1) set the royalty and rental and provide for bidding on a basis of the highest cash bonus offered; or

“(2) set the cash bonus and rental and provide for bidding on the basis of the highest royalty offered.”

SECTION 24. Chapter 32, Natural Resources Code, is amended by adding Subchapter E to read as follows:

“SUBCHAPTER E. CONDITIONS OF LEASES

“Section 32.151. TERM OF LEASE. Each lease shall be for a primary term of not to exceed five years and for as long thereafter as oil, gas, or other minerals covered by the lease are produced in paying quantities.

“Section 32.152. ASSIGNMENT AND TRANSFER. A lessee may transfer or assign his lease at any time in the manner provided by Section 52.026 of this code.

“Section 32.153. LEASE RELINQUISHMENT. A lessee may relinquish his lease to the state at any time in the manner provided by Section 52.027 of this code.

“Section 32.154. LEASES SUBJECT TO LAWS, ORDERS, AND RULES. Drilling or mining operations for oil, gas, or other minerals and the production of oil, gas, or other minerals under a lease issued under this chapter are subject to:

“(1) the laws of this state;

“(2) valid orders made by the Railroad Commission of Texas or any other regulatory authority controlling the development of leases for the production of oil, gas, or other minerals; and

“(3) rules the board adopts.

“Section 32.155. RENTAL AND ROYALTY PAYMENTS. (a) Each lessee or his assigns shall pay annual rentals and royalties as specified by the board.

“(b) Subchapter D, Chapter 52 of this code applies to a lease issued under this chapter.

“Section 32.156. FORFEITURE. Each lease is subject to forfeiture by the commissioner under the conditions and in the manner provided by Section 52.176 of this code.”

SECTION 25. Section 34.002, Natural Resources Code, is amended to read as follows:

“Section 34.002. APPLICATION OF CHAPTER. (a) The provisions of this chapter [do not] apply to:

“(1) land owned by the Texas Parks and Wildlife Department [dedicated by the constitution and laws of the state to the public school fund];

"(2) land owned by the Texas Department of Corrections [dedicated by the constitution and laws of the state to The University of Texas; or land donated to the Board of Regents of The University of Texas System; as trustees; by a will; instrument in writing; or otherwise in trust for a scientific, educational; or other charitable or public purpose; or to any other land under the control of the Board of Regents of The University of Texas System;

"[(3) land whose title is vested in the state for use and benefit of any part of The Texas A&M University System; or land under the control of the Board of Regents of The Texas A&M University System;

"[(4) land subject to lease under the provisions of Subchapter F, Chapter 52, of this code, commonly known as the 'Relinquishment Act';

"[(5) land owned by the state that was acquired to construct or maintain a highway, road, street, or alley; or

"[(6) land owned by the state under the jurisdiction or control of the State Highway and Public Transportation Commission].

"(b) [Notwithstanding Subsection (a); the provisions of this chapter do apply to the leasing of the following types of land for the development of minerals other than oil and gas:

"[(1) land owned by the state that was acquired to construct or maintain a highway, road, street, or alley; or

"[(2) land owned by the state under the jurisdiction or control of the State Highway and Public Transportation Commission.

"[(e) If title to land subject to the provisions of the Relinquishment Act is acquired by the Texas Parks and Wildlife Department or the Texas Department of Corrections [a department, board, or agency of the state], the land is not subject to lease by a board created under the provisions of this chapter but shall be leased in the manner provided for the leasing of unsold public school land."

SECTION 26. Section 34.011, Natural Resources Code, is amended to read as follows:

"Section 34.011. **BOARDS FOR LEASE.** Boards for lease are created to lease land owned by the Texas Parks and Wildlife Department and the Texas Department of Corrections [a department, board, or agency of the State of Texas]."

SECTION 27. Chapter 34, Natural Resources Code, is amended by adding Sections 34.0131 through 34.0135, 34.0191, and 34.0192 to read as follows:

"Section 34.0131. **APPOINTMENTS WITHOUT DISCRIMINATION.** Appointments to the board shall be made without regard to the race, color, handicap, sex, religion, age, or national origin of the appointees.

