

AN ACT

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

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

SECTION 1. Sections 51.011(a) and (a-1), Natural Resources Code, are amended to read as follows:

(a) Any land, mineral or royalty interest, real estate investment, or other interest, including revenue received from those sources, 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 islands, shall be subject to the sole and exclusive management and control of the school land board and the commissioner under the provisions of this chapter and other applicable law.

(a-1) The board may acquire, sell, lease, trade, improve, maintain, protect, or otherwise manage, control, or use land, mineral and royalty interests, real estate investments, or other interests, including revenue received from those sources, that are ~~is~~ set apart to the permanent school fund in any manner, at such prices, and under such terms and conditions as the board finds to be in the best interest of the fund.

SECTION 2. Section 51.121(b), Natural Resources Code, is amended to read as follows:

(b) Improvements [~~Commercial improvements~~] on land leased

1 under Subsection (a) [~~of this section~~] shall be removed prior to the  
2 expiration of the lease unless the commissioner determines it to be  
3 in the best interest of the state that removal of the improvements  
4 not be required and includes a provision in the terms and conditions  
5 of the lease that the [~~a renewal or an extension of the lease has~~  
6 ~~been finalized prior to the expiration of the term of the lease. If~~  
7 ~~commercial improvements are not removed prior to the expiration of~~  
8 ~~the lease and if there has been no renewal or extension prior to the~~  
9 ~~expiration of the lease, then the commercial] improvements on the  
10 land shall become property of the state upon termination or  
11 expiration of the lease.~~

12 SECTION 3. The heading to Section 51.401, Natural Resources  
13 Code, is amended to read as follows:

14 Sec. 51.401. REAL ESTATE SPECIAL FUND ACCOUNT.

15 SECTION 4. Sections 51.401(a) and (b), Natural Resources  
16 Code, are amended to read as follows:

17 (a) The board may designate funds received from any land,  
18 mineral or royalty interest, real estate investment, or other  
19 interest, including revenue received from those sources, that is  
20 set apart to the permanent school fund under the constitution and  
21 laws of this state together with the mineral estate in riverbeds,  
22 channels, and the tidelands, including islands, [~~the sale of~~  
23 ~~permanent school fund land under this chapter and the proceeds of~~  
24 ~~future mineral leases and royalties generated from existing and~~  
25 ~~future leases of permanent school fund mineral interests received~~  
26 ~~under Chapters 52 and 53] for deposit in the real estate [a] special  
27 fund account of the permanent school fund in the State Treasury to~~

1 be used by the board as provided by this subchapter.

2 (b) The real estate special fund account must be an  
3 interest-bearing account, and the interest received on the account  
4 shall be deposited in the State Treasury to the credit of the real  
5 estate special fund account of the permanent school fund.

6 SECTION 5. Section 51.402, Natural Resources Code, is  
7 amended by amending Subsections (a) and (b) and adding Subsection  
8 (b-1) to read as follows:

9 (a) The board may use the money designated under Section  
10 51.401 for any of the following purposes:

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

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

14 (3) to acquire, as public school land, interests in  
15 real property for biological, commercial, geological, cultural, or  
16 recreational purposes;

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

19 (5) to protect, maintain, or enhance the value of  
20 public school land;

21 (6) to acquire interests in real estate; [~~or~~]

22 (7) to pay reasonable fees for professional services  
23 related to a permanent school fund investment; or

24 (8) to acquire, sell, lease, trade, improve, maintain,  
25 protect, or use land, mineral and royalty interests, or real estate  
26 investments, an investment or interest in public infrastructure, or  
27 other interests, at such prices and under such terms and conditions

1 the board determines to be in the best interest of the permanent  
2 school fund.

3 (b) Before using funds under Subsection (a), the board must  
4 determine, using the prudent investor standard, that the use of the  
5 funds for the intended purpose is authorized by Subsection (a) and  
6 in the best interest of the permanent school fund. A determination  
7 by the board on the use of funds under this section is conclusive  
8 unless the determination was made as a result of fraud or obvious  
9 error.

10 (b-1) The board may confer with one or more employees of the  
11 board or with a third party regarding an investment or potential  
12 investment in real estate, including the acquisition or potential  
13 acquisition of interests in real estate, to the extent permitted to  
14 the board of trustees of the Texas growth fund under Section  
15 551.075, Government Code.

16 SECTION 6. Section 51.4021, Natural Resources Code, is  
17 amended to read as follows:

18 Sec. 51.4021. APPOINTMENT OF SPECIAL FUND MANAGERS,  
19 INVESTMENT CONSULTANTS, OR ADVISORS. (a) The board may appoint  
20 investment managers, consultants, or advisors to invest or assist  
21 the board in investing the money designated under Section 51.401 by  
22 contracting for professional investment management or investment  
23 advisory services with one or more organizations that are in the  
24 business of managing or advising on the management of real estate  
25 investments.

