

By: McCall

H.B. No. 2217

Substitute the following for H.B. No. 2217:

By: Harper-Brown

C.S.H.B. No. 2217

A BILL TO BE ENTITLED

AN ACT

relating to the management of public school land and the permanent school fund.

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

SECTION 1. Section 51.001(11), Natural Resources Code, is amended to read as follows:

(11) "Market value" has the meaning assigned by Section 1.04, Tax Code [~~means the value of real property determined by an appraisal performed by an appraiser~~].

SECTION 2. The heading to Subchapter B, Chapter 51, Natural Resources Code, is amended to read as follows:

SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE

TO THE MANAGEMENT [~~SALE AND LEASE~~]

OF PUBLIC SCHOOL AND ASYLUM LAND

SECTION 3. The heading to Section 51.011, Natural Resources Code, is amended to read as follows:

Sec. 51.011. MANAGEMENT [~~SALE AND LEASE~~] OF PUBLIC SCHOOL LAND.

SECTION 4. Section 51.011, Natural Resources Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) Any land that is set apart to the permanent school fund under the constitution and laws of this state together with the mineral estate in riverbeds, channels, and the tidelands, including

1 islands, shall be subject to the sole and exclusive management and  
2 control of [~~controlled, sold, and leased by~~] the school land board  
3 and the commissioner under the provisions of this chapter.

4 (a-1) The board may acquire, sell, lease, trade, improve, or  
5 otherwise manage, control, or use land that is set apart to the  
6 permanent school fund in any manner, at such prices, and under such  
7 terms and conditions as the board finds to be in the best interest  
8 of the fund.

9 SECTION 5. Section 51.051, Natural Resources Code, is  
10 amended to read as follows:

11 Sec. 51.051. SALE OF LAND. All [~~Subject to the provisions~~  
12 ~~of Section 32.109 of this code, all~~] sales of land described in  
13 Section 51.011 [~~of this code~~] shall be made by or under the  
14 direction of the school land board [~~to the applicant who submits the~~  
15 ~~highest bid for the land at a price that is not less than the price~~  
16 ~~set by the board for purchase of the land~~].

17 SECTION 6. Sections 51.052(d), (e), and (i), Natural  
18 Resources Code, are amended to read as follows:

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

24 (e) The owner of land that surrounds land in a tract shall  
25 have a preference right to purchase the tract before the land is  
26 made available for sale to any other person, provided the person  
27 having the preference right pays not less than the market value for

1 the land as determined by the board and the board finds use of the  
2 preference to be in the best interest of the state. The board shall  
3 adopt rules to implement this preference right.

4 (i) If no bid meeting minimum requirements is received for a  
5 tract of land offered at a sealed bid sale under Subchapter D of  
6 Chapter 32 [~~of this code~~], or if the transaction involves  
7 commercial real estate and the board determines that it is in the  
8 best interest of the permanent school fund, the asset management  
9 division of the land office may solicit proposals or negotiate a  
10 sale, exchange, or lease of the land to any person. The asset  
11 management division may [~~also~~] contract for the services of a real  
12 estate broker or of a private brokerage or real estate firm to  
13 assist in a [~~the real estate~~] transaction under this subsection.  
14 [~~The sale price may not be less than the market value.~~] The board  
15 must approve any negotiated sale, exchange, or lease of any land  
16 under this section.

17 SECTION 7. Sections 51.401(a) and (c), Natural Resources  
18 Code, are amended to read as follows:

19 (a) The board may designate funds received from the sale of  
20 permanent school fund land under this chapter and the proceeds of  
21 future mineral leases and royalties generated from existing and  
22 future [~~active~~] leases of permanent school fund mineral interests  
23 received under Chapters 52 and 53 [~~of this code~~] for deposit in a  
24 special fund account of the permanent school fund in the State  
25 Treasury to be used by the board [~~to acquire fee or lesser interests~~  
26 ~~in real property, including mineral and royalty interests, for the~~  
27 ~~use and benefit of the permanent school fund,~~] as provided by

1 ~~[Section 51.402 of]~~ this subchapter.

2 (c) Money received from the sale of a particular piece of  
3 land ~~[and designated for the acquisition of interests in real~~  
4 ~~property]~~ under this subchapter must be used by the board as  
5 provided by this subchapter not later than two years after the date  
6 of the sale of land from which the money is derived. Money received  
7 from the lease of minerals and royalties derived from ~~[active]~~  
8 leases and designated for use by the board as provided by ~~[the~~  
9 ~~acquisition of interests in real property under]~~ this subchapter  
10 must be used by the board not later than two years after the date the  
11 money is deposited in the special fund account.

12 SECTION 8. Section 51.402, Natural Resources Code, is  
13 amended to read as follows:

14 Sec. 51.402. USE OF DESIGNATED FUNDS ~~[ACQUISITION OF~~  
15 ~~INTEREST IN REAL PROPERTY]~~. (a) The board may use the money  
16 designated under Section 51.401 ~~[of this subchapter to acquire real~~  
17 ~~property and to pay the expenses of acquisitions and sales]~~ for any  
18 of the following purposes:

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

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

22 (3) to acquire, as public school land, interests in  
23 real property for ~~[of unique]~~ biological, commercial, geological,  
24 cultural, or recreational purposes ~~[value];~~ ~~[or]~~

25 (4) to acquire mineral and royalty interests for the  
26 use and benefit of the permanent school fund;

27 (5) to protect, maintain, or enhance the value of

1 public school land;

2 (6) to acquire interests in real property; or

3 (7) to pay reasonable fees for professional services  
4 related to a permanent school fund investment.

5 (b) Before using funds [~~acquiring real property~~] under  
6 Subsection (a) [~~of this section~~], the board must determine, using  
7 the prudent investor standard, that the use of the funds for the  
8 intended purpose [~~acquisition~~] is in the best interest of the  
9 permanent school fund.

10 SECTION 9. Subchapter I, Chapter 51, Natural Resources  
11 Code, is amended by adding Section 51.4021 to read as follows:

12 Sec. 51.4021. APPOINTMENT OF SPECIAL FUND MANAGERS. (a)  
13 The board may appoint investment managers to invest the money  
14 designated under Section 51.401 by contracting for professional  
15 investment management services with one or more organizations that  
16 are in the business of managing real estate investments.

17 (b) To be eligible for appointment under this section, an  
18 investment manager must be:

19 (1) registered under the Investment Advisors Act of  
20 1940 (15 U.S.C. Section 80b-1 et seq.);

21 (2) a bank as defined by that Act; or

22 (3) an insurance company qualified to perform real  
23 estate investment services under the laws of more than one state.

24 (c) In a contract under this section, the board shall  
25 specify any policies, requirements, or restrictions, including  
26 criteria for determining the quality of investments and for the use  
27 of standard rating services, that the board adopts for real estate

1 investments of the permanent school fund.

2 (d) Compensation paid to an investment manager by the board  
3 must be consistent with the compensation standards of the  
4 investment industry and compensation paid by similarly situated  
5 institutional investors.

6 SECTION 10. Sections 32.254 and 51.403, Natural Resources  
7 Code, are repealed.

8 SECTION 11. This Act takes effect immediately if it  
9 receives a vote of two-thirds of all the members elected to each  
10 house, as provided by Section 39, Article III, Texas Constitution.  
11 If this Act does not receive the vote necessary for immediate  
12 effect, this Act takes effect September 1, 2005.