

CHAPTER 897

S.B. No. 962

AN ACT

relating to the sale, lease, and development of state-owned oil, gas, and other minerals.

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

SECTION 1. Section 32.002, Natural Resources Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(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) *minerals* [and] subject to lease under Subchapter F, Chapter 52, of this code, commonly known as the Relinquishment Act, *and Subchapters B and C, Chapter 53, of this code;*

(4) oil and gas underlying land owned by the state that was acquired to construct or maintain a highway, road, street, or alley, which is located in a producing area, unless the oil or gas is leased for the specific purpose of drilling a horizontal well;

(5) oil and gas underlying land owned by the state that was acquired to construct or maintain a highway, road, street, or alley if the State Highway and Public Transportation Commission has determined that such right-of-way is no longer needed for use by citizens as a road pursuant to Chapter 99, General Laws, Acts of the 42nd Legislature, Regular Session, 1931 (Article 6673a, Vernon's Texas Civil Statutes);

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

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

(e) If title to land subject to Subchapter C, Chapter 53, of this code is acquired by a department, board, or agency of the state, the land shall be leased as provided by Chapter 53 of this code for the leasing of unsold surveyed public school lands.

SECTION 2. Section 32.061, Natural Resources Code, is amended to read as follows:

Sec. 32.061. BOARD'S GENERAL DUTIES. Except as provided by Subchapter G, Chapter 51, of this code, the board shall:

(1) set the dates to *open received bids* for the sale 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, *and for the commitment of land to a contract for development;*

(2) determine the prices *and set the terms of the contract* for which land shall be sold, [and] leased, *or committed to a contract for development;*

(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 3. Subsection (a), Section 32.062, Natural Resources Code, is amended to read as follows:

(a) The board shall adopt rules of procedure and rules for the sale, [and] lease, *and commitment to a contract for development* of land as provided by this chapter.

SECTION 4. Section 32.064, Natural Resources Code, is amended to read as follows:

Sec. 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, *the lease of land for oil, gas, or other minerals, or the commitment of land to a contract for development* [or oil, gas, or mineral leases].

SECTION 5. Section 32.065, Natural Resources Code, is amended to read as follows:

Sec. 32.065. PERMITS FOR SURVEYS OR INVESTIGATIONS. If land other than public school land is not under a valid lease *or committed to a contract for development*, 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 6. Section 32.101, Natural Resources Code, is amended to read as follows:

Sec. 32.101. APPLICABLE LAW. Land shall be *offered for sale, lease, or commitment to a contract for development* ~~[sold and leased]~~ subject to the terms and conditions provided by law.

SECTION 7. Section 32.105, Natural Resources Code, is amended to read as follows:

Sec. 32.105. DATE FOR OPENING BIDS ~~[OF SALE AND LEASE]~~. The ~~[sale]~~ date for *opening bids* for the sale, ~~[or]~~ lease, or *commitment to a contract for development* of land shall be the first or third Tuesday of the month.

SECTION 8. Section 32.106, Natural Resources Code, is amended to read as follows:

Sec. 32.106. DESCRIPTION OF LAND. The description of public school land offered for sale, ~~[or]~~ lease, or *commitment to a contract for development* shall be in accord with the description which may be found in the School Land Registry in the land office.

SECTION 9. Section 32.107, Natural Resources Code, is amended to read as follows:

Sec. 32.107. NOTICE OF SALE, ~~[AND]~~ LEASE, AND CONTRACT FOR DEVELOPMENT. (a) The board shall publish notice *that the board will receive bids for* ~~[of]~~ the sale, ~~[or]~~ lease, or *commitment to a contract for development* of land in at least three issues of at least four daily newspapers.

(b) The notice shall be published at least 30 days before the date *the bids are advertised to be opened* ~~[of sale or lease]~~.

(c) The notice shall state that land is to be offered for sale, ~~[or]~~ lease, or *commitment to a contract for development* on a certain date and *at a certain time* and the method of the sale, lease, or *commitment to a contract for development* and shall give notice that *a person may obtain publications from* ~~[lists describing the land may be obtained at]~~ the land office *that describe the land offered for sale, lease, or commitment to a contract for development.*

(d) *The land office may solicit and include advertising in its publications. The commissioner shall deposit fees paid for advertising in land office publications in a separate account in the state treasury.*

SECTION 10. Section 32.1071, Natural Resources Code, is amended by adding Subsection (c) to read as follows:

(c) *The leases shall be made on terms and conditions that may be prescribed by the board.*

SECTION 11. Section 32.1072, Natural Resources Code, is amended to read as follows:

Sec. 32.1072. MINIMUM ROYALTY, BONUS, AND RENTAL. The board may not accept a bid *on an oil and gas lease* that offers:

(1) a royalty of less than one-eighth of the gross production of oil ~~and~~_[,] gas_[, or other minerals]; or

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

SECTION 12. Section 32.109, Natural Resources Code, is amended to read as follows:

Sec. 32.109. ACCEPTANCE AND REJECTION OF BIDS. (a) *For each tract offered for sale, lease, or commitment to a contract for development, the board must* ~~[The board may reject any and all bids, but if the board elects not to reject any and all bids, it is required to]~~ accept the best bid submitted *that meets the minimum requirements set by the board or by law or reject all bids.*

(b) ~~The minutes of the board shall reflect the acceptance or rejection of a bid, and the approval of the minutes constitutes approval of the act of acceptance or rejection]~~

SECTION 13. Section 32.110, Natural Resources Code, is amended to read as follows:

Sec. 32.110. SPECIAL SALE FEE. (a) On land sales and mineral leases made by the board, the *purchaser or bidder* is required to pay by separate check an amount equal to one and one-half percent of the bid payable to the commissioner as a special fee.

(b) *If the sale is by bid, only* ~~[Only]~~ the special fees paid on the ~~[high]~~ bids accepted by the board shall be deposited by the commissioner in the State Treasury as a special fund.

(c) Failure to pay the special fee shall ~~[does]~~ not void ~~[render]~~ a bid ~~[void]~~, but the commissioner shall demand payment of the fee before ~~[he issues]~~ a lease is issued to the best ~~[successful]~~ bidder. If the best ~~[successful]~~ bidder fails or refuses to make the payment within 30 days after demand by the commissioner, the bidder is not entitled to a ~~[lease or]~~ sale of or a lease on the tract covered by that ~~[his]~~ bid and the cash bonus shall be automatically forfeited to be deposited by the commissioner in the State Treasury to the credit of the permanent school fund or the appropriate special mineral fund. *The board, at its option, may offer the tract for sale or lease to the next best bidder under the same terms as submitted by and as would have been granted to the best bidder.*

(d) Checks submitted by unsuccessful bidders shall be returned to the bidders ~~[with their bid checks]~~.

