

By: Howard

H.B. No. 2249

A BILL TO BE ENTITLED

AN ACT

relating to sale and lease of public school land.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 51.001, Natural Resources Code, is amended by amending Subdivision (7) and adding Subdivisions (10) and (11) to read as follows:

(7) "Appraiser" means a state certified or state licensed real estate appraiser who is employed by or contracts with the land office and who performs professional valuation services competently and in a manner that is independent, impartial, and objective [~~"Asylum land" means all land of the state that is dedicated to the various asylum funds~~].

(10) "Land" or "real property" means any interest in the physical land and appurtenances attached to the land, including improvements.

(11) "Market value" means the value of real property determined by an appraisal performed by an appraiser.

SECTION 2. Section 51.011, Natural Resources Code, is amended to read as follows:

Sec. 51.011. SALE AND LEASE OF PUBLIC SCHOOL [~~AND ASYLUM~~] LAND. Any land that is set apart to the permanent school fund [~~and the various asylum funds~~] under the constitution and laws of this state together with the mineral estate in riverbeds, channels, and the tidelands, including islands, shall be controlled, sold, and

1 leased by the school land board and the commissioner under the
2 provisions of this chapter.

3 SECTION 3. Section 51.012, Natural Resources Code, is
4 amended to read as follows:

5 Sec. 51.012. COMMISSIONER'S AUTHORITY. Subject to the
6 authority of the board and to exceptions and restrictions that may
7 be imposed by the constitution and laws of this state, the
8 commissioner is vested with the authority necessary to carry out
9 the provisions of this chapter relating to the sale and lease of
10 public school [~~and asylum~~] land and to the protection of this land
11 from free use and occupancy and from unlawful enclosure.

12 SECTION 4. Section 51.0125, Natural Resources Code, is
13 amended to read as follows:

14 Sec. 51.0125. LAND USED BY STATE AGENCY. Land that belongs
15 to the permanent school fund as a result of having been deeded or
16 given to the state and that has been used in the past by a state
17 agency shall be first offered for sale or lease to state agencies
18 before it can be sold or leased to any other party. No permanent
19 school fund land may be used by a state agency without [~~fair~~] market
20 value compensation to the permanent school fund.

21 SECTION 5. Section 51.013, Natural Resources Code, is
22 amended to read as follows:

23 Sec. 51.013. CLASSIFICATION AND VALUATION OF LAND. (a) As
24 the public interest may require, the commissioner shall classify or
25 reclassify [~~and value or revalue~~] all public school [~~and asylum~~]
26 land and shall include a designation of [~~designate~~] the land,
27 including a classification as agricultural, grazing, timber, or a

1 combination of these classifications based on the facts in the
2 particular case.

3 (b) After the classification and determination of market
4 value [~~appraisement~~] is entered on the records of the land office,
5 no further action needs to be taken by the commissioner and no
6 notice is required to be given to the county clerk for the
7 classification and determination of market value [~~appraisement~~] to
8 be effective.

9 SECTION 6. Section 51.018, Natural Resources Code, is
10 amended to read as follows:

11 Sec. 51.018. RECORDS AND ACCOUNTS. The commissioner shall
12 keep in his custody as records of his office each application,
13 affidavit, obligation, and paper relating to the sale and lease of
14 public school [~~and asylum~~] land and shall keep accurate accounts
15 with each purchaser or lessee.

16 SECTION 7. Section 51.052, Natural Resources Code, is
17 amended by amending Subsections (d), (g), (h), (i), and (j) and
18 adding Subsection (k) to read as follows:

19 (d) Before the land under this chapter [~~subchapter~~] is sold,
20 the appraiser [~~appraisers for the land office~~] must appraise the
21 land at its market value and file a copy of the appraisal with the
22 commissioner. No land covered by this chapter [~~subchapter~~] may be
23 sold for less than the market value that appears in the appraisal
24 made under this subsection.

