

CHAPTER 948

H.B. No. 2056

AN ACT

relating to the conditions, requirements, practices, and procedures governing oil, gas, other minerals, antiquities, and certain other natural resources.

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

SECTION 1. Section 191.003, Natural Resources Code, is amended by adding Subdivision (4) to read as follows:

(4) *“Political subdivision” means a local governmental entity created and operating under the laws of this state, including a city, county, school district, or special district created under Article III, Section 52(b)(1) or (2), or Article XVI, Section 59, of the Texas Constitution.*

SECTION 2. Section 191.011(a), Natural Resources Code, is amended to read as follows:

(a) There is created an Antiquities Committee, which is composed of nine members, including the Chairman of the Texas Historical Commission [~~or a member of the commission designated by the Chairman~~], the Director of the Parks and Wildlife Department, the Commissioner of the General Land Office, the State Archeologist, the State Engineer-Director of the State Department of Highways and Public Transportation, the

Executive Director of the Texas *Water Commission* [~~Department of Water Resources~~], and the following citizen members: one professional archeologist from a recognized museum or institution of higher learning in Texas, one professional historian with expertise in Texas history and culture, and one professional museum director of a major, state-funded museum that has significant research facilities. *Five members represent a quorum. At no time shall any member be allowed to appoint or designate a proxy or representative for the purposes of achieving a quorum or to cast a vote on any matter pending before the committee.*

SECTION 3. Section 191.016, Natural Resources Code, is amended to read as follows:

Sec. 191.016. CHAIRMAN OF COMMITTEE. *At its first meeting in each calendar year, the [The] committee shall select one of its members as chairman.*

SECTION 4. Section 191.051(b), Natural Resources Code, is amended to read as follows:

(b) The committee shall:

- (1) maintain an inventory of the items recovered and retained by the State of Texas, showing the description and depository of them;
- (2) determine the site of and designate landmarks and remove from the designation certain sites, as provided in Subchapter D of this chapter;
- (3) contract or otherwise provide for discovery operations and scientific investigations under the provisions of Section 191.053 of this code;
- (4) consider the requests for and issue the permits provided for in Section 191.054 of this code;
- (5) prepare and make available to the general public and appropriate state agencies *and political subdivisions* information of consumer interest describing the functions of the committee and the procedures by which complaints are filed with and resolved by the committee; and
- (6) protect and preserve the archeological *and historical* resources of Texas.

SECTION 5. Section 191.053(a), Natural Resources Code, is amended to read as follows:

(a) The committee may contract with other state agencies or *political subdivisions* [~~institutions~~] and with qualified private institutions, corporations, or individuals for the discovery and scientific investigation of sunken or abandoned ships or wrecks of the sea, or any part of the contents of them, *or archeological deposits or treasure imbedded in the earth.*

SECTION 6. Section 191.054, Natural Resources Code, is amended to read as follows:

Sec. 191.054. PERMIT FOR *SURVEY AND DISCOVERY* [~~TAKING~~], EXCAVATION, RESTORATION, *DEMOLITION*, OR STUDY. (a) The committee may issue a permit to other state agencies or *political subdivisions* [~~institutions~~] or to qualified private institutions, companies, or individuals for the *survey and discovery* [~~taking~~], excavation, *demolition*, or restoration of, or the conduct of scientific or educational studies at, in, or on landmarks, *or for the discovery of eligible landmarks on public land* if it is the opinion of the committee that the permit is in the best interest of the State of Texas.

(b) Restoration shall be defined as any rehabilitation of a landmark excepting normal maintenance or alterations to nonpublic interior spaces.

(c) The permit shall:

- (1) be on a form approved by the attorney general;
- (2) specify the location, nature of the activity, and the time period covered by the permit; and
- (3) provide for the termination of any right in the investigator or permittee under the permit on the violation of any of the terms of the permit.

SECTION 7. Section 191.057, Natural Resources Code, is amended to read as follows:

Sec. 191.057. *SURVEY, EXCAVATION, OR RESTORATION FOR PRIVATE PARTIES.* The committee may *survey, excavate, or restore* antiquities for private parties under rules promulgated by the committee. All real and administrative costs incurred in the *survey, excavation, or restoration* shall be paid by the private party.

SECTION 8. Sections 191.058(a) and (c), Natural Resources Code, are amended to read as follows:

(a) As far as is consistent with the public policy of this chapter, the committee, on a majority vote, may arrange or contract with other state agencies or *political subdivisions* [~~institutions, incorporated cities~~], and qualified private institutions, corporations, or individuals, for public display of artifacts and other items in its custody through permanent exhibits established in the locality or region in which the artifacts were discovered or recovered. The committee, on a majority vote, may also arrange or contract with these same persons and groups for portable or mobile displays.

(c) Arrangements for curation of artifacts, data, and other materials recovered under Texas Antiquities Committee permits are specified in the body of the permit. Should a state agency or *political subdivision* lack the facilities or for any reason be unable to curate or provide responsible storage for such artifacts, data, or other materials, the Texas Antiquities Committee will arrange for curation at a suitable institution. *The Texas Antiquities Committee may by rule assess costs for the curation.*

SECTION 9. Section 191.091, Natural Resources Code, is amended to read as follows:

Sec. 191.091. *SHIPS, WRECKS OF THE SEA, AND TREASURE IMBEDDED IN EARTH.* Sunken or abandoned pre-twentieth century ships and wrecks of the sea, and any part or the contents of them, and all treasure imbedded in the earth, located in, on, or under the surface of land belonging to the State of Texas, including its tidelands, submerged land, and the beds of its rivers and the sea within jurisdiction of the State of Texas, are declared to be state archeological landmarks *and are eligible for designation.*

SECTION 10. Section 191.092, Natural Resources Code, is amended to read as follows:

Sec. 191.092. *OTHER SITES, ARTIFACTS, OR ARTICLES.* (a) Sites, objects, buildings, artifacts, implements, and locations of historical, archeological, scientific, or educational interest, including those pertaining to prehistoric and historical American Indians or aboriginal campsites, dwellings, and habitation sites, their artifacts and implements of culture, as well as archeological sites of every character that are located in, on, or under the surface of any land belonging to the State of Texas or to any county, city, or political subdivision of the state are state archeological landmarks *and are eligible for designation.*

(b) For the purposes of this section, a structure or a building has historical interest if the structure or building:

- (1) was the site of an event that has significance in the history of the United States or the State of Texas;
- (2) was significantly associated with the life of a famous person;
- (3) was significantly associated with an event that symbolizes an important principle or ideal;
- (4) represents a distinctive architectural type and has value as an example of a period, style, or construction technique; or
- (5) is important as part of the heritage of a religious organization, ethnic group, or local society.

(c) *Before the committee may designate a structure or building as a state archeological landmark, the structure or building must be listed on the National Register of Historic Places.*

(d) *The committee shall adopt rules establishing criteria for the designation of a structure or building as a state archeological landmark.*

(e) *The committee shall consider any and all fiscal impact on local political subdivisions before any structure or building owned by a local political subdivision may be designated as a state archeological landmark.*

SECTION 11. Section 191.093, Natural Resources Code, is amended to read as follows:

Sec. 191.093. PREREQUISITES TO ~~REMOVAL [TAKING]~~, ALTERING, DAMAGING, DESTROYING, SALVAGING, OR EXCAVATING CERTAIN LANDMARKS. Landmarks under Section 191.091 or 191.092 of this code are the sole property of the State of Texas and may not be ~~removed [taken]~~, altered, damaged, destroyed, salvaged, or excavated without a contract with or permit from the committee.

SECTION 12. Section 191.096, Natural Resources Code, is amended to read as follows:

Sec. 191.096. MARKING LANDMARK ON PRIVATE LAND. Any site on private land which is designated a landmark shall be marked by at least one marker bearing the words "State Archeological Landmark" ~~[for each five acres of area]~~.

SECTION 13. Section 191.097(b), Natural Resources Code, is amended to read as follows:

(b) On removal of the designation on private land which was designated by instrument of record, the committee ~~shall~~ ~~may~~ execute and record in the deed records of the county in which the site is located an instrument setting out the determination and releasing the site from the provisions of this chapter.

