

BILL ANALYSIS

H.B. 890
By: Hilderbran
Public Education
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Article 7, Section 6 of Texas Constitution states that all lands granted to the several counties for educational purposes are of right the property of the counties to which they were granted. Each county may sell or dispose of its lands in whole or part, in a manner to be provided by the Commissioners Court of the county. The proceeds from this property are to be used to support the schools in the county.

This arrangement made sense in the 19th century, as then it was common to have a number of very small community schools located in various parts of the county. With the rise of "independent school districts" that have taxing authority, this arrangement has become increasingly cumbersome.

The Texas Constitution stipulates that all the proceeds be held in trust for the benefit of the public schools of the county or be distributed to the schools in the county; however, there is no vehicle in current law for the county government to use proceeds from the property to make improvements or provide for maintenance of the land. Therefore, counties are forced to use their budget to provide funding for any improvement and maintenance projects. Since many counties are reluctant to do this, they eventually sell the property and distribute the money to the schools in the county.

The purpose of this bill would be to improve management of such property and make it easier to maximize the return for the school children of the county. Legislation would give the county commissioner's court the option to place the principal in trust in the event the land is sold. The interest from the trust would benefit the students of the county in perpetuity.

RULEMAKING AUTHORITY

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

ANALYSIS

This bill amends the Education Code to authorize a county commissioners court to sell or otherwise dispose of county school lands in a manner determined by the court, to establish an irrevocable trust for the proceeds of such sale or such other disposition, and to invest the principal of a trust created from such proceeds in any investment permitted for other county funds under Chapter 2256, Government Code.

The members of a county commissioners court and their successors in office must be the sole trustees of such trust. The trustees may not delegate the authority to manage or invest the trust, but may contract with qualified persons for investment advice.

The principal of such trust constitutes a portion of the county permanent school fund and must be held in perpetuity for the benefit of the public schools in the county. The income of such trust constitutes a portion of the county available school fund and may be distributed as permitted by law.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

H.B. 890 80(R)