SECTION 14. Section 32.151, Natural Resources Code, is amended to read as follows:

Sec. 32.151. TERM OF LEASE. Each *oil and gas* lease shall be for a primary term ~~[of]~~ not to exceed 10 ~~[five]~~ years and for as long thereafter as oil ~~or~~ gas ~~is~~, ~~or other minerals covered by the lease are~~ produced in paying quantities.

SECTION 15. Subchapter F, Chapter 32, Natural Resources Code, is amended by adding Section 32.206 to read as follows:

Sec. 32.206. RATIFICATIONS AND OTHER AGREEMENTS. (a) *The board may approve by rule or order a ratification or other agreement that includes in the benefits of production a mineral or royalty interest in land owned by the state that was acquired to construct or maintain a highway, road, street, or alley.*

(b) *An agreement approved by the board under this section must be executed by the commissioner to be effective.*

(c) *This section does not apply to an interest subject to pooling or unitization by a lessee under a lease issued under this subchapter.*

SECTION 16. Section 52.014, Natural Resources Code, is amended to read as follows:

Sec. 52.014. DATE FOR LEASE AND NOTICE. ~~[(a)]~~ The date for *opening bids* to lease ~~[of]~~ areas covered by this subchapter shall be set and notice of the date shall be given in the manner provided in Sections 32.105 and 32.107 of this code.

~~[(b) Notice of areas being offered for lease shall be advertised for a period of 30 days before the lease date.]~~

SECTION 17. Section 52.015, Natural Resources Code, is amended to read as follows:

Sec. 52.015. *BID TO LEASE* ~~[APPLICATION FOR LEASE]~~. (a) *To apply to lease a tract, a bidder must submit a separate bid for each separate tract to be leased* ~~[Each application for a separate area and the first payment shall be delivered to the land office on or before the day and hour on which the area is subject to lease].~~

(b) *A bid must include a completed application to lease form, a payment to the commissioner in the amount of the actual bonus bid or set, and a separate payment to the commissioner in the amount of the special fee provided by Section 52.016 of this code* ~~[The application and payment shall be delivered in a sealed envelope endorsed with "application to lease oil and gas" and the date on which the area is subject to lease].~~

(c) *A bid must be delivered to the land office on or before the date and time the board advertises that the bids will be opened* ~~[Any application received up to the hour in which the applications are to be opened shall be considered to be properly delivered regardless of whether it is opened or sealed or endorsed or unendorsed].~~

SECTION 18. Section 52.017, Natural Resources Code, is amended to read as follows:

Sec. 52.017. KEEPING AND OPENING BIDS. *Bids* ~~[The envelopes]~~ shall be kept secure ~~[securely]~~ and unopened by the commissioner ~~or the commissioner's designee until opened on the date and at the time set as provided in Section 52.014 of this code~~ ~~[or his chief clerk until the day on which the applications are to be opened, and at that time, the board shall open the envelopes in the presence of any persons who desire to be present].~~

SECTION 19. Section 52.021, Natural Resources Code, is amended to read as follows:

Sec. 52.021. TERM OF LEASE. A lease granted under this subchapter shall be for a primary term not to exceed 10 [five] years and for as long after that time as oil or gas is produced from the leased area.

SECTION 20. Section 52.022, Natural Resources Code, is amended to read as follows:

Sec. 52.022. ROYALTY RATE [AND DELAY RENTALS]. ~~[(a)] The board shall set the royalty rate on production of oil and gas from land leased under this subchapter. The royalty rate set must be at least one-eighth of the gross production or the market value of the oil and gas produced [In addition to the cash amount bid for a lease, the area included in the lease shall be leased for not less than one-eighth of the gross production of oil produced and saved, or its value, and not less than one-eighth of the gross production of gas produced and sold off the area or its value, plus an amount determined by the board, until production is secured.~~

~~[(b) If production is secured in commercial quantities and the payment of royalty begins and continues to be paid, the lessee is exempt from further delay rental payments on the acreage.~~

~~[(c) If production ceases and royalty is not paid, the lessee shall pay at the end of the lease year in which the royalty ceased to be paid and annually after that time in advance, an amount determined by the board for as long as the lessee desires to maintain the rights acquired under the lease, but not for more than five years from the date of the lease].~~

SECTION 21. Section 52.023, Natural Resources Code, is amended to read as follows:

Sec. 52.023. LEASE PROVISIONS FOR DRILLING AND REWORKING. Each lease shall provide that:

(1) if the production of oil or gas on premises leased under this subchapter ceases for any reason ~~[at or]~~ after the expiration of the primary term, the lease will not terminate if the lessee commences additional drilling or reworking operations within 60 days after the cessation of production;

(2) the lease shall remain in effect as long as ~~[the]~~ drilling or ~~[and]~~ reworking operations continue in good faith and in a workmanlike manner~~[,]~~ without interruptions~~[,]~~ totaling more than 60 days ~~[during any one such operation]; [and]~~

(3) if the drilling or reworking operations result in the production of oil or gas, the lease shall remain in effect so ~~[as]~~ long as oil or gas is produced from the leased premises in paying quantities or payment of shut-in ~~[gas]~~ royalties or payment of compensatory royalties is made as provided by law; and

~~[(4) if the drilling or reworking operations result in the completion of a well as a dry hole, the lease will not terminate if the lessee commences additional drilling or reworking operations within 60 days after the completion of the well as a dry hole, and the lease shall remain in effect so long as the lessee continues drilling or reworking operations in good faith and in a workmanlike manner without interruptions totaling more than 60 days.~~

SECTION 22. Section 52.024, Natural Resources Code, is amended to read as follows:

Sec. 52.024. LEASE PROVISIONS FOR SHUT-IN OIL OR GAS ROYALTY AND COMPENSATORY ROYALTY. (a) For purposes of this section, "well" means any well that has been assigned a well number by the state agency having jurisdiction over the production of oil and gas.

(b) Each lease shall provide that:

(1) if, at any time after the expiration of the primary term ~~[or at any time after the expiration]~~ of ~~[the primary term]~~ a lease that, until being shut in, was being maintained in force and effect, a well ~~[or wells]~~ capable of producing oil or gas in paying quantities is ~~[are]~~ located on the leased premises but oil or gas is not being produced for lack of suitable production facilities or lack of a suitable market ~~[and the lease is not being maintained in force and effect]~~, then the lessee may pay as a shut-in oil or gas royalty an amount equal to double the annual rental provided in the lease but not less than \$1,200 a year for each well capable of producing oil or gas in paying quantities. To be effective, each initial ~~[Any]~~ shut-in oil or gas royalty must be paid on or before: (A) the expiration of the primary term, (B) 60 days after the lessee ceases to produce oil or gas from the leased premises, or (C) 60

days after the lessee completes a drilling or ~~[and]~~ reworking operation in accordance with the lease provisions, whichever date is *latest* ~~[later]~~;

(2) if the shut-in oil or gas royalty is paid, the lease shall be considered to be a producing lease and the payment shall extend the term of the lease for a period of one year from the end of the primary term or from the first day of the month *following* ~~[next succeeding]~~ the month in which production ceased, and, after that, if no suitable production facilities or suitable market for the oil or gas exists, the lessee may extend the lease for four *more* ~~[additional and]~~ successive periods of one year by paying the same amount each year on or before the expiration of *each shut-in year* ~~[the extended term]~~;

(3) if, during the period the lease is kept in effect by payment of the shut-in oil or gas royalty, oil or gas is sold and delivered in paying quantities from a well located within 1,000 feet of the leased premises and completed in the same producing reservoir, or in any case in which drainage is occurring, the right to continue to *maintain* ~~[extend]~~ the lease by paying the shut-in oil or gas royalty shall cease, but the lease shall remain effective for the remainder of the year for which the royalty has been paid. *The lessee may maintain the lease* ~~[and]~~ for four *more* ~~[additional and]~~ successive *years* ~~[periods of one year each]~~ by the lessee paying compensatory royalty at the royalty rate provided in the lease of the *market value* ~~[at the well]~~ of production from the well ~~[which is]~~ causing the drainage or which is completed in the same producing reservoir and within 1,000 feet of the leased premises;

(4) the compensatory royalty is to be paid monthly to the commissioner beginning on or before the last day of the month *following* ~~[next succeeding]~~ the month in which the oil or gas is *produced* ~~[sold and delivered]~~ from the well *causing the drainage or that is completed in the same producing reservoir and* located within 1,000 feet of ~~[or draining]~~ the leased premises ~~[and completed in the same reservoir]~~;

(5) if the compensatory royalty paid in any 12-month period is in an amount less than the annual shut-in oil or gas royalty, the lessee shall pay an amount equal to the difference within 30 days from the end of the 12-month period; and

(6) none of these provisions will relieve the lessee of the obligation of reasonable development nor the obligation to drill offset wells as provided in Section 52.034 of this code; however, at the determination of the commissioner and with *the commissioner's* ~~[his]~~ written approval, the payment of compensatory royalties shall satisfy the obligation to drill offset wells.

SECTION 23. Section 52.028, Natural Resources Code, is amended to read as follows:

Sec. 52.028. **SUSPENSION OF LEASE BECAUSE OF LITIGATION [OIL AND GAS LEASES]**. (a) If an oil and gas lease *that has been* issued by the commissioner is involved in litigation relating to *the* ~~[its]~~ *validity of the lease* or to the authority of the commissioner to *issue the lease, the lease and all of the conditions and covenants contained in the lease* ~~[and, the primary term of the lease]~~ shall be suspended ~~[and all obligations imposed by the lease set aside]~~ during the period of the litigation, *except as otherwise provided by this section*.

(b) If the litigation is instituted *during the primary term of the lease, then, after a final, nonappealable judgment is entered in the litigation,* ~~[at least six months before the expiration of the primary term, after final judgment is rendered,]~~ the primary term provided in the lease shall *resume* ~~[begin to run again]~~ and *the lease shall continue to run for the remainder of the period specified in the lease, and all conditions and covenants contained in* ~~[obligations and duties imposed by]~~ the lease shall be operative.

(c) *If the litigation is instituted during the secondary term of the lease, then, after a final, nonappealable judgment is entered in the litigation, the lease and all the conditions and covenants contained in the lease shall be operative, and the lessee shall have 60 days from the date a final, nonappealable judgment is entered in the litigation to produce in paying quantities or to commence drilling or reworking operations on the lease as if production had ceased on that date under Section 52.023 of this code.*

(d) The lessee shall pay ~~[all annual delay rentals and]~~ any royalties that accrue during the period of *suspension of the lease* ~~[litigation]~~ in the same manner as they are to be paid under the *terms of the lease* ~~[during the primary term]~~. ~~If such delay rentals are not paid as the lease requires, the lease shall not automatically terminate; however, the delay rentals continue to be an obligation and debt owed by the lessee. The delay rentals paid during the~~

period of litigation shall be held and returned to the lessee if the state is unsuccessful in the litigation].

SECTION 24. Section 52.0301, Natural Resources Code, is amended to read as follows:

Sec. 52.0301. SUSPENSION OF TERMS OF LEASE IN CERTAIN SITUATIONS. (a) If the lessee [~~owner~~] of a valid oil and gas lease granted by the state is unable to obtain access to the leased premises, or is unable to obtain in a timely manner [~~denied access to or is denied~~] a permit to drill on or produce from the leased premises by any duly constituted authority of the United States or of this state after a diligent, good faith [~~bona fide~~] attempt has been made by the lessee [~~owner~~] to obtain access to, or a permit to drill on or produce from, the leased premises, the lessee [~~owner~~] may file with the board an application describing and giving the date of the action that deprives the lessee [~~him~~] of access to or a permit [~~the right~~] to drill on or produce from the leased premises.

(b) If the board is satisfied that the facts included in the application are true and that the lessee acted diligently and in good faith in an attempt to gain access to or the right to drill on or produce from the leased premises, the board may [~~enter an~~] order the suspension of the lease or any condition or covenant contained in [~~its minutes suspending the running of both the primary and the principal term of the lease or suspending any condition, obligation, or duty under~~] the lease[,] from the date [~~of~~] the board determines to be the date the cause for the suspension began, except as otherwise provided by this section [~~through the continued existence of the cause for the suspension, so long as the lessee continues to make the annual rental payments that are stipulated in the lease on each anniversary date of the lease during the period of suspension~~].

(c) The board may set as a condition to approving the application for a suspension of the lease any term or requirement that relates to the duration of the suspension, the administration of the property during the suspension, reporting requirements during the suspension, or another administrative matter that the board determines is in the best interest of the state [~~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 again become operative if the rental payments have been made during the period of suspension, and all suspended obligations and conditions shall again attach and be in force for a period equivalent to the unexpired term of the lease~~].

(d) If the lease is suspended during its primary term, the lessee shall make payments in the amount of the annual delay rental stipulated in the lease by each anniversary date of the lease during the period of suspension. If the payments in the amount of the annual delay rental are not paid by each anniversary date of the lease, the lease shall not automatically terminate. However, the amount of the annual delay rental stipulated in the lease due by each anniversary date of the lease during the period of suspension continues to be an obligation and debt owed by the lessee. The lessee shall pay all royalties, if any, that accrue during the period of suspension of the lease in the same manner as they are to be paid under the terms of the lease.

