

## **BILL ANALYSIS**

Senate Research Center

S.J.R. 40  
By: Eltife  
Natural Resources  
6/2/2005  
Enrolled

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

Subchapter E, Chapter 51, Natural Resources Code, has been effective since 1900 and is commonly referred to as the vacancy clause. It was intended to deal with strips of land which fell between surveyed parcels of land 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. An applicant who believes he or she has located vacant land must file an application with the General Land Office. The commissioner of the General Land Office (commissioner) then determines whether a vacancy exists, and the matter may be appealed in court. If the land is ultimately declared vacant, the applicant receives a 1/16th royalty for the minerals that lie under the vacant land.

The property rights of thousands of Texans are being affected by a vacancy application filed in 1997 in Upshur County. The application claimed that an entire 4,600-acre survey was vacant land. This application affects a large number of property owners: more than 1,000 surface owners and more than 2,000 mineral interest owners. In this specific case, the commissioner ruled that the land was not vacant. The applicants appealed the commissioner's ruling to the district court, and the commissioner's ruling was upheld. The parties agreed not to appeal, and the case was considered closed. However, some title companies are continuing to put exceptions in title opinions.

In 2003, a vacancy application for approximately 900 acres of land was filed in Smith County. The commissioner determined that no vacancy existed in the case, and that decision is pending been appeal in district court.

S.J.R. 40 proposes a constitutional amendment to clear the titles for the surface and mineral owners in the Smith and Upshur vacancies.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

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

Sec. 2C. (a) Provides that, except as provided by Subsection (b) of this section, the State of Texas relinquishes and releases any claim of sovereign ownership or title to an interest in and to two tracts of land, including mineral rights. Sets forth the descriptions of tract 1 and tract 2.

(b) Sets forth property to which this section does not apply.

(c) Provides that this section is self-executing.

SECTION 2. Requires the submission to the voters of a constitutional amendment at an election to be held on November 8, 2005. Sets forth the required language for the ballot.