SECTION 14. Section 191.098(a), Natural Resources Code, is amended to read as follows:

(a) A state agency may not alter, renovate, or demolish a building possessed by the state that was constructed at least ~~50~~ ~~[45]~~ years before the alteration, renovation, or demolition and that has not been designated a landmark by the committee, without notifying the committee of the proposed alteration, renovation, or demolition not later than the 60th day before the day on which the agency begins the alteration, renovation, or demolition.

SECTION 15. Section 191.174, Natural Resources Code, is amended to read as follows:

Sec. 191.174. ASSISTANCE FROM STATE AGENCIES, *POLITICAL SUBDIVISIONS, AND LAW ENFORCEMENT OFFICERS*. (a) The chief administrative officers of all state agencies *and political subdivisions* are directed to cooperate and assist the committee and the attorney general in carrying out the intent of this chapter.

(b) All state and local law enforcement agencies and officers are directed to assist in enforcing the provisions and carrying out the intent of this chapter.

SECTION 16. Subsections (f) and (g), Section 34.0511, Natural Resources Code, are amended to read as follows:

(f) *At any time during the 120-day period a mineral owner may waive his preferential right to lease by providing the General Land Office with a written waiver. Failure by the mineral owner to exercise his preferential right to lease the land within the 120-day period provided by Subsection (c)(2) of this section, or the filing of a written waiver, results in forfeiture of the preferential right to lease the land.*

(g) *If a [the] mineral owner's [owner fails to exercise his] preferential right is forfeited under [within the 120-day period provided by Subsection (c)(2) of] this section, the land may be offered for lease by the board directly to an applicant or by sealed bid as provided by this chapter. The board shall not offer nor accept a price or terms which are less than that offered to the adjoining mineral owner under this section. If not leased at a public offering within 18 months from the date the lease was offered to the adjoining mineral owner, it shall be reoffered to the mineral owner prior to public offering in accordance with the provisions of this section.*

SECTION 17. Section 51.128, Natural Resources Code, is amended to read as follows:

Sec. 51.128. CANCELLATION OF LEASE. (a) *If a lessee fails to pay rent within 15 days after it is due, the lessee shall owe a penalty of 10 percent of the amount due.*

(b) *If a lessee fails to pay the [annual] rent within 60 days after it is due, the commissioner shall cancel the lease in writing [with a written document signed by him with his seal attached].*

(c) ~~(b)~~ *The commissioner shall file the written notice of cancellation [document] with the other papers relating to the lease, and the lease shall terminate immediately.*

SECTION 18. 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. Each lease shall provide that:

(1) if at the expiration of the primary term or at any time after the expiration of the primary term a well or wells capable of producing oil or gas in paying quantities are located on the leased premises but oil or gas is not being produced for lack of suitable production facilities or a suitable market and the lease is not being maintained in force and effect, *then* ~~[before the expiration of the primary term or if the primary term has expired, within 60 days after the lessee ceases to produce oil or gas from the well,]~~ 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. *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 and reworking operation in accordance with the lease provisions, whichever date is 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 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 additional and successive periods of one year by paying the same amount each year on or before the expiration of 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 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 and for *four additional and successive periods of one year each* ~~[an additional period of not more than five years from the expiration of the primary term]~~ by the lessee paying compensatory royalty at the royalty rate provided in the lease of the 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 next succeeding the month in which the oil or gas is sold and delivered from the well 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 his written approval, the payment of compensatory royalties shall satisfy the obligation to drill offset wells.*

SECTION 19. Subsection (d), Section 52.026, Natural Resources Code, is amended to read as follows:

(d) *Every [The] transferee shall succeed to all rights and be subject to all obligations, liabilities, and penalties owed to the state by [of] the original lessee or any prior transferee of the lease, including any liabilities to the state for unpaid royalties.*

SECTION 20. Subsection (c), Section 52.028, Natural Resources Code, is amended to read as follows:

(c) The lessee shall pay all annual delay rentals and any royalties that accrue during the period of litigation in the same manner as they are to be paid under the lease during the ~~[period of an extended]~~ 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 21. Subsections (c) and (d), Section 52.0301, Natural Resources Code, are amended to read as follows:

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

(d) After the board enters an [its] 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[, including the payment of rentals,] shall again attach and be in force[. In the case of the suspension of the primary and principal terms of the lease, the lease shall continue in force] for a period equivalent to the unexpired term of the lease [on the date the cause of suspension began].