(e) If the lease is suspended during its primary term, then, when the suspension ends, the primary term provided in the lease shall resume and continue to run for the remainder of the period specified in the lease, and all conditions and covenants contained in the lease shall be operative [~~The commissioner shall give notice immediately to the lessee of the entry of an order stating that the cause of suspension has ceased to exist, provided annual rental payments have been made~~].

(f) If the lease is suspended during its secondary term, then, when the suspension ends, the lease and all of the conditions and covenants contained in the lease shall be operative, and the lessee shall have 60 days from the date the suspension ends to produce in paying quantities or to commence drilling or reworking operations on the lease as if production had ceased on that date under Section 52.023 of this code.

(g) This section may not be construed as abridging any rights or privileges conveyed under Chapter 287, Acts of the 47th Legislature, Regular Session, 1941 (Article 5366a, Vernon's Texas Civil Statutes).

SECTION 25. Subsection (a), Section 52.035, Natural Resources Code, is amended to read as follows:

(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, or *other minerals* 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.

SECTION 26. Section 52.076, Natural Resources Code, is amended to read as follows:

Sec. 52.076. DUTY TO ADVERTISE. (a) The board *may* ~~[shall advertise for proposals]~~:

(1) *advertise for bids* to lease riverbeds and channels for oil and gas development;

(2) *advertise for bids to contract to develop the oil or gas under* ~~[to drill]~~ riverbeds and channels on consideration involving compensation with oil and gas or money so that the state will receive a portion of the oil and gas as it is produced or advanced royalties paid in money; ~~[and]~~

(3) *advertise for bids to purchase oil and gas in place under riverbeds and channels* ~~[or recoverable]~~ without requiring mineral development; *and*

(4) *pool or bring an action to force pool unleased riverbeds and channels.*

(b) The board shall *advertise that the board will receive bids and award the right to lease, develop, or purchase under this section in the same manner* ~~[the proposals and conduct the sales]~~ as provided in Subchapter D, Chapter 32, of this code *and Subchapter B of this chapter.*

SECTION 27. Subchapter C, Chapter 52, Natural Resources Code, is amended by adding Section 52.077 to read as follows:

Sec. 52.077. SPECIAL FEE. Each bidder on a lease under this subchapter shall remit with each bid by separate payment a special sale fee in the amount and in the manner provided by Section 32.110 of this code.

SECTION 28. Section 52.082, Natural Resources Code, is amended to read as follows:

Sec. 52.082. TERM OF LEASE. A lease granted under this subchapter shall be for a primary term not to exceed 10 ~~[five]~~ years and for as long after that time as oil or gas is produced from the leased area.

SECTION 29. Section 52.088, Natural Resources Code, is amended to read as follows:

Sec. 52.088. ROYALTY RATE ~~[AND DELAY RENTALS]~~. ~~[(a)]~~ *The board shall set the royalty rate on production of oil and gas from riverbeds and channels leased under this subchapter. The royalty rate set must be at least one-eighth of the gross production or the market value of the oil and gas produced* ~~[In addition to the cash amount bid for a lease, the board shall lease the area for not less than one-eighth of the gross production of oil produced and saved or its value and not less than one-eighth of the gross production of gas produced and sold off the area or its value plus an amount determined by the board until production is secured.~~

~~[(b) If production is secured in commercial quantities and the payment of royalty begins and continues to be paid, the lessee is exempt from further delay rental payments on the acreage.~~

~~[(c) If production ceases and royalty is not paid, the lessee shall pay at the end of the lease year in which the royalty ceased to be paid and annually after that time in advance, in an amount determined by the board as long as the lessee desires to maintain the rights acquired under the lease, but not for more than five years from the date of the lease.]~~

SECTION 30. Section 52.131, Natural Resources Code, is amended by amending Subsection (e) and adding Subsection (j) to read as follows:

(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 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 *the* ~~[fair]~~ market value of the production.

(j) *By rule, the board may provide procedures and standards for reduction of interest charged or penalties assessed under this section or any other interest or penalties assessed by the commissioner relating to unpaid or delinquent royalties.*

SECTION 31. Section 52.133, Natural Resources Code, is amended to read as follows:

Sec. 52.133. PAYMENT OF ROYALTY IN KIND. (a) ~~[In this section, "royalty" means royalty payable in a sum of money equal to the market value for the general area where produced and when run or royalty that may be collected in kind.~~

~~(b)~~ Each oil or gas lease covering land leased by the board, by a board for lease other than the Board for Lease of University Lands, or by the surface owner of land under which the state owns the minerals, commonly referred to as Relinquishment Act land, which shall be subject to approval by the commissioner before it is effective, shall include a provision granting the board authorized to lease the land or the owner of the soil of Relinquishment Act land and the commissioner authority to take their royalty in kind, and the commissioner and the boards for lease may include any other reasonable provisions that are not inconsistent with this section.

(b) ~~(e)~~ The option to take the royalty in kind may be exercised at any time or from time to time on not less than 60 days' notice to the holder of the lease.

~~(c) [(d)] The [board, the] commissioner, [each board for lease other than the Board for Lease of University Lands, or] the owner of the soil under Subchapter F of this chapter, or the commissioner, acting on the behalf of and at the direction of an owner of the soil under Subchapter F of this chapter, the board, or a board for lease may negotiate and execute [sales] contracts or any other instruments or agreements necessary to dispose of their portion of the royalty taken in kind, including contracts for sale, transportation, or storage.~~

(d) ~~(e)~~ This section does not apply to or have any effect on the Board for Lease of University Lands or any lease executed on university land.

(e) ~~(f)~~ This section shall not be construed to surrender or in any way affect the right of the state or the owner of the soil under existing or future leases to receive royalty from its lessee on the basis of the ~~[fair]~~ market value of the production ~~[produced]~~ from state public land or land under the provisions of Subchapter F of this chapter.

SECTION 32. Section 52.151, Natural Resources Code, is amended to read as follows:

Sec. 52.151. AUTHORIZATION TO OPERATE AREAS AS UNITS. (a) The commissioner, on behalf of the state or any fund that belongs to the state, may execute agreements that provide for operating areas as a unit for the exploration, development, and production of oil or gas or both and to commit to the agreements:

(1) the royalty interests in oil, ~~[or]~~ gas, or both oil and gas, reserved to the state or any fund of the state by law, in a patent, in a contract of sale, or under the terms of an oil and gas lease legally executed by an official, board, agent, agency, or authority of the state; or

(2) the free royalty interests, whether leased or unleased, reserved to the state pursuant to Section 51.201 or 51.054 of this code.