"Section 34.0132. **DISQUALIFICATION OF LOBBYISTS.** 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.

"Section 34.0133. **CONFLICTS OF INTEREST PROHIBITED.** An officer, employee, or paid consultant of a statewide or national trade association in the oil and gas or mining 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 statewide or national trade association in the oil and gas or mining industry be a member of the board or an employee of the board grade 17 and over, including exempt employees, according to the position classification schedule under the General Appropriations Act.

"Section 34.0134. **REMOVAL OF BOARD MEMBER.** (a) 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 Section 34.013 of this code for appointment to the board;

"(2) does not maintain during the service on the board the qualifications required by Subsection (a) of Section 34.013 of this code for appointment to the board;

"(3) violates a prohibition established by Section 34.0132 or 34.0133 of this code;

"(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.

"(b) 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.

"(c) If the commissioner has knowledge that a potential ground for removal exists, he shall notify the governor that a potential ground for removal exists.

"Section 34.0135. **POLICIES ON PUBLIC HEARINGS.** The board shall develop and implement policies that 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 34.0191. **FINANCIAL REPORT REQUIRED.** The board shall prepare annually a complete and detailed written report accounting for all funds received and disbursed by the board during the preceding year.

"Section 34.0192. **AUDIT.** The State Auditor shall audit the financial transactions of the board as part of each audit of the General Land Office."

SECTION 28. Section 34.051, Natural Resources Code, is amended to read as follows:

"Section 34.051. **LAND SUBJECT TO LEASE.** Land owned by or held in trust for the use and benefit of ~~either a department, board, or~~ agency may be leased by the appropriate board to any person under the provisions of this chapter for the purpose of prospecting or exploring for and mining, producing, storing, caring for, transporting, preserving, selling, and disposing of the oil, gas, or other minerals."

SECTION 29. Section 34.057, Natural Resources Code, is amended to read as follows:

"Section 34.057. ~~[ADVERTISEMENT OF]~~ **LEASE PROVISIONS.** (a) Leases shall be advertised and sold in the same manner and shall contain the same terms and conditions as leases issued by the School Land Board under Chapter 32 of this code.

"(b) A board may place any other terms and conditions in the lease it determines to be in the best interest of the state.

"(c) The special sales fee provided for in Section 32.110 of this code shall be collected on leases issued under this chapter.

"(d) The provisions of Chapter 32 of this code relating to payment of royalty, penalties and interest on delinquent payments, assignments, releases, and forfeiture shall apply to leases issued under this chapter. ~~[A board shall insert an advertisement that leases will be offered for sale on a certain date in at least three issues of each of four daily newspapers 30 days in advance of the sale date. The advertisement shall give notice that lists describing the land to be leased may be obtained from the land office.]~~"

SECTION 30. Section 34.064, Natural Resources Code, is amended to read as follows:

"Section 34.064. **EASEMENTS.** (a) A board may grant easements of rights-of-way on the land covered by the provisions of this chapter ~~[for irrigation canals, laterals, flumes and ditches, telephone, telegraph, and electric power lines, and pipelines for the gathering or transportation of oil, gas, water, and other fluids or substances, together with the devices, equipment, and appurtenances which may be necessary].~~

"(b) The easements may be granted on terms and conditions the board considers to be in the best interest of the state.

"(c) The provisions of this section do not apply to land owned by the state as a part of the penitentiary system and do not repeal Chapter 166, General Laws, Acts of the 42nd Legislature, Regular Session, 1931, as amended (Article 6203d, Vernon's Texas Civil Statutes)."

SECTION 31. Chapter 34, Natural Resources Code, is amended by adding Sections 34.065 and 34.066 to read as follows:

"Section 34.065. **RULES.** A board may adopt rules and collect fees necessary for the implementation of this chapter.