SECTION 22. Section 52.034, Natural Resources Code, is amended to read as follows:

Sec. 52.034. OFFSET WELLS. (a) If oil or gas is produced in commercial quantities from a well located on a privately owned area *or areas of state land leased at a lesser royalty* and the well is located within 1,000 feet of an area leased under this subchapter, *or in any case where such an area is being drained by such a well or wells*, the lessee of the state area shall begin in good faith and prosecute diligently the drilling of an offset well or wells on the area leased from the state within 60 days after the initial production *from the draining well or the well located within 1,000 feet of the leased state area* [~~on the privately owned area~~].

(b) An offset well shall be drilled to a depth and the means shall be employed which may be necessary to prevent undue drainage of oil or gas from beneath the state area.

(c) Within 30 days after an offset well has been completed or abandoned, a log of each well shall be filed in the land office.

(d) *At the determination of the commissioner and with his written approval, the payment of a compensatory royalty shall satisfy the obligation to drill an offset well or wells required by Subsection (a) of this section. Such compensatory royalty shall be paid at the royalty rate provided by the state lease issued under this subchapter and shall be paid on the market value at the well of production from the draining well or the well located within 1,000 feet of the leased state area.*

SECTION 23. Subsection (a), Section 52.131, Natural Resources Code, is amended to read as follows:

(a) Royalties due under a lease of state land or minerals that are required to be paid to the land office, *including leases on land on which a free royalty is reserved pursuant to Section 51.201 or 51.054 of this title*, shall be due and shall be paid as provided in this section.

SECTION 24. Subsection (b), Section 52.131, Natural Resources Code, is amended to read as follows:

(b) *The commissioner shall by rule set the date for making royalty payments and for filing any reports, documents, or other records required to be filed by the commissioner. However, the commissioner may not set the due date for royalty [Royalty] on oil [is due and payable on or] before the 5th day of the second month succeeding the month of production and may not set the due date for royalty on gas [is due and payable on or] before the 15th day of the second month succeeding the month of production.*

SECTION 25. Subsection (b), Section 52.137, Natural Resources Code, is amended to read as follows:

(b) The commissioner, upon receipt of such payment made under protest as authorized by this section, shall send to the state treasurer the payment and a written statement that the payment was made under protest. Immediately upon receipt, the comptroller and treasurer shall:

- (1) place the payment in state depositories bearing interest in the same manner that other funds are required to be placed in state depositories at interest;
- (2) allocate the interest earned on these funds; ~~and~~
- (3) credit the amount allocated to an account established for this purpose until the status of the *protest* ~~[funds]~~ is finally determined; *and*
- (4) *upon final determination that some or all of the protested funds belong to the state, deposit the principal and the allocated interest to the proper funds as provided by law. All protest payments finally determined to belong to the permanent school fund shall be deposited to that fund upon such determination, and interest earned and allocated on those funds shall be deposited to the available school fund.*

SECTION 26. Subchapter D, Chapter 52, Natural Resources Code, is amended by adding Section 52.139 to read as follows:

Sec. 52.139. LIMITATIONS ON AUDIT ASSESSMENTS. (a) If an audit billing notice has been issued under Section 52.135 and any outstanding audit deficiency assessment has been paid either:

- (1) *voluntarily;*
- (2) *after a hearing was requested and the commissioner has entered a final non-appealable order concerning the assessment; or*
- (3) *after a final non-appealable judgment has been rendered by a court after payment of an audit assessment under protest and filing of a suit for refund under Section 52.137 of this code, then the commissioner may not issue another deficiency assessment which covers the same issues, time periods, and leases as those covered by the previous assessment.*

(b) If the commissioner audits a lessee's books and records under Section 52.135 of this code the commissioner shall notify the lessee upon completion of his findings. If the commissioner notifies the lessee that no additional royalties are due, the commissioner may not again audit the books and records covering the same issues, time periods, and leases involved in the first audit.

