

BILL ANALYSIS

S.J.R. 40
By: Eltife
Land & Resource Management
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The vacancy statute (Section 11.084 et seq, 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 (referred to as an applicant) 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 (Northeast Texas) 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 SJR 40 is to clear the titles to the land and mineral owners in this 4,600 acre tract.

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 relinquishes and releases 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).

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.