"Section 34.066. **APPLICATION OF SUNSET ACT.** The Boards for Lease are subject to the Texas Sunset Act. Unless continued in existence as provided by that Act, the board is abolished effective September 1, 1997."

SECTION 32. Section 51.019, Natural Resources Code, is amended to read as follows:

"Section 51.019. **SPECIAL FEE.** Each bidder on a mineral lease or land sale by the board shall remit by separate check a special sale fee in the amount and in the manner provided in Section 32.110 ~~[34.061]~~ of this code."

SECTION 33. Sections 51.121, 51.124, and 51.125, Natural Resources Code, are amended to read as follows:

"Section 51.121. **LEASE OF UNSOLD LAND.** (a) ~~[Except as otherwise provided, unsold public school and asylum land may be leased for a term of not more than 10 years and for an amount of not less than five cents an acre, payable annually in advance, but the land that is leased but remains unsold is subject to sale or trade pursuant to the laws governing the sale or trade of unsold land.]~~

"[(b)] Unsold public school and asylum land may be leased for *agricultural, grazing, or commercial purposes under terms and conditions set by the commissioner* [~~in tracts of not more than 50 acres for a term of not more than 50 years~~]. Commercial improvements on land under this subsection shall not become the property of the state and shall be taxed in the same manner as other private property.

"(b) [(e)] Commercial improvements on land leased under Subsection (a) [(b)] of this section [Section 51.121 of the Natural Resources Code] shall be removed prior to the expiration of the lease unless a renewal or an extension of the lease has been finalized prior to the expiration of the term of the lease. If commercial improvements are not removed prior to the expiration of the lease and if there has been no renewal or extension prior to the expiration of the lease, then the commercial improvements on the land shall become property of the state.

"(c) [(d)] If escheated land that is a part of the permanent school fund is leased under this chapter for a purpose other than for grazing, the period of the lease may not exceed two years. The lessee shall pay rent under the lease in money."

"Section 51.124. AWARD OF LEASE. (a) A lease shall be awarded to the highest responsible bidder.

"(b) The lease shall be awarded under the rules and in the quantities the *commissioner* [board] considers to be in the best interest of the state and not inconsistent with the equities of the occupant.

"Section 51.125. REJECTION OF BID OR OFFER TO LEASE. Any bid or offer to lease may be rejected by the *commissioner* [board] for fraud, collusion, or other good and sufficient cause before the lease is signed."

SECTION 34. Chapter 51, Natural Resources Code, is amended by adding Section 51.131 to read as follows:

"Section 51.131. *SOIL AND WATER CONSERVATION PLANS.* (a) For each lease issued under this subchapter for agricultural or grazing purposes, the commissioner shall require the lessee to implement a soil and water conservation plan approved by the commissioner. The commissioner, in reviewing a plan, and the lessee, in implementing a plan, may be assisted by the United States Department of Agriculture Soil Conservation Service.

"(b) The commissioner by rule shall adopt a procedure for reviewing and approving soil and water conservation plans required by Subsection (a) of this section."

SECTION 35. Section 51.291, Natural Resources Code, is amended to read as follows:

"Section 51.291. GRANTS OF EASEMENTS. The commissioner may execute grants of easements for rights-of-way across unsold public school land, the portion of the Gulf of Mexico within the jurisdiction of the state, and all islands, saltwater lakes, bays, inlets, marshes, and reefs owned by the state within tidewater limits for:

"(1) telephone, telegraph, electric transmission, and powerlines;

"(2) [~~for~~] oil pipelines, including pipelines connecting the onshore storage facilities with the offshore facilities of a deepwater port, as defined by the federal Deepwater Port Act of 1974 (33 U.S.C.A. Section 1501 et seq.), gas pipelines, sulphur pipelines, and other electric lines and pipelines of any nature;

"(3) [~~and for~~] irrigation canals, laterals, and water pipelines;

"(4) roads; and

"(5) any other purpose the commissioner considers to be in the best interest of the state."