(c) This section shall not preclude the commissioner from conducting subsequent audits or examinations covering the same issues, time periods, and leases in cases where fraud exists or where the first audit deficiency assessment results only from an examination of documents, records, or reports submitted to the commissioner and not from a complete audit of the books, accounts, reports, or other records of a lessee.

SECTION 27. Subchapter D, Chapter 52, Natural Resources Code, is amended by adding Section 52.140 to read as follows:

Sec. 52.140. 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 in Section 52.135 of this code, is confidential and may not be used publicly, opened for public inspection, or disclosed, except for information set forth 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 shall not be subject to subpoena directed to the commissioner, the attorney general, or the governor except in a judicial or administrative proceeding in which this state is a party.

(c) The commissioner or the attorney general may use information made confidential by the provisions of this section and contracts made confidential by Section 52.134 of this code to enforce any provisions of this chapter or may authorize their use in judicial or administrative proceedings in 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 which 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 52.135 of this code or the release of other information which would have been properly included in reports required under Section 52.131 of this code.*

SECTION 28. Subsection (a), Section 52.151, Natural Resources Code, is amended to read as follows:

(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 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.*

SECTION 29. Section 52.152, Natural Resources Code, is amended to read as follows:

Sec. 52.152. APPROVAL OF UNIT AGREEMENTS. (a) An agreement that (1) commits 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* must be approved by the board and executed by the owner of the soil if the agreement covers land leased for oil and gas under Subchapter F of this chapter.

(b) An agreement that commits 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.

SECTION 30. Section 52.173, Natural Resources Code, is amended to read as follows:

Sec. 52.173. OFFSET WELLS. (a) If oil and/or gas should be *produced* [~~discovered~~] in commercial quantities [~~on lands not included in this law and~~] within 1,000 feet of [~~and draining~~] land *subject to this subchapter* [~~that is so included~~], or in any case where land *subject to this subchapter* [~~so included in this law~~] is being drained by production of oil or gas [~~from land not so included~~], the owner, lessee, sublessee, receiver, or other agent in control of land *subject to this subchapter* [~~included herein~~] shall in good faith begin the drilling of a well or wells upon such state land within 100 days after *the draining* [~~such~~] well or wells or *the well or wells completed within 1,000 feet of the state land* [~~on lands not so included~~] commence to produce in commercial quantities, and shall prosecute such drilling with diligence to reasonably develop the state land [~~included hereunder~~] and to protect such state land against drainage [~~by wells on other lands in the locality~~].

(b) *An offset well shall be drilled to a depth and the means shall be employed which may be necessary to prevent undue drainage of oil or gas from beneath the state land.*

(c) *Within 30 days after an offset well has been completed or abandoned, a log of each well shall be filed in the land office.*

(d) *At the determination of the commissioner and with his written approval, the payment of a compensatory royalty shall satisfy the obligation to drill an offset well or wells. Such compensatory royalty shall be paid at a royalty rate established by the commissioner if the land is unleased, or at the royalty rate provided by the state lease, if the land is leased. Such compensatory royalty shall be paid on the market value at*

the well of production from the draining well or the well located within 1,000 feet of the state land.

SECTION 31. Section 52.187, Natural Resources Code, as added by Section 1, Chapter 652, Acts of the 69th Legislature, Regular Session, 1985, is amended by adding Subsection (d) to read as follows:

(d) A penalty of 10 percent shall be imposed on any sums due the state because a surface owner breaches a fiduciary duty. This penalty shall be applied only to amounts owed as a result of breaches occurring on and after the effective date of this subsection. The imposition of this penalty will not limit the right of the state to obtain punitive damages, exemplary damages, or interest. Any punitive damages or exemplary damages assessed by a court shall be offset by the 10 percent penalty imposed by this subsection.

SECTION 32. Subsection (a), Section 53.155, Natural Resources Code, is amended to read as follows:

(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 the payment of damages for the use of the surface in prospecting for, exploring, developing, or producing the leased minerals.

