

## **BILL ANALYSIS**

H.B. 1556  
By: Pickett  
Land & Resource Management  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The Texas Legislature has authorized the School Land Board (SLB) and the Commissioner of the Texas General Land Office (commissioner) to manage the state-owned real property and real property interests dedicated to the Permanent School Fund (PSF). The portfolio contains millions of acres, including ranching and grazing properties in West Texas, timberlands in East Texas, urban properties in a variety of locales, the Gulf Coast beaches and bays, and the "submerged" lands extending 10.3 miles out from the shoreline. The General Land Office (GLO) and the SLB lease state land for a variety of purposes, including agriculture and hunting, oil and gas exploration and production, commercial development, and sustainable energy development.

Chapter 51, Natural Resources Code, authorizes the commissioner to lease PSF lands for any purpose the commissioner determines is in the best interest of the state, under terms and conditions set by the commissioner. There are other provisions, however, that limit the commissioner's ability to negotiate and set terms and conditions that are truly in the best interest of the state. The same problem exists with provisions in Chapter 51 regarding the granting of easements authorizing various uses of this public land.

Situations often arise where a property may be subject to conditions or circumstances that affect its marketability in a way that requires the negotiation of special or innovative terms and conditions in order to achieve the best return to the state. The commissioner may have knowledge about a property or about the market that indicates that it may be in the best interest of the PSF to obtain a market value or better return for a particular property after considering all relevant factors.

In other instances, the commissioner may be called upon to consider a proposed use of these lands that cannot or should not be memorialized through lease or easements documents. For instance, these uses may be important scientific or educational projects, of short duration with no permanent effect on the land. These are more suited to the grant of a license or a simple access permit, uses not presently specified in the statute.

The purpose of H.B. 1556 is to modify Chapter 51, Natural Resources Code, to enable the commissioner to determine the terms and conditions of leases and easements that authorize the use of public lands for private purposes. Existing provisions that require specific terms and conditions or limit the ability of the commissioner to determine the terms and conditions that are in the best interest of the state are amended or eliminated.

### **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**

NOTE: All references to chapters, subchapters, sections, provisions, or the like refer to provisions in Chapter 51, Natural Resources Code.

SECTION 1. *Amends Section 51.073(a), Natural Resources Code, as follows:*

Relieves the commissioner of the duty to reclassify and reevaluate lands on which leases have been cancelled prior to their sale.

SECTION 2. *Amends Sections 51.121(a), (b), and (d), Natural Resources Code, as follows:*

The amended Section 51.121(a) states that improvements (instead of just commercial improvements) on land under Section 51.121(a) shall not become the property of the state and shall be taxed in the same manner as other private property.

The amended Section 51.121(b), requires that improvements (instead of just commercial improvements) on land leased under Section 51.121(a) to be removed prior to the expiration of the lease unless the commissioner determines it to be in the best interest of the state that removal of the improvements not be required and includes such a provision in the terms and conditions of the lease (instead of unless a renewal or an extension of the lease has been finalized prior to the expiration of the term of the lease). Deletes a provision requiring that if commercial improvements are not removed prior to the expiration of the lease and if there has been no renewal or extension prior to the expiration of the lease, then the commercial improvements on the land shall become property of the state.

The amended Section 51.121(d) eliminates the requirement that a lease must have a term of 20 years or more before a preference right to purchase can be granted by the commissioner, and allows the SLB to set the sales price (instead of not less than the fair market value determined by an appraiser) as the SLB is already authorized to do for other land sales.

SECTION 3. *Amends Section 51.127, Natural Resources Code, as follows:*

Generally provides a procedure for the recording of a memorandum of a lease (instead of the lease).

The amended Section 51.127(a) requires the commissioner to prepare a descriptive memorandum of a lease at the time the lease is executed (instead of after the lessee has paid the rent for the land for a year in advance) and deliver the lease and the memorandum to the lessee (instead of to the clerk in the county in which the land is located).

The amended Section 51.127(b) requires the lessee to deliver the memorandum of the lease to the clerk of the county in which the land is located (instead of requiring the county clerk to prepare an abstract of the lease and recording the memorandum or abstract in a well-bound book or on microfilm kept in his office).

The amended Section 51.127(c) requires the clerk to record the memorandum in the county clerk's office (instead of requiring the memorandum or abstract to require certain information).

The amended Section 51.127(d) requires the clerk on payment of the recording fee (instead of the fee required by law) to deliver the recorded memorandum (instead of lease) to the lessee. Requires the lessee to provide to the commissioner a certified copy of the recorded memorandum.

Deletes Section 51.127(e) providing that except for the record made under Section 51.127, no other record of a lease is required.

SECTION 4. *Amends Section 51.291(a), Natural Resource Code, as follows:*

Recognizes an easement as not necessarily the appropriate document to authorize some of the requested uses of public school lands that must be processed by the commissioner.

Authorizes the commissioner to execute grants of easements or other interests in property (instead of just grants and easements) for rights-of-way or access (instead of just right-of-ways) across, through, and under various places for various purposes (as is currently allowed).

SECTION 5. *Amends Section 51.292, Natural Resources Code, as follows:*

Authorizes the commissioner to execute grants of easements or leases for electric substations, pumping stations, loading racks, and tank farms (as currently is law), and for any other purpose the commissioner determines to be in the best interest of the state, to be located on state land other than land owned by The University of Texas System.

SECTION 6. *Amends Section 51.295, Natural Resources Code, as follows:*

Deletes a “privilege fee” that has been supplanted by the assessment and collection of fees based on the type of easement granted and the extent of the encumbrance or impact on public land.

SECTION 7. *Amends Section 51.301(a), Natural Resources Code, as follows:*

Provides for the collection of interest on late payments due under this subchapter at the same rate as charged by the comptroller on delinquent payments due to the state (instead of 10 percent a year) unless the commissioner or the board of regents, as appropriate, negotiates a lower rate.

SECTION 8. Repeals various provisions in Chapter 51 that are no longer necessary, supplanted by or combined with other provisions, or inconsistent with newer provisions.

SECTION 9. Effective Date.

#### **EFFECTIVE DATE**

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