25 (g) If land is located within the boundaries of or adjacent
26 to any state park, refuge, natural area, or historical site subject
27 to the management and control of the Parks and Wildlife Department,

1 the department has a preference right to purchase the land before it
2 is made available for sale to any other person. A sale to the
3 department under this section may not be for less than the [~~fair~~]
4 market value of the land, as determined by the board.

5 (h) The board may sell or exchange any interest in the
6 surface estate of public school land directly to any state agency,
7 board, commission, or political subdivision or other governmental
8 entity of this state without the necessity of a sealed bid sale.
9 All sales or exchanges made pursuant to this subsection shall be for
10 not less than [~~fair~~] market value as determined by the board and
11 under such other terms and conditions the board determines to be in
12 the best interest of the state.

13 (i) If no bid meeting minimum requirements is received for a
14 tract of land offered at a sealed bid sale under Subchapter D of
15 Chapter 32 of this code, the asset management division of the land
16 office may solicit proposals or negotiate a sale, exchange, or
17 lease of the land [~~property~~] to any person. The sale price may not
18 be less than the market [~~appraised~~] value [~~of the land as determined~~
19 ~~by the asset management division~~]. The board must approve any
20 negotiated sale, exchange, or lease of any land under this section.

21 (j) The board, in its sole discretion and in the best
22 interests of the permanent school fund as determined by the board
23 and without regard to requirements of local governments as to the
24 necessity of any such dedication, may dedicate permanent school
25 fund land to any governmental unit for the benefit and use of the
26 public in exchange for nonmonetary consideration with a value
27 reasonably equivalent to or greater than the market value of the

1 dedicated land, if the board determines that such an exchange would
2 benefit the permanent school fund. The asset management division
3 of the land office shall determine the value of the nonmonetary
4 consideration and shall file a copy of its determination with the
5 commissioner. Examples of public purposes for which permanent
6 school fund land may be dedicated under this subsection include but
7 are not limited to: (1) rights-of-way for public roads, utilities,
8 or other infrastructure; (2) public schools; (3) public parks; (4)
9 government offices or facilities; (5) public recreation
10 facilities; and (6) residential neighborhood public amenities.

11 (k) When a bid sale would otherwise be required, the board
12 may authorize a tract of land to be sold through a negotiated sale
13 at not less than market value if the board determines a negotiated
14 sale is in the best interest of the permanent school fund. The
15 board may also authorize the payment of a commission to a licensed
16 real estate broker or salesperson in connection with the sale of
17 public school land if the board determines the payment is in the
18 best interest of the permanent school fund.

19 SECTION 8. Section 51.054(c), Natural Resources Code, is
20 amended to read as follows:

21 (c) The provisions of this section do not apply to oil and
22 gas sold from public school [~~and asylum~~] land covered by Subchapter
23 F, Chapter 52, of this code.

24 SECTION 9. Section 51.056(a), Natural Resources Code, is
25 amended to read as follows:

26 (a) A person who wants to purchase public school [~~or asylum~~]
27 land shall submit to the commissioner a separate written

1 application for each tract.

2 SECTION 10. Section 51.057(a), Natural Resources Code, is
3 amended to read as follows:

4 (a) An application for the purchase of public school [~~or~~
5 ~~asylum~~] land shall be delivered to the land office in a sealed
6 envelope addressed to the commissioner with the words "application
7 to buy land" and the date the land is to be sold endorsed on the
8 envelope. Applications that do not have the required endorsements
9 are nevertheless valid.

10 SECTION 11. Section 51.064(a), Natural Resources Code, is
11 amended to read as follows:

12 (a) Any public school [~~or asylum~~] land offered for sale for
13 which no application is made under Section 51.056 of this code may
14 be sold to any person who files a proper application in the land
15 office in the manner provided by law.

16 SECTION 12. Section 51.065(b), Natural Resources Code, is
17 amended to read as follows:

18 (b) After being informed of any sale of public school [~~or~~
19 ~~asylum~~] land, the county clerk shall enter in his books opposite the
20 description of the land sold, the name of the purchaser and the date
21 of the sale.