SECTION 33. Section 101.051, Natural Resources Code, is amended to read as follows:

Sec. 101.051. **AUTHORITY OF COMMISSIONER OF GENERAL LAND OFFICE.** Subject to the approval specified in Section 101.052 of this code, the Commissioner of the General Land Office, *on [in] behalf of the State of Texas or of any fund belonging to the state, may execute contracts committing to the agreements declared lawful by the provisions of this chapter (1) the royalty interests in oil or gas or both reserved to the state, or any fund of the state, by law, in any patent, in any contract of sale, or under the terms of any oil and gas lease lawfully issued 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.*

SECTION 34. Section 101.052, Natural Resources Code, is amended to read as follows:

Sec. 101.052. **NECESSARY APPROVAL BY OTHER PERSONS AND STATE AGENCIES.** *(a) An agreement that commits (1) the royalty interests in land set apart by the constitution and laws of this state for the permanent free school fund and the several asylum funds, in river beds, inland lakes, and channels, and the 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, must be approved by the School Land Board.*

(b) An agreement that covers land leased for oil and gas under the Relinquishment Act, codified as Subchapter F in Chapter 52 of this code, must be executed by the owners of the soil.

(c) An agreement that commits the royalty interests in land or areas other than those covered by Subsections (a) and (b) of this section must be approved by the board, official, agent, agency, or authority of the state vested with authority to lease or to approve the leasing of the land or areas for oil and gas.

SECTION 35. Subsections (b) and (c), Section 85.65, Education Code, are amended to read as follows:

(b) All rights purchased may be assigned. All assignments shall be filed in the general land office as prescribed by rule [within 100 days from the date of the first acknowledgment thereof], accompanied by 10 cents per acre for each acre assigned and the filing fee as prescribed by rule. An assignment shall not be effective unless filed as required by rule; and if not so filed and payment made, the assignment shall not be effective]. An assignment shall not relieve the assignor of any liabilities or obligations incurred prior to the assignment.

(c) All rights to *all or any part of a leased tract* [~~any whole tract or to any assigned portion thereof~~] may be *released* [~~relinquished~~] to the state at any time by *recording a release instrument* [~~having an instrument of relinquishment recorded~~] in the county or counties in which the *tract* is located. *Releases must also be* [~~area may be situated, and~~] filed with the chairman of the board and the general land office, accompanied by the *filing fee prescribed by rule*. A *release* [~~\$1 for each area assigned, but such assignment~~] shall not relieve the owner of any [~~past due~~] obligations or liabilities incurred prior to the *release* [~~theretofore accrued thereon~~].

SECTION 36. Subsections (b) and (c), Section 104.84, Education Code, are amended to read as follows:

(b) All rights purchased may be assigned. All assignments shall be filed in the general land office *as prescribed by rule* [~~within 100 days from the date of the first acknowledgment thereof~~], accompanied by 10 cents per acre for each acre assigned and the *filing fee as prescribed by rule*. An [~~The~~] assignment shall not be effective unless [~~it is~~] filed *as required by rule* [~~and the payment made~~].

(c) All rights to *all or any part of a leased tract* [~~any whole tract or to any assigned portion thereof~~] may be *released* [~~relinquished~~] to the state at any time by *recording a release instrument* [~~having an instrument of relinquishment recorded~~] in the county or counties in which the *tract* [~~area~~] is located [~~situated~~]. *Releases* [~~The instrument of relinquishment~~] shall also be filed with the chairman of the board and the general land office, accompanied by the *filing fee prescribed by rule* [~~\$1 for each area assigned~~]. A *release* [~~The assignment~~] shall not relieve the owner of any [~~past due~~] obligations or liabilities incurred prior to the *release* [~~accrued on the lease~~].

SECTION 37. Subsections (b) and (c), Section 109.74, Education Code, are amended to read as follows:

(b) All rights purchased may be assigned. All assignments shall be filed in the general land office *as prescribed by rule* [~~within 100 days from the date of the first acknowledgment thereof~~], accompanied by 10 cents per acre for each acre assigned and the *filing fee as prescribed by rule*. An [~~The~~] assignment shall not be effective unless [~~it is~~] filed *as required by rule* [~~and the payment made~~].