SECTION 36. Section 51.293, Natural Resources Code, is amended by adding Subsection (c) to read as follows:

"(c) In addition to the purposes for which grants of easements may be executed under Subsections (a) and (b) of this section, the board of regents may execute grants of easements on university land for any other purpose it considers to be in the best interest of the permanent university fund land."

SECTION 37. Section 51.296, Natural Resources Code, is amended to read as follows:

"Section 51.296. TERM OF EASEMENTS. (a) Except as provided in Subsection (d) [(b)] of this section, no grant of easement or lease enumerated under Sections 51.291 through 51.293 of this code may be granted for a term that is longer than 10 years, but an easement may be renewed by the officials responsible for execution of grants of easement and leases under this subchapter.

"(b) The commissioner by rule shall set the amount of and shall collect money for damages to the surface of land dedicated to the permanent school fund.

"(c) Money collected for surface damages shall be deposited in the special fund account described in Section 52.297 of this code.

“(d) A right-of-way easement for a pipeline connecting onshore storage facilities with the offshore facilities of a deepwater port, as defined by the Deepwater Port Act of 1974 (33 U.S.C.A. Section 1501 et seq.), may be granted for a term coincident with the term of the license issued by the secretary of transportation pursuant to the Deepwater Port Act of 1974 (33 U.S.C.A. Section 1501 et seq.), and the easement may be renewed for additional terms of up to 10 years coincident with the term for each renewal of the license.”

SECTION 38. Section 51.299, Natural Resources Code, is amended to read as follows:

“Section 51.299. **FEEES FOR CERTAIN FACILITIES.** The rent to be charged for an easement or lease for an electric substation site, pumping station, loading rack, ~~or~~ tank farm, or road or for an easement for a purpose not specifically listed by Section 51.291, 51.292, or 51.293 of this code but granted in the best interest of the state or the permanent university fund land shall be an amount agreed to between the lessee and the board of regents with respect to university land and the commissioner with respect to other state land.”

SECTION 39. Subsection (a), Section 51.302, Natural Resources Code, is amended to read as follows:

“(a) No person may construct any of the facilities listed in Sections 51.291 through 51.293 of this code or any other facility on or across any section or part of a section of land of the character enumerated in Sections 51.291 through 51.293 of this code and owned by the state, nor may any person who has not acquired a proper easement as provided in this subchapter and who owns or possesses any of the facilities listed in Sections 51.291 through 51.293 of this code or any other facility that is ~~are~~ now located on or across any section or part of a section of land of the character enumerated in Sections 51.291 through 51.293 of this code and owned by the state continue in possession of the land unless he obtains from the commissioner or the board of regents a grant of a right-of-way easement or other easement for the land on which the facility is to be constructed or is located.”

SECTION 40. Chapter 51, Natural Resources Code, is amended by adding Subchapter I to read as follows:

“SUBCHAPTER I. ACQUISITION OF PUBLIC SCHOOL LAND

“Section 51.401. **SPECIAL FUND ACCOUNT.** (a) The board may designate money received from the sale of public school land under this chapter for deposit in a special fund account in the State Treasury to be used by the board to acquire fee or lesser interests in real property for the use and benefit of the permanent school fund, as provided by Section 51.402 of this subchapter.

“(b) The special fund account must be an interest-bearing account, and the interest received on the account shall be deposited in the State Treasury to the credit of the available school fund.

“(c) Money received from the sale of a particular piece of land and designated for the acquisition of land under this subchapter must be used by the board not later than two years after the date of the sale of land from which the money is derived.

“(d) Any money from a specific sale that remains in the special fund account for longer than two years shall be deposited in the State Treasury to the credit of the permanent school fund.

“Section 51.402. **LAND ACQUISITION.** (a) The board may use the money designated under Section 51.401 of this subchapter to acquire property for any of the following purposes:

“(1) to add to a tract of public school land to form a tract of sufficient size to be manageable;

“(2) to add contiguous land to public school land; or

“(3) to acquire, as public school land, property of unique biological, commercial, geological, cultural, or recreational value.