22 SECTION 13. Section 51.070, Natural Resources Code, is
23 amended to read as follows:

24 Sec. 51.070. UNPAID PRINCIPAL AND INTEREST ON PUBLIC SCHOOL
25 LAND SALES. (a) Unpaid and delinquent principal and interest on
26 sales of public school land shall bear interest at a rate set by the
27 board, which principal and interest shall be payable at the times

1 and on such terms as are established by the board by rule or by
2 contract.

3 (b) No patent may be issued for any public school land until
4 all unpaid principal and compounded interest is paid to the time of
5 issuing the patent.

6 (c) Any unpaid principal and interest is considered
7 delinquent on the 30th day after the date payment of the principal
8 and interest is due for the obligation.

9 (d) After the payment of principal and interest becomes
10 delinquent under the obligation, notice of delinquency and
11 subsequent potential forfeiture must be provided by certified mail,
12 return receipt requested, to the last known address of the obligee
13 and must be documented in the records of the land office.

14 SECTION 14. Section 51.071(a), Natural Resources Code, is
15 amended to read as follows:

16 (a) If principal and [~~or~~] interest on a sale of land is not
17 paid when due, the land is subject to forfeiture by the commissioner
18 by entry on the wrapper containing the papers "Land Forfeited" or
19 similar words, the date of the forfeiture, and the official
20 signature of the commissioner.

21 SECTION 15. Section 51.072, Natural Resources Code, is
22 amended to read as follows:

23 Sec. 51.072. EFFECT OF FORFEITURE. In cases of forfeiture,
24 the original obligations and reinstatement fees [~~penalties~~] are as
25 binding as if no forfeiture occurred.

26 SECTION 16. Section 51.073(a), Natural Resources Code, is
27 amended to read as follows:

1 (a) Before it is sold, the commissioner shall classify and
2 determine the market value of land on which leases have been
3 cancelled or have expired and land forfeited to the state.

4 SECTION 17. Section 51.074, Natural Resources Code, is
5 amended to read as follows:

6 Sec. 51.074. REINSTATEMENT OF LAND PURCHASES. (a) If no
7 rights of third persons have intervened, the purchasers or their
8 vendees, heirs, or legal representatives, who claim land that has
9 been forfeited for nonpayment of principal and interest, may have
10 the claim reinstated on written request by paying into the State
11 Treasury the amount of all principal and interest due on the claim
12 up to the date of reinstatement.

13 (b) The right to reinstate a claim under this section is
14 limited to the last purchaser from the state, or his vendees, heirs,
15 or legal representatives, and must be exercised within six months
16 [~~five years~~] from the date of the forfeiture.

17 [~~(c) If there is a valid outstanding grazing lease that~~
18 ~~prevents reinstatement within the time provided in Subsection (b)~~
19 ~~of this section, the claim may be reinstated within 60 days after~~
20 ~~the grazing lease expires if the application for reinstatement~~
21 ~~together with the payment for all past due interest has been filed~~
22 ~~in the land office within five years from the date of forfeiture.]~~

23 SECTION 18. Section 51.076, Natural Resources Code, is
24 amended to read as follows:

25 Sec. 51.076. LEGAL PROCEEDINGS. None of the provisions of
26 Sections 51.071 through 51.072 and 51.074 through 51.075 of this
27 code shall prevent the state from instituting legal proceedings

1 necessary:

2 (1) to enforce a forfeiture;

3 (2) to recover the full amount of principal and
4 interest [~~and penalties~~] that may be owed to the state at the time
5 the forfeiture occurred; or

6 (3) to protect another right to the land.

7 SECTION 19. Section 51.077, Natural Resources Code, is
8 amended to read as follows:

9 Sec. 51.077. LIEN. To secure the payment of principal and
10 interest due on a sale of public school land and[~~7~~] university
11 land[~~7, and asylum land,~~] the state has an express lien for the use
12 and benefit of the fund to which the land belongs. The lien is in
13 addition to any right and remedy that the state has for enforcement
14 of the payment of principal and [~~or~~] interest due and unpaid, up to
15 and including the period required to reinstate the land award and
16 obligation.