(c) All rights to *all or any part of a leased tract* [~~any whole tract or to any assigned portion thereof~~] may be *released* [~~relinquished~~] to the state at any time by *recording a release instrument* [~~having an instrument of relinquishment recorded~~] in the county or counties in which the *tract* [~~area~~] is located [~~situated~~]. *Releases* [~~The instrument of relinquishment~~] shall also be filed with the chairman of the board and the general land office, accompanied by the *filing fee prescribed by rule* [~~\$1 for each area assigned~~]. A *release* [~~The assignment~~] shall not relieve the owner of any [~~past due~~] obligations or liabilities incurred prior to the *release* [~~accrued on the lease~~].

SECTION 38. Subsection (e), Section 66.68, Education Code, is amended to read as follows:

(e) Each lease shall provide that if at the expiration of the primary term or at any time thereafter there is located on the leased premises a well or wells capable of producing *oil or gas* in paying quantities and such *oil or gas* is not produced for lack of *suitable production facilities* or a suitable market and such lease is not being otherwise maintained in force and effect, the lessee may pay as royalty \$1,200 per annum for each well on the lease capable of producing *oil or gas* in paying quantities, such payment to be made to the Board of Regents of The University of Texas System at Austin, Texas. *Any shut-in oil or gas royalty must be paid on or before: (1) [~~prior to~~] the expiration of the primary term of the lease, (2) [~~or if the primary term has expired, within~~] 60 days after lessee ceases to produce oil or gas from the leased premises, or (3) 60 days after lessee completes a drilling and reworking operation in accordance with the lease provisions, whichever date is later. If [~~such well or wells; and if~~] such payment is made, the lease shall be considered to be a producing lease and such shut-in [~~gas well~~] royalty 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 next succeeding the month in which production ceased; and thereafter if no *suitable production facilities* or suitable market for such *oil or gas* exists, the lessee may extend the lease for *four* [~~two~~] additional and successive*

periods of one year each by the payment of a like sum of money each year on or before the expiration of the extended term. Provided, however, that if, while such lease is being maintained in force and effect by payment of such shut-in ~~[gas well]~~ royalty, *oil or gas* should be sold and delivered in paying quantities from a well situated within 1,000 feet of the leased premises and completed in the same producing reservoir or in any case where drainage is occurring, the right to further extend the lease by such shut-in ~~[gas well]~~ royalty payments shall cease, but such lease shall remain in force and effect for the remainder of the current one year period for which the shut-in ~~[gas well]~~ royalty has been paid, and for *four additional and successive periods of one year each* ~~[an additional period not to exceed a combined total of three years from the expiration of the primary term or from the first day of the month next succeeding the month in which production ceased]~~ by the payment by the lessee of compensatory royalty, at the royalty rate provided for in such university lease *of the 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;* ~~[as would be due on an equivalent amount of like quality gas produced and delivered from the well completed in the same producing reservoir from which gas is being sold and delivered and which is situated within 1,000 feet of, or draining, the leased premises on which shut-in gas well is situated,]~~ such compensatory royalty to be paid monthly to the Board of Regents of The University of Texas System at Austin, Texas, beginning on or before the last day of the month next succeeding the month in which such *oil or gas* is sold and delivered from the well situated within 1,000 feet of, or draining, the leased premises and completed in the same producing reservoir; provided further, that in the event such compensatory royalties paid in any 12-month period are in a sum less than the annual shut-in gas well royalties provided for in this section, the lessee shall pay an additional sum equal to the difference within 30 days from the end of such 12-month period; provided further, that nothing herein shall relieve the lessee of the obligation of reasonable development, nor of the obligation to drill offset wells required by Section 66.75 of this code.

SECTION 39. Section 66.70, Education Code, is amended by adding Subsection (h) to read as follows:

(h) The agreement shall provide that compensatory royalty be paid at the royalty rate provided by the university lease and shall provide that compensatory royalty be paid on the market value at the well of production from the well located on non-university lands or university lands leased at a lesser royalty situated within 1,000 feet of or draining the university leased premises.

SECTION 40. Subsection (a), Section 66.74, Education Code, is amended to read as follows:

(a) Royalty as stipulated in the sale shall be paid to the Board of Regents of The University of Texas System at Austin, Texas, for the benefit of the university permanent fund as provided in this section.