“(b) Before acquiring property under Subsection (a) of this section, the board must determine that the acquisition is in the best interest of the permanent school fund.

“Section 51.403. **MARKET VALUE.** (a) The board may not pay more than market value for any property acquired under this subchapter.

“(b) Market value shall be determined by an appraisal of the property performed by appraisers employed by the land office.

“Section 51.404. **TITLE SECURITY.** (a) Property acquired under this subchapter shall be conveyed to the state by warranty deed.

“(b) The board may purchase or acquire title insurance for any property purchased under this subchapter.

“Section 51.405. **CONTRACTS FOR PURCHASE.** The board may enter into contracts for the purchase of property under this subchapter.

“Section 51.406. **DEDICATION TO PERMANENT SCHOOL FUND.** Land acquired under this subchapter is dedicated to the permanent school fund and is subject to sale and lease in the

same manner and under the same authority as any other real property dedicated to the permanent school fund.

“Section 51.407. RULES. The board shall adopt rules for the implementation of this subchapter.”

SECTION 41. Section 52.016, Natural Resources Code, is amended to read as follows:

“Section 52.016. SPECIAL FEE. Each bidder on a lease under this subchapter shall remit by separate check a special sale fee in the amount and in the manner provided in Section 32.110 [34.061] of this code.”

SECTION 42. Subsections (c) and (e), Section 52.131, Natural Resources Code, are amended to read as follows:

“(c) Royalty payments shall be accompanied by:

“(1) an affidavit of the owner, manager, or other authorized agent, completed in the form and manner required by the land office and showing the gross amount and disposition of all oil and gas produced and the market value of the oil and gas;

“(2) a copy of all documents, records, or reports required by the land office, confirming the gross production, disposition, and market value, including gas meter readings, pipeline receipts, gas line receipts, and other checks or memoranda of amount produced and put into pipelines, tanks, pools, and gas lines or gas storage;

“(3) a check stub, schedule, summary, or other remittance advice showing by the assigned land office lease number the amount of royalty being paid on each lease; and

“(4) other reports or records that the land office may require to verify the gross production, disposition, and market value.”

“(e) If any royalty is not paid when due but is paid before the 31st day after the date on which it is due, a penalty of five percent of the royalty due shall be added to the unpaid amount due. If the royalty is not paid before the 31st day after the date on which it is due, a penalty of an additional five percent of the royalty due shall be imposed. The minimum penalty under this section is \$25. The penalty may not be imposed [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. 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.”

SECTION 43. Section 52.131, Natural Resources Code, is amended by adding Subsections (f), (g), (h), and (i) to read as follows:

“(f) The commissioner shall add a penalty of 25 percent to any delinquent royalty if a part of the delinquency is due to fraud or an intent to evade the provisions of this chapter.

“(g) The annual interest rate on delinquent royalties is 12 percent. Interest accrues on delinquent royalties beginning 60 days after the date on which the royalty is due.

“(h) If any report, affidavit, supporting document, or any other instrument required to be filed under this chapter is not filed when due, the commissioner shall charge a reasonable penalty in an amount established by rule adopted by the commissioner.

“(i) Interest charged under Subsection (g) of this section or penalties under Subsection (e), (f), or (h) of this section are in addition to any other right, including forfeiture, that the commissioner may exercise for failure to submit a report or other instrument.”

SECTION 44. Section 52.172, Natural Resources Code, is amended to read as follows:

“Section 52.172. SALE AND LEASE BY AGENT. The owner of said land is hereby authorized to sell or lease to any person, firm, or corporation the oil and gas that may be thereon or therein upon such terms and conditions as such owner may deem best, subject only to the provisions hereof, and he may have a second lien thereon to secure the payment of any sum due him. All leases and sales so made shall be assignable. No oil or gas rights shall be sold or leased hereunder for a delay rental during the primary term of less than 10 cents per acre per year plus royalty, and [the lessee or purchaser shall in every case pay the state 10 cents per acre per year of sales and rentals; and] in case of production, the lessee or purchaser shall pay the state the undivided one-sixteenth of the value of the oil and gas reserved herein, and like amounts to the owner of the soil.”