(b) *Before executing an agreement authorized by Subsection (a) of this section, the [The] commissioner must find that the agreement is in the best interest of the state.*

SECTION 33. Section 52.152, Natural Resources Code, is amended to read as follows:

Sec. 52.152. APPROVAL OF [UNIT] AGREEMENTS. (a) *An agreement must be approved by the board and executed by the commissioner to be effective if the agreement ~~that~~ [(1)] commits:*

(1) a ~~[the]~~ royalty interest in land belonging to the permanent school fund or the asylum funds, in riverbeds, inland lakes, and channels, or in an area within tidewater limits, including islands, lakes, bays, inlets, marshes, reefs, and the bed of the sea; or

(2) the free royalty interests, whether leased or unleased, reserved to the state pursuant to Section 51.201 or 51.054 of this code.

(b) *An ~~[must be approved by the board and executed by the]~~ owner of the soil who is subject to ~~[if the agreement covers land leased for oil and gas under]~~ Subchapter F of this chapter may grant to a lessee prior authority to pool or unitize the interest of the owner in a lease executed under that subchapter. For the provisions of an agreement to bind the*

interest of an owner of the soil who is subject to Subchapter F of this chapter and who has not granted the lessee prior authorization to pool or unitize the owner's interest in an oil and gas lease executed under that subchapter, the agreement must be executed by the owner of the soil.

(c) ~~(b)~~ An agreement that commits any ~~[the royalty]~~ interest in any land ~~[or an area]~~ not listed in Subsection (a) of this section must be approved by the board, official, agent, agency, or authority of the state which has the authority to lease or to approve the lease of the land for oil and gas *and must be executed by the commissioner to be effective.*

SECTION 34. Section 52.153, Natural Resources Code, is amended to read as follows:

Sec. 52.153. *PROVISIONS OF AGREEMENT [PROVISIONS].* (a) *An agreement executed under this subchapter may include the following provisions [The agreement to operate areas as units may provide]:*

(1) that operations incident to drilling a well on any portion of a unit shall be considered for all purposes to be conduct of the operations on each ~~[separately owned]~~ tract in the unit ~~[by the several owners];~~

(2) that production allocated by the agreement to each tract included in the unit when produced shall be considered for all purposes to have been *production [produced]* from the tract;

(3) that the *interest reserved to or provided for the state or any of its funds on production from any tract included in the unit shall be paid only on that portion of the production from the unit that is allocated to the tract under the agreement [and lease, with respect to the interest of the state, shall be effective as long as oil or gas or both are produced from the unit in paying quantities and royalties are paid to the state];* and

(4) that *each lease [royalties reserved to the state or to any fund of the state on production from any tract or portion of a tract] included in the unit shall remain in effect as long as the agreement remains in effect and that on termination of the agreement each lease shall continue in effect under the terms and conditions of the lease [be paid only on the portion of the production allocated to the tract by the agreement].*

(b) The agreement may include any other terms and conditions the commissioner or any ~~[provision which the]~~ board, official, agent, agency, or authority of the state that ~~[which]~~ has the authority to lease or to approve a lease ~~[the leasing]~~ of the land for oil and gas may consider to be in the best interest ~~[necessary for the protection of the interests]~~ of the state.

SECTION 35. Subchapter E, Chapter 52, Natural Resources Code, is amended by adding Section 52.154 to read as follows:

Sec. 52.154. *RATIFICATIONS AND OTHER AGREEMENTS.* (a) *The board may approve, by rule or order, a ratification or other agreement that includes in the benefits of production a mineral or royalty interest in land belonging to the permanent school fund or the asylum funds.*

(b) *An agreement approved by the board under this section must be executed by the commissioner to be effective.*

(c) *A ratification or other agreement that commits any of the interests listed in Subsection (a) of this section in land not belonging to the permanent school fund or the asylum funds must be approved by the board, official, agent, agency, or authority of the state that has the authority to lease or to approve the lease of the land for oil and gas and must be executed by the commissioner to be effective.*

SECTION 36. Section 52.175, Natural Resources Code, is amended to read as follows:

Sec. 52.175. *LEASE OF OIL AND GAS AFTER FORFEITURE.* When the relinquishment or agency right herein granted has been forfeited, the land shall be subject to lease for oil and gas under the procedure provided by law for the leasing of unsold surveyed public school lands. *The substantive provisions of Subchapter B of this chapter and Subchapters D and E, Chapter 32, of this code shall apply to the oil and gas lease.* No oil and gas lease shall be executed which provides for a royalty of less than one-eighth, payable to the state for the benefit of the permanent free school fund. The owner of the soil shall not be entitled to any revenue generated by a lease executed pursuant to this section. Upon the termination or

expiration of a lease so executed by the Commissioner of the General Land Office, the rights of the surface owner to act under this law shall be ipso facto reinstated.

SECTION 37. Subsection (a), Section 52.186, Natural Resources Code, is amended to read as follows:

(a) If an owner of the soil or of any undivided interest therein of any land subject to the terms of this subchapter or *Subchapter C, Chapter 53, of this code* is found to be unavailable under Subsection (b) of this section to act as the state's agent for leasing oil and gas or any mineral leased under Subchapter C, Chapter 53, of this code, such land or undivided interest therein shall be subject to lease for the applicable minerals under the procedure provided by Subchapter B of this chapter [~~Chapter 52~~] for the leasing of unsold surveyed public school lands. *The substantive provisions of Subchapter B of this chapter and Subchapters D and E, Chapter 32, of this code shall apply to a lease of land subject to lease under this subchapter. The substantive provisions of Subchapter E, Chapter 53, of this code and Subchapters D and E, Chapter 32, of this code shall apply to a lease of land subject to lease under Subchapter C, Chapter 53, of this code.* Subject to the provisions of Subsection (b)(4) of this section, the owner of the soil shall not be entitled to any revenue generated by a lease executed pursuant to this section.

SECTION 38. Section 52.291, Natural Resources Code, is amended to read as follows:

Sec. 52.291. **COVERAGE.** The following persons, agencies, and entities are subject to the provisions of Sections 52.292 through 52.293 of this code:

- (1) the commissioner;
- (2) the board;
- (3) boards for lease of land owned by a department, board, or agency of the state created by Chapter 34 of this code;
- (4) the Board for Lease of University Lands;
- (5) the Board of Regents of Texas A&M University;
- (6) the Board of Regents of Texas Tech University;
- (7) the Board of Directors of Texas A&I University;
- (8) the Board of Regents, State Senior Colleges;
- (9) the Board of Regents of the University of Houston;
- (10) any other board of regents or other governing board of a state-supported institution of higher learning having authority to execute oil *and*[,] gas[~~, and mineral~~] leases on land owned by the institution;
- (11) an owner of land or minerals in this state whose authority to lease the land or minerals as agent for the state arises in whole or in part from what is commonly known as the Relinquishment Act, codified in Subchapter F of this chapter;
- (12) the Board for Lease of State Park Lands;
- (13) the Board for Lease of the Texas Department of Corrections; and
- (14) the commissioners court of any county in this state.

SECTION 39. Section 52.292, Natural Resources Code, is amended to read as follows:

Sec. 52.292. **PROHIBITED LEASES.** It is illegal for any person included in Section 52.291 of this code to execute an oil *and*[,] gas[~~, or mineral~~] lease on land on which he is authorized by law to execute the lease unless the lease includes the terms provided in Section 52.293 of this code.

SECTION 40. Section 52.294, Natural Resources Code, is amended to read as follows:

Sec. 52.294. **PREREQUISITE TO FILING LEASES.** The commissioner shall not receive and file an oil *and*[,] gas[~~, and mineral~~] lease required to be filed by law unless the lease includes the terms and conditions provided in Section 52.293 of this code.

SECTION 41. Section 52.295, Natural Resources Code, is amended to read as follows:

Sec. 52.295. **CERTAIN LEASES NULL, VOID, AND OF NO FORCE AND EFFECT.** An oil *and*[,] gas[~~, and mineral~~] lease executed or received and filed in violation of the provisions of this subchapter is null, void, and of no force and effect.

SECTION 42. Section 52.297, Natural Resources Code, is amended to read as follows:

Sec. 52.297. *COMPENSATION FOR* ~~[PAYMENT OF]~~ *DAMAGES FROM* ~~[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 *compensation for* ~~[payment of]~~ *damages from* ~~[for]~~ the use of the surface in prospecting for, exploring, developing, or producing the leased minerals.

(b) The commissioner by rule shall set the *procedure for receiving compensation* ~~[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 *construction of* 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 *compensation for* ~~[payment of]~~ *damages* under this section is in addition to any bonus, rental, royalty, or other payment required by the lease.

SECTION 43. Subdivision (3), Section 52.321, Natural Resources Code, is amended to read as follows:

(3) "Public school land" means land dedicated by the constitution or laws of this state to the permanent free school fund, and specifically includes land with a mineral classification under Subchapter F of this chapter in which the state has retained the oil and gas interest and areas within tidewater limits ~~[or the portion of the Gulf of Mexico that is under the jurisdiction of this state].~~

SECTION 44. Subsection (a), Section 52.324, Natural Resources Code, is amended to read as follows:

(a) The commissioner:

(1) as a condition of issuing a permit, shall collect reasonable fees 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;

(4) shall by rule *determine* ~~[set]~~ *the procedure for receiving compensation* ~~[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.

SECTION 45. Section 53.001, Natural Resources Code, is amended by adding Subdivision (3) to read as follows:

(3) "*Board*" means the *School Land Board*.

SECTION 46. Subsection (c), Section 53.012, Natural Resources Code, is amended to read as follows:

(c) *The commissioner may determine the contents of an application [Each application shall be accompanied by a rental payment of not less than 25 cents an acre].*

SECTION 47. Subsections (a) and (b), Section 53.013, Natural Resources Code, are amended to read as follows:

(a) *After receipt of the rental payment set by the commissioner, the [The] commissioner shall issue to the first applicant a permit to prospect the area designated in the applicant's [his] application for a period of one year from the date the [his] application is filed.*

(b) *After receipt of an additional rental payment set by the commissioner, the [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 48. Subsections (b) and (c), Section 53.015, Natural Resources Code, are amended to read as follows:

(b) *An application to lease must designate the specific minerals the permittee is applying to lease. The commissioner may determine any additional information an application must contain [The application shall be accompanied by the first lease payment of not less than \$2 an acre].*

(c) *If the area designated for lease in the application is less than the area covered by the permit, the applicant shall include with the [his] application field notes prepared by the county surveyor or by a licensed state land surveyor describing the land designated.*

SECTION 49. Section 53.016, Natural Resources Code, is amended to read as follows:

Sec. 53.016. **ISSUANCE OF LEASE.** (a) *After receipt of the bonus payment set by the commissioner, the [The] lease shall be issued by the commissioner under the provisions of this subchapter and shall be for a primary term not to exceed 20 years and as long after that time as the minerals are produced in paying quantities.*

(b) *The commissioner may include in the lease any other provision the commissioner [he] considers necessary for protection of the interests of the state.*

SECTION 50. Section 53.020, Natural Resources Code, is amended to read as follows:

Sec. 53.020. **ASSIGNMENT AND TRANSFER [OF LEASE].** [(a)] *A lease issued under this subchapter may be transferred or assigned at any time in the manner provided by Section 52.026 of this code [may be assigned in quantities of not less than 40 acres, but if there are fewer than 40 acres remaining in the tract originally leased, the lesser area may be assigned].*

[(b)] *The assignment shall be recorded in the county in which the land is located, and within 90 days after it is recorded a certified copy of the assignment, certified by the county clerk from his records, shall be sent to the land office, together with a filing fee set by the commissioner in an amount not less than \$1 for each tract affected].*

SECTION 51. Section 53.024, Natural Resources Code, is amended to read as follows:

Sec. 53.024. **PENALTY AND INTEREST [OTHER LEASE PROVISIONS].** *A lease issued under this subchapter shall be subject to Sections 52.131(e) through (j) [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 52. Subchapter B, Chapter 53, Natural Resources Code, is amended by adding Sections 53.025, 53.026, 53.027, and 53.028 to read as follows:

Sec. 53.025. **LEASE RELINQUISHMENT.** *A lease issued under this subchapter may be relinquished to the state at any time in the manner provided by Section 52.027 of this code.*

Sec. 53.026. **IN KIND ROYALTY.** (a) *The commissioner or the commissioner acting on behalf of and at the direction of the board or a board for lease may negotiate and execute a contract or any other instrument or agreement necessary to dispose of the royalty taken in kind, including a contract for sale, transportation, or storage.*

(b) *This section shall not be construed to surrender or in any way affect the right of the state under an existing or future lease to receive monetary royalty from its lessee.*

Sec. 53.027. CONTRACTS AND AGREEMENTS. On the land office's written request, mailed to the lessee's address as shown on its lease or otherwise properly changed in conformity with the terms of the lease, a copy of a contract for the sale or processing of minerals leased under this subchapter and any subsequent agreement or amendment to the contract shall be filed in the land office within 30 days after the date the land office mails the written request. The land office shall treat a contract, agreement, or amendment filed in the land office as confidential unless otherwise authorized by the lessee.

Sec. 53.028. AUDIT INFORMATION CONFIDENTIAL. (a) All information secured, derived, or obtained during the course of an inspection or examination of books, accounts, reports, or other records as provided by this code, a rule, or a lease provision is confidential and may not be used publicly, opened for public inspection, or disclosed, except for information in a lien filed under this chapter and except as permitted under Subsection (d) of this section.

(b) All information made confidential in this section is not subject to subpoena directed to the commissioner, the attorney general, or the governor except in a judicial or administrative proceeding to which this state is a party.

(c) The commissioner or the attorney general may use information made confidential by this section and contracts made confidential by Section 53.027 of this code to enforce this chapter or may authorize their use in judicial or administrative proceedings to which this state is a party.

(d) This section does not prohibit:

(1) the delivery of information made confidential by this section to the lessee or its successor, receiver, executor, guarantor, administrator, assignee, or representative;

(2) the publication of statistics classified to prevent the identification of a particular audit or items in a particular audit;

(3) the release of information that is otherwise available to the public; or

(4) the release of information concerning the amount of royalty assessed as a result of an examination conducted under this code, a rule, or a lease provision or the release of other information that would have been properly included in reports required under this code, a rule, or a lease provision.

SECTION 53. Subsection (d), Section 53.074, Natural Resources Code, is amended to read as follows:

(d) Leasing Procedure When Surface Owner's Agency Rights Have Been Forfeited. When the surface owner's agency rights have been forfeited in accordance with Subsection (c) of this section, the minerals subject to lease under this subchapter can then be leased under the leasing procedure set out for the lease of oil and gas under Section 52.175 of this code. The substantive provisions of Subchapter E of this chapter and Subchapters D and E, Chapter 32, of this code shall apply to the lease.

SECTION 54. Subchapter C, Chapter 53, Natural Resources Code, is amended by adding Sections 53.075, 53.076, 53.077, 53.078, 53.079, and 53.080 to read as follows:

Sec. 53.075. ASSIGNMENT AND TRANSFER. A lease issued under this subchapter may be assigned or transferred at any time in the manner provided by Section 52.026 of this code.

Sec. 53.076. LEASE RELINQUISHMENT. A lease issued under this subchapter may be relinquished to the state at any time in the manner provided by Section 52.027 of this code.

Sec. 53.077. IN KIND ROYALTY. (a) The commissioner, each owner of the soil under this subchapter, or the commissioner acting on the behalf of and at the direction of an owner of the soil under this subchapter may negotiate and execute a contract or any other instrument or agreement necessary to dispose of the royalty taken in kind, including a contract for sale, transportation, or storage.

(b) This section shall not be construed to surrender or in any way affect the right of the state or the owner of the soil under an existing or future lease to receive monetary royalty from its lessee.

Sec. 53.078. PENALTY AND INTEREST. A lease issued under this subchapter shall be subject to Sections 52.131(e) through (j) of this code.

Sec. 53.079. CONTRACTS AND AGREEMENTS. On the land office's written request, mailed to the lessee's address as shown on its lease or otherwise properly changed in conformity with the terms of the lease, a copy of a contract for the sale or processing of minerals leased under this subchapter and any subsequent agreement or amendment to the contract shall be filed in the land office within 30 days after the date the land office mails the written request. The land office shall treat a contract, agreement, or amendment filed in the land office as confidential unless otherwise authorized by the lessee.

Sec. 53.080. AUDIT INFORMATION CONFIDENTIAL. (a) All information secured, derived, or obtained during the course of an inspection or examination of books, accounts, reports, or other records as provided by Section 53.068 of this code, a rule, or a lease provision is confidential and may not be used publicly, opened for public inspection, or disclosed, except for information in a lien filed under this chapter and except as permitted under Subsection (d) of this section.

(b) All information made confidential by this section is not subject to subpoena directed to the commissioner, the attorney general, or the governor except in a judicial or administrative proceeding to which this state is a party.

(c) The commissioner or the attorney general may use information made confidential by this section and contracts made confidential by Section 53.079 of this code to enforce this chapter or may authorize their use in judicial or administrative proceedings to which this state is a party.

(d) This section does not prohibit:

(1) the delivery of information made confidential by this section to the lessee or its successor, receiver, executor, guarantor, administrator, assignee, or representative;

(2) the publication of statistics classified to prevent the identification of a particular audit or items in a particular audit;

(3) the release of information that is otherwise available to the public; or

(4) the release of information concerning the amount of royalty assessed as a result of an examination conducted under Section 53.068 of this code, a rule, or a lease provision or the release of other information that would have been properly included in reports required under Section 53.068 of this code, a rule, or a lease provision.

SECTION 55. Section 53.111, Natural Resources Code, is amended to read as follows:

Sec. 53.111. AUTHORITY TO OPERATE AN AREA AS A UNIT FOR PRODUCTION OF SULPHUR. The [Subject to the provisions of this subchapter, the] commissioner[,] on behalf of the state or any fund that belongs to the state [of its funds,] may execute agreements that provide for operating [the operation of] areas as a unit for the exploration, development, and production of sulphur and may commit to the agreements:

(1) the royalty interests in sulphur reserved to [or provided for] the state or any fund of the state by law in a[, in or in connection with any] patent, award, mining claim, or contract of sale or under the terms of any lease legally executed [made] by an official, board, agent, agency, or authority of the state; or

(2) the free royalty interests, whether leased or unleased, reserved to the state under Section 51.201 or 51.054 of this code.

SECTION 56. Section 53.112, Natural Resources Code, is amended to read as follows:

Sec. 53.112. APPROVAL OF CERTAIN AGREEMENTS BY SCHOOL LAND BOARD. (a) An agreement must be approved by the board and executed by the commissioner to be effective if the agreement [authorized by Section 53.111 of this code that] commits:

(1) a royalty interest [interests] in land belonging [dedicated] to the permanent [free] school fund or [and] the asylum funds, in riverbeds, inland lakes, channels, or [and] areas within tidewater limits, including islands, lakes, bays, inlets, marshes, reefs, and the bed of the sea; or

(2) the free royalty interests, whether leased or unleased, reserved to the state under Section 51.201 or 51.054 of this code.