(1) *The board shall set by rule the date for making royalty payments and for filing any reports, documents or other records required to be filed by this section. However, the board may not set the due date for royalty [Royalty] on oil [is due and payable on or] before the fifth day of the second month succeeding the month of production, and may not set the due date for royalty on gas [is due and payable on or] before the 15th day of the second month succeeding the month of production.*

(2) Royalty payments shall be accompanied by:

(a) an affidavit of the owner, manager, or other authorized agent completed in the form and manner required by the Board of Regents of The University of Texas System and showing the gross amount and disposition of all oil and gas produced and the market value of the oil and gas;

(b) a copy of all documents, records, or reports 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;

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

(d) other reports or records that the Board of Regents of The University of Texas System may require to verify the gross production, disposition, and market value.

(3) The lessee has the responsibility for paying royalties or having royalties paid by the date provided for payment in this section.

(4) If any royalty is not paid when due, a penalty of one percent shall be added to the unpaid amount due. If the royalty is not paid within seven days after the due date, a penalty of an additional four percent of the royalty due is imposed. If the royalty is not paid within 30 days after the due date, a penalty of an additional five percent is imposed. The minimum penalty under this subdivision is \$25. Penalty under this subdivision may not be added in cases of title dispute as to the state's portion of the royalty or to that portion of the royalty in dispute as to fair market value. Except as provided in Subsection (g), Section 66.68 of this code, royalty payments shall be made in cash, by a bank draft drawn on a state or national bank in Texas, by a post-office or express money order, or in any other form that the law may provide for making payments to the State Treasury and are payable to the Board of Regents of The University of Texas System.

(5) Copies of contracts for the sale or processing of gas and subsequent agreements and amendments to those contracts shall be filed with the Board of Regents of The University of Texas System within 30 days after the contracts, agreements, or amendments are made. These contracts and agreements received by the Board of Regents of The University of Texas System shall be held in confidence by the Board of Regents of The University of Texas System unless otherwise authorized by the lessee.

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

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

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

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

SECTION 41. Subchapter B, Chapter 52, Natural Resources Code, is amended by adding Section 52.036 to read as follows:

Sec. 52.036. TEMPORARY REDUCTION OF GAS ROYALTY RATES. (a) This section shall only apply to lands which are described in Subsections (1) and (2) of Section 52.011 of this code, which have been leased by the board on the basis of a royalty bid and at a royalty rate exceeding 25 percent, and which have not been unitized or pooled by the board.

(b) If the value of gas from such lands is at or below \$3 for each 1,000 cubic feet of gas, the board may reduce the royalty rate for gas produced from such lands after the effective date of this section and before September 1, 1990, as follows:

(1) For gas valued at \$1.50 or less for each 1,000 cubic feet of gas, the board may reduce a royalty rate to 25 percent.

(2) For gas valued from \$1.51 to \$2 for each 1,000 cubic feet of gas, the board may reduce a royalty rate to 30 percent.

(3) For gas valued from \$2.01 to \$2.50 for each 1,000 cubic feet of gas, the board may reduce a royalty rate to 35 percent.

(4) For gas valued from \$2.51 to \$3 for each 1,000 cubic feet of gas, the board may reduce a royalty rate to 40 percent.

(c) For purposes of this section, the value of the gas from such lands shall be the highest market price paid or offered for gas of comparable quality in the general area where produced and when run, or the gross price paid or offered to the producer, whichever is greater.

(d) The reduced temporary royalty rates may only apply to gas produced from the applicable lands after the effective date of this section and before September 1, 1990, and will in no way affect the royalty rate of oil or condensate produced from any state lands. This section does not authorize the board to increase royalty rates owed under executed state leases but only grants the board discretion to temporarily reduce royalty rates for certain gas production.

SECTION 42. This Act takes effect September 1, 1987, except that it shall not affect any applications currently pending before the Texas Antiquities Committee as of the effective date of this Act.

SECTION 43. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 20, 1987, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 2056 on June 1, 1987, by a non-record vote. Passed by the Senate, with amendments, on May 30, 1987, by a viva-voce vote.

Approved June 20, 1987.

Effective Sept. 1, 1987.