SECTION 45. Chapter 52, Natural Resources Code, is amended by adding Section 52.187 to read as follows:

“Section 52.187. ASSIGNMENTS TO THE OWNER OF THE SOIL. (a) An owner of the soil may acquire by assignment a lease which he executed on land subject to the Relinquishment Act, Subchapter F, Chapter 52 of this code; however, such an assignment is subject to the terms of this section.

“(b) When an owner of the soil seeks an assignment under Subsection (a) of this section, both the current lessee and the owner of the soil should notify the General Land Office of the proposed assignment. This notification must include proof of the consideration to be paid for the assignment. The land commissioner may then approve the assignment; if the commissioner does approve it, then both the current lessee and the owner of the soil will receive written notice of this approval. Such written approval shall also become part of the General Land Office’s mineral file on this land.

“(c) A lease which has been assigned to an owner of the soil without the advance approval of the land commissioner may be forfeited by the commissioner at any time. In addition to forfeiting the lease, the land commissioner may also forfeit the agency powers of the owner of the soil, and the state will execute a subsequent lease pursuant to Section 52.175 of this code.

“(d) Whenever an owner of the soil is assigned a Relinquishment Act lease that he executed, he shall be accountable to the state for a portion of the consideration he receives upon assignment of the lease as follows:

“(1) If the lease was assigned to the owner of the soil without the advance approval of the commissioner, the owner of the soil must pay the state one-half of the entire consideration that he received upon subsequent assignment of the lease. Payment of this money in no way limits the forfeiture remedies outlined in Subsection (c) of this section.

“(2) When an assignment to an owner of the soil has the commissioner’s advance approval and the owner of the soil subsequently assigns the lease within three years, the owner of the soil must pay the state one-half of his profit on the subsequent assignment. His profit is the difference between what he paid for his assignment and what he received for the subsequent assignment.

“(e) Under this section, an assignment will be treated as if it were made to the owner of the soil when:

“(1) the assignee is a nominee of the owner of the soil;

“(2) the assignee is a corporation or subsidiary in which the owner of the soil is a principal stockholder;

“(3) the assignee is a partnership in which the owner of the soil is a partner;

“(4) the assignee is a principal stockholder of the corporation which is the owner of the soil;

or

“(5) the assignee is a partner in a partnership which is the owner of the soil.”

SECTION 46. Chapter 52, Natural Resources Code, is amended by adding Section 52.297 to read as follows:

“Section 52.297. PAYMENT OF DAMAGES FOR USE OF SURFACE. (a) Leases issued under Subchapter B of this chapter for unsold surveyed or unsurveyed school land, other than land included in islands, saltwater lakes, bays, inlets, marshes, and reefs owned by the state in tidewater limits and other than that portion of the Gulf of Mexico within the jurisdiction of the state, must include a provision requiring the payment of damages for the use of the surface in prospecting for, exploring, developing, or producing the leased minerals.

“(b) The commissioner by rule shall set the amount of and shall collect money for damages to the surface of land dedicated to the permanent school fund.

“(c) Money collected for surface damages shall be deposited in a special fund account in the State Treasury to be used for conservation, reclamation, or permanent improvements on land that belongs to the permanent school fund.

“(d) The special fund account must be an interest-bearing account, and the interest received on the account shall be deposited in the State Treasury to the credit of the available school fund.

“(e) Money collected under this section and designated for the construction of permanent improvements as provided by this section must be used not later than two years after the date on which the money is collected.

“(f) Any money that remains in the special fund account for longer than two years shall be deposited in the State Treasury to the credit of the permanent school fund.