17 SECTION 20. Subchapter C, Chapter 51, Natural Resources
18 Code, is amended by adding Section 51.0771 to read as follows:

19 Sec. 51.0771. REINSTATEMENT FEE. (a) A reinstatement fee
20 is due when a forfeited award is reinstated. The reinstatement fee
21 is calculated at one and one-half percent of all amounts delinquent
22 at the time of the reinstatement.

23 (b) The comptroller must receive the reinstatement fee
24 before the forfeited award is reinstated.

25 (c) Amounts received in the form of a reinstatement fee are
26 considered proceeds from the sale of permanent school fund land and
27 shall be deposited in the permanent school fund.

1 SECTION 21. Section 51.079(a), Natural Resources Code, is
2 amended to read as follows:

3 (a) An owner of public school land [~~or asylum land~~]
4 purchased from the state may sell the land or a definite portion of
5 the land in any size tract.

6 SECTION 22. Sections 51.121(a), (d), and (e), Natural
7 Resources Code, are amended to read as follows:

8 (a) Unsold public school [~~and asylum~~] land may be leased for
9 agricultural, grazing, or commercial purposes under terms and
10 conditions set by the commissioner. Commercial improvements on
11 land under this subsection shall not become the property of the
12 state and shall be taxed in the same manner as other private
13 property.

14 (d) In leases granted under this subchapter that are for
15 terms of 20 years or more, the commissioner may grant the lessee a
16 preference right to purchase the leased premises. In order to grant
17 this preference right, the commissioner must include such a
18 provision in the lease. The provision may provide that the
19 preference right to purchase may be exercised at any time during the
20 term of the lease. If the commissioner does include the preference
21 right to purchase in the lease, the lessee shall have a preference
22 right to purchase the leased premises before the leased premises
23 are made available for sale to any other person. All sales under
24 this subsection must be for not less than [~~fair~~] market value as
25 determined by an appraiser [~~General Land Office appraisers~~] and
26 under any other terms and conditions that the commissioner deems to
27 be in the best interest of the state. The preference right to

1 purchase granted under this subsection is superior to any other
2 preference right to purchase granted under any other section of
3 this code or under any other law. Nothing in this subsection shall
4 be construed to allow the commissioner to grant a preference right
5 to purchase submerged land.

6 (e) Subject to the provisions of Title 2, Utilities Code,
7 any district created by Section 59, Article XVI, Texas
8 Constitution, that leases unsold public school [~~or asylum~~] land for
9 power generation through the use of renewable energy sources, such
10 as wind, solar, or geothermal energy and other sustainable sources,
11 or a district participating in a power generation project using
12 renewable energy sources which is located on unsold public school
13 [~~or asylum~~] lands may distribute and sell electric energy generated
14 on public school [~~or asylum~~] lands within or without the boundaries
15 of the district and may issue bonds to accomplish such purposes
16 pursuant to Chapter 1371, Government Code, or other applicable law.
17 For any such power generation project which is located on both
18 public lands and private lands, the district may sell outside its
19 boundaries only the pro rata portion of the total amount as is
20 generated on the public lands. All electric energy generated
21 pursuant to this section shall be sold for resale only to utilities
22 authorized to make retail sales under Title 2, Utilities Code, and
23 shall be subject to the solicitation process and integrated
24 resource planning process authorized by that title.

25 SECTION 23. Section 51.174(c), Natural Resources Code, is
26 amended to read as follows:

27 (c) The commissioner shall advise the board relating to the

1 [fair] market value of the surface and mineral estates of vacant
2 land.

3 SECTION 24. Section 51.175(b), Natural Resources Code, is
4 amended to read as follows:

5 (b) The board shall adopt rules governing the terms and
6 conditions for the sale and lease of a vacancy. The rules shall be
7 adopted and amended as necessary to be consistent with real
8 property law of this state and other applicable law.

