

## **BILL ANALYSIS**

C.S.H.J.R. 82  
By: Hughes  
Land & Resource Management  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The vacancy statute in the Natural Resources Code has been on the books since 1900. It was designed to deal with strips of land that fell in between tracts when the state originally patented the land. Since this "vacant" land was never patented, it still technically belongs to the state. The statute sets out a process to determine whether land is vacant. One who believes he has located vacant land files an application with the General Land Office (GLO). The GLO determines whether a vacancy exists, and if the GLO rules that the land is vacant, the applicant receives a 1/16th royalty in the minerals under the vacant land. Due to a gross misapplication of the vacancy statute, the property rights of thousands of Texans are being clouded.

A vacancy application has been filed in Upshur County claiming that an entire 4,600 acre survey is vacant land. In the history of the vacancy statute, there have been larger tracts, but this application affects by far the largest number of property owners (over 1,000 surface owners and over 2,000 mineral interest owners). The GLO ruled in 2004 that the land was not vacant. Unfortunately, the applicants have appealed the GLO's ruling to district court, and as a result, the affected property owners' title is clouded pending the litigation. It will take months or even years for this case to make its way through the courts.

The purpose of C.S.H.J.R. 82 is to clear titles for land and mineral owners in Upshur and Smith counties.

### **RULEMAKING AUTHORITY**

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

### **ANALYSIS**

SECTION 1. *Amends Article VII, Texas Constitution, by adding Section 2C, as follows:*

Requires the State of Texas to relinquish and release any claim of sovereign ownership or title to an interest in and to the land, including mineral rights, described in Section 2C (located in Upshur and Smith counties).

Excludes from this provision public right of ways owned by a governmental entity or navigable waterways owned by a governmental entity or any land owned by a governmental entity and reserved for public use, including a park, recreation area, wildlife area, scientific area, or historic site.

SECTION 2. States that the proposal shall be submitted to the voters at an election on November 8, 2005.

### **EFFECTIVE DATE**

Upon passage by the voters in the November 8, 2005, election.

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## **COMPARISON OF ORIGINAL TO SUBSTITUTE**

SECTION 1. The Substitute makes conforming and technical changes in Section 2C to the legal description of the Upshur County tract and adds Subsection (b) to provide that this section does not apply to public right of ways owned by a governmental entity or navigable waterways owned by a governmental entity or any land owned by a governmental entity and reserved for public use, including a park, recreation area, wildlife area, scientific area, or historic site.