(b) *An owner of the soil who is subject to Subchapter C of this chapter may grant to a lessee prior authority to pool or unitize the interest of the owner in a lease executed under that subchapter. For the agreement to bind the interest of an owner of the soil who is subject to Subchapter C of this chapter and who has not granted the lessee prior authorization to pool or unitize the interest of the owner in a sulphur lease executed under that subchapter, the agreement must be executed by the owner of the soil [must be approved by the school land board and must be executed by the owners of the surface if the agreements cover land leased for sulphur under Subchapter C of this chapter].*

SECTION 57. Section 53.113, Natural Resources Code, is amended to read as follows:

Sec. 53.113. APPROVAL OF [OTHER] AGREEMENTS. *An agreement [Agreements] that commits [commit] the royalty interest in any land [that is] not listed in [covered by] Section 53.112 of this code must be approved by the board, official, agent, agency, or authority of the state which has the authority to lease or to approve the [a] lease of the land [or area] for sulphur and must be executed by the commissioner to be effective.*

SECTION 58. Section 53.114, Natural Resources Code, is amended to read as follows:

Sec. 53.114. COMMISSIONER'S APPROVAL. *Before executing an [An] agreement authorized by Section 53.111 of this code, [must be found by] the commissioner must find that the agreement is [to be] in the best interest of the state.*

SECTION 59. Section 53.115, Natural Resources Code, is amended to read as follows:

Sec. 53.115. PROVISIONS OF AGREEMENT. (a) An agreement executed under this subchapter may include the following provisions:

(1) that operations incident to [the] drilling [of] a well on any portion of a [the] unit shall be [are] considered for all purposes to be [the] conduct of the operations on each tract in the unit;

(2) that [the] production allocated by the agreement to each tract included in the unit shall be considered for all purposes to have been production [after production to be produced] from the tract;

(3) that the [royalty] interest reserved to or provided for the state or any of its funds on production from any tract included in the unit shall be paid only on that portion of the production from the unit that [which] is allocated to the tract under the agreement; and

(4) that each lease included in the unit shall remain in effect so long as the agreement remains in effect and that on termination of the agreement each lease shall continue in effect under the terms and conditions [provisions] of the lease.

(b) The agreement may include any other terms and[, conditions[, and provisions]] the commissioner or any board, official, agent, agency, or authority of the state that has the authority to lease or to approve a lease of the land [or area] for sulphur may consider to be in the best interest of the state.

SECTION 60. Subchapter D, Chapter 53, Natural Resources Code, is amended by adding Section 53.118 to read as follows:

Sec. 53.118. RATIFICATIONS AND OTHER AGREEMENTS. (a) *The board may approve, by rule or order, a ratification or other agreement that includes in the benefits of production a mineral or royalty interest in land belonging to the permanent school fund or the asylum funds.*

(b) *An agreement approved by the board under this section must be executed by the commissioner to be effective.*

(c) *A ratification or other agreement that commits any of the interests listed by Subsection (a) of this section in land not belonging to the permanent school fund or the asylum funds must be approved by the board, official, agent, agency, or authority of the state that has the authority to lease or to approve the lease of the land for sulphur and must be executed by the commissioner to be effective.*

SECTION 61. Section 53.152, Natural Resources Code, is amended to read as follows:

Sec. 53.152. LAWS APPLICABLE TO LEASES. [(a)] Leases of land described by Section 53.151 of this code shall be made in the same procedural manner as leases of that land for oil and gas under Chapter 52 of this code.

~~(b) Sections 52.034 and 52.086 of this code do not apply to leases of coal, lignite, sulphur, salt, and potash under this subchapter.]~~

SECTION 62. Section 53.153, Natural Resources Code, is amended to read as follows:

Sec. 53.153. **CONDITIONS OF LEASE.** (a) Coal, lignite, sulphur, salt, and potash may be leased together or separately.

(b) *A lease granted under this subchapter shall be for a primary term not to exceed 20 years and as long after that time as the minerals are produced in paying quantities.*

SECTION 63. Section 53.154, Natural Resources Code, is amended to read as follows:

Sec. 53.154. **ROYALTY RATE [AND DELAY RENTALS].** *The board shall set the royalty rate on [(a) In addition to the cash amount bid for a lease, the board shall lease the area for not less than one-eighth of the gross] production of sulphur, [or the value of the sulphur that may be produced or that may be produced and sold off the area and not less than one-sixteenth of the value of the] coal, lignite, salt, and potash from land leased under this subchapter. The royalty rate set must be at least one-eighth of the gross production or the market value of the sulphur produced and at least one-sixteenth of the gross production or the market value of the coal, lignite, salt, and potash produced [that may be produced plus an amount determined by the board until production is secured.*

~~(b) If production is secured in commercial quantities and the payment of royalty begins and continues to be paid, the lessee is exempt from further delay rental payments on the acreage.~~

~~(c) If production ceases and royalty is not paid, the lessee shall pay at the end of the lease year in which the royalty ceased to be paid and annually after that time in advance, in an amount determined by the board as long as the lessee desires to maintain the rights acquired under the lease, but not for more than five years from the date of the lease].~~

SECTION 64. Section 53.155, Natural Resources Code, is amended to read as follows:

Sec. 53.155. **COMPENSATION FOR [PAYMENT OF] DAMAGES FROM [FOR] USE OF SURFACE.** (a) Leases issued under Subchapter B or E 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 compensation for [the payment of] damages from [for] the use of the surface in prospecting for, exploring, developing, or producing the leased minerals.

(b) The commissioner by rule shall set the *procedure for receiving compensation [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) *Compensation for [The payment of] damages under this section is in addition to any bonus, rental, royalty, or other payment required by the lease.*

SECTION 65. Subchapter E, Chapter 53, Natural Resources Code, is amended by adding Section 53.156 to read as follows:

Sec. 53.156. **CONTRACTS AND AGREEMENTS.** *On the land office's written request, mailed to the lessee's address as shown on its lease or otherwise properly changed in conformity with the terms of the lease, a copy of a contract for the sale or processing of minerals leased under this subchapter and any subsequent agreement or amendment to the*

contract shall be filed in the land office within 30 days after the date the land office mails the written request. The land office shall treat a contract, agreement, or amendment filed in the land office as confidential unless otherwise authorized by the lessee.

SECTION 66. Section 53.161, Natural Resources Code, is amended by amending Subsection (4) and adding Subsection (7) to read as follows:

(4) "Public school land" means land dedicated by the constitution or laws of this state to the permanent free school fund, but does not include land with a mineral classification described in Section 53.061 of this chapter in which the state has retained the minerals, nor does it include areas within tidewater limits [~~or the portion of the Gulf of Mexico that is under the jurisdiction of this state~~].

(7) "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.

SECTION 67. Subsection (b), Section 53.162, Natural Resources Code, is amended to read as follows:

(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. *A person with a valid mineral lease on land subject to this chapter shall comply with the commissioner's rules concerning exploration.*

SECTION 68. Sections 52.079, 52.081, 52.086, 52.089, and 53.017, Natural Resources Code, are repealed.

SECTION 69. This Act does not affect the state's right to take its royalty in kind or the calculation of the state's royalty under a patent, lease, or unitization agreement executed before the effective date of this Act.

SECTION 70. This Act takes effect September 1, 1993.

SECTION 71. 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 April 6, 1993, by a viva-voce vote; passed the House on May 26, 1993, by a non-record vote.

Approved June 19, 1993.

Effective Sept. 1, 1993.