“(g) The payment of damages under this section is in addition to any bonus, rental, royalty, or other payment required by the lease.”

SECTION 47. Sections 52.321, 52.322, and 52.324, Natural Resources Code, are amended to read as follows:

“Section 52.321. DEFINITIONS. In this subchapter:

“(1) ‘Geophysical exploration’ means a survey or investigation conducted to discover or locate oil and gas prospects using magnetic, gravity, seismic, and/or electrical techniques.

“(2) ‘Geochemical exploration’ means a survey or investigation conducted to discover or locate oil and gas prospects using techniques involving soil sampling and analysis.

“(3) ‘Public school land’ means land dedicated by the constitution or laws of this state to the permanent free school fund, *and specifically includes* ~~but does not include~~ land with a mineral classification under Subchapter F of this chapter in which the state has retained the oil and gas interest *and* ~~nor does it include~~ areas within tidewater limits or the portion of the Gulf of Mexico that is under the jurisdiction of this state.

“(4) ‘Areas within tidewater limits’ means *islands, saltwater lakes, bays, inlets, marshes, and reefs within tidewater limits and that portion of the Gulf of Mexico within the jurisdiction of Texas.*

“(5) ‘Permit’ means a license issued by the commissioner authorizing geophysical and/or geochemical exploration on public school land.

“(6) ~~(5)~~ ‘Permittee’ means the holder of a permit.

“Section 52.322. PERMIT REQUIRED FOR EXPLORATION. (a) Except for a person who has a valid oil and gas lease on public school land authorized by this chapter, a person may not conduct geophysical or geochemical exploration on public school land unless the person obtains a permit from the commissioner.

“(b) Every person who is authorized to conduct a geophysical or geochemical exploration on public school land shall comply with the commissioner’s rules relating to such exploration. *Any person with a valid oil and gas lease on land subject to this chapter must comply with the commissioner’s rules concerning exploration.*

“(c) Nothing in this title shall prohibit the conduct of airborne geophysical exploration.”

“Section 52.324. AUTHORITY OF COMMISSIONER. (a) The commissioner:

“(1) *as a condition of* ~~before~~ issuing a permit, shall collect *reasonable fees* ~~a fee~~ from the applicant in an amount determined by the commissioner;

“(2) may require a permittee to furnish to the commissioner, upon the commissioner’s request, copies of maps, plats, reports, data, and any other information in the possession of the permittee that relates to the progress or results of an exploration under a permit; provided however, the commissioner shall not require a permittee to furnish any of its interpretive data;

“(3) shall by rule require a permittee to restore land explored under the permit as nearly as is practicable to its condition immediately prior to the exploration; ~~and~~

“(4) *shall by rule set the amount of and shall collect money for damages to the surface of public school land except land with a mineral classification under Subchapter F of this chapter; and*

“(5) may make any other rules relating to geophysical or geochemical explorations, permits, or permittees the commissioner considers appropriate.

“(b) *Money collected for surface damages shall be deposited and used in the manner provided by Section 52.297 of this chapter.*

“(c) *In the case of areas within tidewater limits, the commissioner shall follow the recommendations of the Parks and Wildlife Department in making rules to prevent unnecessary pollution of water, destruction of fish, oysters, and other marine life, and obstruction of navigation.*

“(d) If a permittee violates a rule of the commissioner or a term of a permit, the commissioner may cancel the permit.

“(e) ~~(e)~~ If by authority of Subsection (a)(2) of this section the commissioner acquires information concerning a permittee’s geophysical or geochemical exploration, the commissioner shall consider the information to be confidential and may not disclose it, except by authority of a court order, to the public or any other agency of this state.”