9 SECTION 25. Section 51.246(b), Natural Resources Code, is
10 amended to read as follows:

11 (b) Any person who owns an interest in a titled or patented
12 survey or any portion of a titled or patented survey in which excess
13 acreage is located and who desires to pay for the excess acreage
14 shall file with the commissioner a request for a determination of
15 market value by an appraiser [~~an appraisement of the land~~] with
16 corrected field notes in the form provided by law, together with a
17 sworn statement of facts relating to his right to purchase and other
18 evidence of his right to purchase which may be required by the
19 commissioner. The corrected field notes shall describe the
20 patented tract, and if purchasing excess in a portion of a tract,
21 shall include a description of the portion in which the applicant is
22 making application to purchase excess.

23 SECTION 26. Section 51.302(g), Natural Resources Code, is
24 amended to read as follows:

25 (g) In lieu of seeking administrative penalties or removal
26 of the facility or structure under Section 51.3021 of this code, the
27 commissioner may elect to accept ownership of the facility or

1 structure as a fixture and may exercise the state's rights as owner
2 of the facility or structure by filing notice of such ownership in
3 the real property records of the county in which the facility or
4 structure is located. For facilities or structures located on
5 coastal public land, notice of ownership shall be filed in the
6 county adjacent to the real property on which the facility or
7 structure is located. A notice under this subsection shall contain
8 a legal description of the adjacent real property, the owner of real
9 property if known, and a description of the facility or structure.
10 A state agency fund or trust fund is not liable for the condition of
11 any facility or structure as a result of acquiring an interest in
12 the facility or structure under this section.

13 SECTION 27. Section 51.342, Natural Resources Code, is
14 amended to read as follows:

15 Sec. 51.342. SALE OR LEASE OF TIMBER. Timber located on
16 public land shall be sold or leased in full tracts for cash at its
17 [~~fair~~] market value.

18 SECTION 28. Section 51.402, Natural Resources Code, is
19 amended to read as follows:

20 Sec. 51.402. ACQUISITION OF INTEREST IN REAL PROPERTY. (a)
21 The board may use the money designated under Section 51.401 of this
22 subchapter to acquire real property and to pay the expenses of
23 acquisitions and sales for any of the following purposes:

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

26 (2) to add contiguous land to public school land;

27 (3) to acquire, as public school land, real property

1 of unique biological, commercial, geological, cultural, or
2 recreational value; or

3 (4) to acquire mineral and royalty interests for the
4 use and benefit of the permanent school fund.

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

8 SECTION 29. Section 51.403, Natural Resources Code, is
9 amended to read as follows:

10 Sec. 51.403. MARKET VALUE. (a) The board may not pay more
11 than market value, as determined by an appraiser, for any real
12 property acquired under this chapter [~~subchapter~~].

13 (b) A sale under this chapter must be for not less than
14 market value and under any other terms and conditions that the
15 commissioner determines are in the best interest of the state.

16 (c) Market value shall be determined by an appraisal of the
17 real property performed by an appraiser [~~appraisers employed by the~~
18 ~~land office~~].

19 SECTION 30. Section 51.404, Natural Resources Code, is
20 amended to read as follows:

21 Sec. 51.404. TITLE SECURITY. (a) Real property [~~Property~~]
22 acquired under this chapter [~~subchapter~~] shall be conveyed to the
23 state by warranty deed.

24 (b) The board may purchase or acquire title insurance for
25 any real property purchased under this chapter [~~subchapter~~].

26 SECTION 31. The changes in law made by this Act to Sections
27 51.070, 51.071, 51.074, and 51.076, Natural Resources Code,

1 relating to unpaid principal on public school land sales, apply
2 only to unpaid principal that accrues on or after the effective date
3 of this Act. Unpaid principal that accrues before the effective
4 date of this Act is governed by the law in effect immediately before
5 the effective date of this Act, and the former law is continued in
6 effect for that purpose.

7 SECTION 32. This Act takes effect immediately if it
8 receives a vote of two-thirds of all the members elected to each
9 house, as provided by Section 39, Article III, Texas Constitution.
10 If this Act does not receive the vote necessary for immediate
11 effect, this Act takes effect September 1, 2003.