

BILL ANALYSIS

S.B. 641

By: West

Land & Resource Management
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In Kenedy Memorial Foundation, et al. v. State of Texas, et al. the Texas Supreme Court ruled that the boundaries of original civil law grants must be determined by civil law. This has always been the law in Texas and it is undisputed. However, the Court also stated that the boundaries are not determined by subsequent surveys. This statement overlooks one of the foundations of Texas land grants, i.e. the boundaries of patents, grants, and other titles emanating from the State have historically been determined by surveys filed in the General Land Office. Although boundaries can change over time due to accretion and erosion, the boundary of the original grant is determined by the surveys archived at the General Land Office.

S.B. 641 creates a presumption that documents, including maps and surveys, of record in the archives of the General Land Office accurately depict boundaries of patents, grants, sales, and titles emanating from the state. This presumption gives more legal weight to the ancient documents in the General Land Office and is an effort to overcome the Supreme Court's apparent attempt to disregard the historical documents that are the basis of all land titles in Texas.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 18, Civil Practices and Remedies Code, by adding Section 18.033 as follows:

In disputes regarding boundaries of state owned land, the documents, maps, and surveys archived at the General Land Office are the accurate depictions of the boundaries unless it is shown by clear and convincing evidence that the boundary is different.

Provides that the presumption applies only to those surveys conducted by a surveyor duly appointed, elected, licensed, or registered, and qualified.

SECTION 2. Effective date.

Act not retroactive.

EFFECTIVE DATE

September 1, 2003 unless the Act receives the vote necessary for immediate effect.