SECTION 48. Chapter 53, Natural Resources Code, is amended by adding Section 53.155 to read as follows:

“Section 53.155. PAYMENT OF DAMAGES FOR USE OF SURFACE. (a) *Leases issued under Subchapter B of this chapter for unsold surveyed or unsurveyed school land, other than land included in islands, saltwater lakes, bays, inlets, marshes, and reefs owned by the state in tidewater limits and other than that portion of the Gulf of Mexico within the jurisdiction of the state, must include a provision requiring the payment of damages for the use of the surface in prospecting for, exploring, developing, or producing the leased minerals.*

“(b) *The commissioner by rule shall set the amount of and shall collect money for damages to the surface of land dedicated to the permanent school fund.*

“(c) *Money collected for surface damages shall be deposited in a special fund account in the State Treasury to be used for conservation, reclamation, or constructing permanent improvements on land that belongs to the permanent school fund.*

“(d) The special fund account must be an interest-bearing account, and the interest received on the account shall be deposited in the State Treasury to the credit of the available school fund.”

“(e) Money collected under this section and designated for the construction of permanent improvements as provided by this section must be used not later than two years after the date on which the money is collected.”

“(f) Any money that remains in the special fund account for longer than two years shall be deposited in the State Treasury to the credit of the permanent school fund.”

“(g) The payment of damages under this section is in addition to any bonus, rental, royalty, or other payment required by the lease.”

SECTION 49. Section 53.163, Natural Resources Code, is amended to read as follows:

“Section 53.163. LAWS APPLICABLE TO PERMITS. Permits for geophysical and geochemical exploration under this subchapter shall be issued in the same manner and under the same terms and conditions as permits for oil and gas under Subchapter I of Chapter 52 of this code.”

SECTION 50. Chapter 32, Natural Resources Code, is amended by adding Section 32.157 to read as follows:

“Section 32.157. SPECIAL ACCOUNTS. (a) Special funds are created in the State Treasury to be known as the Parks and Wildlife Department and the Texas Department of Corrections special mineral funds.”

“(b) All money collected as bonus, royalty, rental, payments for easements, and permit fees attributable to land covered by this chapter, other than land dedicated to the permanent school fund, shall be deposited in the special mineral fund of the department, board, or agency owning the land.”

“(c) To offset the costs of leasing and administering mineral leasing, all fees collected relating to leasing lands owned by boards, departments, or agencies, including the sales fee and any penalties collected shall be credited to the same fund account in the treasury as those similar fees collected in the leasing of land dedicated to the permanent school fund.”

SECTION 51. If H.B. 918 pending before this legislature is enacted into law, then any powers conferred on the board for lease of the department of highways and public transportation by H.B. 918 shall be given to the School Land Board, and the School Land Board shall have the exclusive authority to lease highway rights-of-way in the manner prescribed by H.B. 918.

SECTION 52. Sections 31.101 through 31.108, 32.108, 34.058 through 34.063, 34.101 through 34.185, and 51.055 and Chapters 35 and 36, Natural Resources Code, and Section 4, Chapter 11, Acts of the 68th Legislature, 1983, are repealed.

SECTION 53. Section 40 of this Act takes effect on adoption of the constitutional amendment proposed by S.J.R. No. 21, Acts of the 69th Legislature, Regular Session, 1985. If that amendment is not adopted, Section 40 of this Act has no effect.

SECTION 54. Except as provided by Section 51 of this Act, this Act takes effect September 1, 1985.

SECTION 55. (a) The boards for lease of state departments, boards, and agencies, including the Board for Lease of State Park Lands and the Board for Lease of Eleemosynary and State Memorial Park Lands, are abolished and the property, records, any appropriation, and special funds of the boards are transferred to the School Land Board.

(b) The abolition of those boards does not affect a lease entered into by any of the boards before the effective date of this Act, except that the School Land Board is considered the lessor under the lease.

SECTION 56. Sections 51.131, 52.297, and 53.155, Natural Resources Code, as added by this Act, apply 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 57. Subsection (e), Section 52.131, Natural Resources Code, as amended by this Act, Subsections (f), (g), and (h), Section 52.131, Natural Resources Code, as added by this Act, apply only to interest charges or penalties 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 58. 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 20, 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, except as provided by Section 51.