

BILL ANALYSIS

C.S.H.B. 1740
By: Seaman
Land & Resource Management
Committee Report (Substituted)

BACKGROUND AND PURPOSE

A 1944 conveyance from the Land Commissioner (commissioner) of the General Land Office (GLO) to the City of Aransas Pass (city) attempted to cede an interest in certain state-owned submerged land to the city. A 1999 Attorney General opinion (JC-0069) stated that the commissioner did not have authority to transfer submerged land. Moreover, submerged land, or an interest therein, could not have been validly conveyed to the city without compensation to the Permanent School Fund (PSF) established by Article VII, Section 2 of the Texas Constitution.

The purpose of H.B. 1740 is to trade certain state-owned land in and near Conn Brown Harbor in Aransas, San Patricio, and Nueces Counties for land owned by the city.

RULEMAKING AUTHORITY

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

ANALYSIS

- SECTION 1. States that the city may acquire all right, title, and interest of the state in and to real property described in Section 5 of this Act in exchange for conveyance to the state of the real property described by Section 6 of this Act, **provided** that the state retains any and all oil, gas, and other minerals and mineral royalty rights in and to the property **and** that the state waives its right to use the surface of such property for exploration and development of the reserved oil, gas and other minerals and mineral royalty rights, which will be accomplished by directional drilling or pooling **unless** the city and the commissioner mutually agree not later than August 31, 2009 to enter into a lease agreement affecting the property.
- SECTION 2. States that simultaneously with the conveyance of real property described by Section 6 of this Act, together with execution of a quitclaim deed of any interest of the city in and to 9,644 acres, consisting of the portion of Special Award No. 1, dated May 22, 1944, except the tract described in Section 5 of this Act, to the GLO for the use and benefit of the PSF, and, solely if necessary under the terms of this Act, delivery of additional consideration by the city, the commissioner will convey on behalf of the state the state's right, title, and interest in and to the property described in Section 5 of this Act, subject to the mineral and royalty reservation set forth in Section 1.
- SECTION 3. Makes a legislative finding that the two areas of real property have equal fair market values.
- SECTION 4. States that only in the event that the Attorney General is of the opinion that the tracts described by Sections 5 and 6 of this Act cannot, under applicable law and the Texas Constitution, be conveyed in the manner described in Sections 1 and 2 of this Act, the commissioner and the city shall follow certain procedures.
- SECTION 5. Describes the real property referred to in Sections 1 and 2.

- SECTION 6. Describes the real property referred to in Sections 1 and 2.
- SECTION 7. Details the applicability of this Act.
- SECTION 8. Transition Clause.
- SECTION 9. Effective Date.

EFFECTIVE DATE

Effective date is September 1, 2005, or immediately if approved by two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution.

COMPARISON OF ORIGINAL TO SUBSTITUTE.

The Substitute provides that the legislature finds that the fair market values of the 89 acres tract owned by the city and the 115 acres tract are equal. The two tracts will be traded and the city will take title to the 115 acres of Conn Brown Harbor.

The Substitute provides that upon passage of the bill, the GLO will submit a request to the Attorney General to consider the constitutionality of the legislative determination that the values are equal. Both parties will work together on the Attorney General opinion letter submission.

The Substitute provides that if the Attorney General finds the legislatively mandated trade is not valid, then here are procedures for the city and GLO to get the properties reappraised and surveyed with the cost born by the GLO. If there is still a value discrepancy, the bill provides for remuneration in either direction to achieve an equal exchange of value.