26 (b) To be eligible for appointment under this section, an  
27 investment manager, consultant, or advisor shall agree to abide by

1 the ~~[must be:~~

2 ~~[(1) registered under the Investment Advisers Act of~~  
3 ~~1940 (15 U.S.C. Section 80b-1 et seq.);~~

4 ~~[(2) a bank as defined by that Act; or~~

5 ~~[(3) an insurance company qualified to perform real~~  
6 ~~estate investment services under the laws of more than one state.~~

7 ~~[(c) In a contract under this section, the board shall~~  
8 ~~specify any] policies, requirements, or restrictions, including~~  
9 ethical standards and disclosure policies and criteria for  
10 determining the quality of investments and for the use of standard  
11 rating services, that the board adopts for real estate investments  
12 of the permanent school fund. Money designated under Section  
13 51.401 may not be invested in a real estate investment trust, as  
14 defined by Section 200.001, Business Organizations Code.

15 (c) ~~[(d)]~~ Compensation paid to an investment manager,  
16 consultant, or advisor by the board must be consistent with the  
17 compensation standards of the investment industry and compensation  
18 paid by similarly situated institutional investors.

19 (d) ~~[(e)]~~ Chapter 2263, Government Code, applies to  
20 investment managers, consultants, or advisors appointed under this  
21 section. The board by rule shall adopt standards of conduct for  
22 investment managers, consultants, or advisors appointed under this  
23 section as required by Section 2263.004, Government Code, and shall  
24 implement the disclosure requirements of Section 2263.005 of that  
25 code.

26 SECTION 7. Section 51.412(a), Natural Resources Code, is  
27 amended to read as follows:

1           (a) Not later than September 1 of each even-numbered year,  
2 the board shall submit to the legislature a report that,  
3 specifically and in detail, assesses the direct and indirect  
4 economic impact, as anticipated by the board, of the investment of  
5 funds designated under Section 51.401 for deposit in the real  
6 estate special fund account of the permanent school fund. The board  
7 may not disclose information under this section that is  
8 confidential under applicable state or federal law. The report  
9 must include the following information:

10           (1) the total amount of money designated by Section  
11 51.401 for deposit in the real estate special fund account of the  
12 permanent school fund that the board intends to invest;

13           (2) the rate of return the board expects to attain on  
14 the investment;

15           (3) the amount of money the board expects to  
16 distribute to the available school fund or the State Board of  
17 Education for investment in the permanent school fund after making  
18 the investments;

19           (4) the distribution of the board's investments by  
20 county;

21           (5) the effect of the board's investments on the level  
22 of employment, personal income, and capital investment in the  
23 state; and

24           (6) any other information the board considers  
25 necessary to include in the report.

26           SECTION 8. Subchapter I, Chapter 51, Natural Resources  
27 Code, is amended by adding Section 51.413 to read as follows:

1       Sec. 51.413. TRANSFERS FROM THE REAL ESTATE SPECIAL FUND  
2 ACCOUNT TO THE AVAILABLE SCHOOL FUND AND THE PERMANENT SCHOOL FUND.  
3 The board may, by a resolution adopted at a regular meeting, release  
4 from the real estate special fund account funds previously  
5 designated under Section 51.401 of this chapter or managed, used,  
6 or encumbered under Section 51.402 or Section 51.4021 of this  
7 chapter to be deposited in the State Treasury to the credit of:

8               (1) the available school fund; or

9               (2) the State Board of Education for investment in the  
10 permanent school fund.

11       SECTION 9. Chapter 43, Education Code, is amended to add  
12 Section 43.0051 to read as follows:

13       Sec. 43.0051. TRANSFERS TO REAL ESTATE SPECIAL FUND ACCOUNT  
14 OF THE PERMANENT SCHOOL FUND. The State Board of Education may  
15 transfer funds from the portion of the permanent school fund  
16 managed by the State Board of Education to the real estate special  
17 fund account of the permanent school fund if the State Board of  
18 Education determines, using the standard of care set forth in  
19 Subsection (f), Section 5, Article VII, Texas Constitution, that  
20 such transfer is in the best interest of the permanent school fund.

21       SECTION 10. Sections 51.401(c) and (d), Natural Resources  
22 Code, are repealed.

23       SECTION 11. This Act takes effect immediately if this Act  
24 receives a vote of two-thirds of all the members elected to each  
25 house, as provided by Section 39, Article III, Texas Constitution.  
26 If this Act does not receive the vote necessary for immediate  
27 effect, this Act takes effect September 1, 2007.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 3699 was passed by the House on May 8, 2007, by the following vote: Yeas 146, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3699 on May 25, 2007, by the following vote: Yeas 135, Nays 0, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 3699 was passed by the Senate, with amendments, on May 23, 2007, by the following vote: Yeas 29, Nays 1.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor