

By: Seliger

S.B. No. 654

A BILL TO BE ENTITLED

AN ACT

relating to the management of certain public land; providing for penalties.

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

SECTION 1. Subsection (a), Section 51.073, Natural Resources Code, is amended to read as follows:

(a) Before it is sold, the commissioner shall classify and determine the market value of land on which leases have ~~been cancelled or have~~ expired and land forfeited to the state.

SECTION 2. Subsections (a), (b), and (d), Section 51.121, Natural Resources Code, are amended to read as follows:

(a) Unsold public school land may be leased for any purpose the commissioner determines is in the best interest of the state under terms and conditions set by the commissioner. Improvements ~~[Commercial improvements]~~ on land under this subsection shall not become the property of the state and shall be taxed in the same manner as other private property.

(b) Improvements ~~[Commercial improvements]~~ on land leased under Subsection (a) ~~[of this section]~~ shall 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 ~~[a renewal or an extension of the lease has been finalized prior to the expiration of the term of the lease. If~~

1 ~~commercial improvements are not removed prior to the expiration of~~  
2 ~~the lease and if there has been no renewal or extension prior to the~~  
3 ~~expiration of the lease, then the commercial improvements on the~~  
4 ~~land shall become property of the state].~~

5 (d) In leases granted under this subchapter [~~that are for~~  
6 ~~terms of 20 years or more~~], the commissioner may grant the lessee a  
7 preference right to purchase the leased premises. In order to grant  
8 this preference right, the commissioner must include such a  
9 provision in the lease. The provision may provide that the  
10 preference right to purchase may be exercised at any time during the  
11 term of the lease. If the commissioner does include the preference  
12 right to purchase in the lease, the lessee shall have a preference  
13 right to purchase the leased premises before the leased premises  
14 are made available for sale to any other person. All sales under  
15 this subsection must be for a price [~~not less than market value as~~  
16 ~~determined by the board~~ [~~an appraiser~~] and under any other terms and  
17 conditions that the commissioner deems to be in the best interest of  
18 the state. The preference right to purchase granted under this  
19 subsection is superior to any other preference right to purchase  
20 granted under any other section of this code or under any other law.  
21 Nothing in this subsection shall be construed to allow the  
22 commissioner to grant a preference right to purchase submerged  
23 land.

24 SECTION 3. Section 51.127, Natural Resources Code, is  
25 amended to read as follows:

26 Sec. 51.127. RECORDING MEMORANDUM OF LEASE. (a) The  
27 [~~After the lessee has paid the rent for the land for a year in~~

1 ~~advance, the~~ commissioner shall prepare a descriptive memorandum  
2 of the lease at the time the lease is executed and deliver the lease  
3 and the memorandum to the lessee [~~clerk of the county in which the~~  
4 ~~land is located~~].

5 (b) The lessee [~~When a lease is filed for record, the clerk~~]  
6 shall deliver the [~~prepare a~~] memorandum [~~or abstract~~] of the lease  
7 to the clerk of the county in which the land is located [~~and shall~~  
8 ~~record the memorandum or abstract in a well-bound book or on~~  
9 ~~microfilm kept in his office~~].

10 (c) The clerk shall record the memorandum in the county  
11 clerk's office [~~or abstract shall contain:~~

- 12 [~~(1) the number of the survey leased,~~  
13 [~~(2) the name of the original grantee,~~  
14 [~~(3) the amount of land leased,~~  
15 [~~(4) the name of the lessee,~~  
16 [~~(5) the date of the lease, and~~  
17 [~~(6) the term of years the lease is to run~~].

18 (d) On payment of the recording fee [~~required by law~~], the  
19 clerk shall deliver the recorded memorandum [~~lease~~] to the lessee.  
20 The lessee shall provide to the commissioner a certified copy of the  
21 recorded memorandum.

22 [~~(e) Except for the record made under this section, no other~~  
23 ~~record of a lease is required.~~]

24 SECTION 4. Subsection (a), Section 51.291, Natural  
25 Resources Code, is amended to read as follows:

26 (a) Except as provided by Subsection (b) [~~of this section~~],  
27 the commissioner may execute grants of easements or other interests

1 in property for rights-of-way or access across, through, and under  
2 unsold public school land, the portion of the Gulf of Mexico within  
3 the jurisdiction of the state, the state-owned riverbeds and beds  
4 of navigable streams in the public domain, and all islands,  
5 saltwater lakes, bays, inlets, marshes, and reefs owned by the  
6 state within tidewater limits for:

7 (1) telephone, telegraph, electric transmission, and  
8 power lines;

9 (2) oil pipelines, including pipelines connecting the  
10 onshore storage facilities with the offshore facilities of a  
11 deepwater port, as defined by the federal Deepwater Port Act of 1974  
12 (33 U.S.C.A. Section 1501 et seq.), gas pipelines, sulphur  
13 pipelines, and other electric lines and pipelines of any nature;

14 (3) irrigation canals, laterals, and water pipelines;

15 (4) roads; and

16 (5) any other purpose the commissioner considers to be  
17 in the best interest of the state.

18 SECTION 5. Section 51.292, Natural Resources Code, is  
19 amended to read as follows:

20 Sec. 51.292. EASEMENTS AND LEASES FOR CERTAIN  
21 FACILITIES. The commissioner may execute grants of easements or  
22 leases for electric substations, pumping stations, loading racks,  
23 and tank farms, and for any other purpose the commissioner  
24 determines to be in the best interest of the state, to be located on  
25 state land other than land owned by The University of Texas System.

26 SECTION 6. Section 51.293, Natural Resources Code, is  
27 transferred to Subchapter C, Chapter 66, Education Code,

1 redesignated as Section 66.46, Education Code, and amended to read  
2 as follows:

3       Sec. 66.46 [~~51.293~~]. EASEMENTS ON UNIVERSITY LAND. (a) The  
4 board [~~Board~~] of regents [~~Regents~~] of The University of Texas  
5 System may [~~continue to~~] execute grants of [~~all right-of-way~~]  
6 easements or other interests in property for rights-of-way or  
7 access [~~under authority already granted~~] across land that belongs  
8 to the state but is dedicated to the support and maintenance of The  
9 University of Texas System for telephone, telegraph, electric  
10 transmission, and powerlines, for oil pipelines, gas pipelines,  
11 sulphur pipelines, and other electric lines and pipelines of any  
12 nature, and for irrigation canals, laterals, and water pipelines.

13       (b) The board of regents may [~~continue to~~] execute [~~under~~  
14 ~~authority already granted~~] grants of easements [~~or leases~~] for the  
15 erection and maintenance of electric substations, pumping  
16 stations, loading racks, and tank farms on university land, and for  
17 any other purpose the board determines to be in the best interest of  
18 the permanent university fund land.

19       (c) In addition to the purposes for which grants of  
20 easements may be executed under Subsections (a) and (b) [~~of this~~  
21 ~~section~~], the board of regents may execute grants of easements on  
22 university land for any other purpose and on any terms it considers  
23 to be in the best interest of the permanent university fund land.

24       (d) An easement under this section may not be granted for a  
25 term that is longer than 10 years, but the easement may be renewed  
26 by the board of regents. The rent to be charged for an easement  
27 under this section shall be an amount agreed to by the grantee and

1 the board.

2 (e) Income received from university land under this section  
3 shall be credited to the available university fund.

4 (f) Payments under this subchapter that are past due shall  
5 bear interest at a rate equal to the rate imposed by the comptroller  
6 under Section 111.060, Tax Code, for delinquent payments due the  
7 state, except that if the board of regents enters into an agreement  
8 with the grantee of the easement specifying a lower rate, the  
9 payments bear interest at that lower rate.

10 (g) Each easement granted under this section shall be  
11 recorded in the county clerk's office of the county in which the  
12 land is located, and the recording fee shall be paid by the person  
13 who obtains the easement. The person who obtains the easement shall  
14 furnish to the board of regents a certified copy of the easement.

15 (h) No person may construct or maintain any structure or  
16 facility on land dedicated to the support and maintenance of The  
17 University of Texas System, nor may any person who has not acquired  
18 a proper easement, lease, permit, or other instrument from the  
19 board of regents and who owns or possesses a facility or structure  
20 that is now located on or across land dedicated to the support and  
21 maintenance of The University of Texas System continue in  
22 possession of the land unless the person obtains from the board an  
23 easement, lease, permit, or other instrument for the land on which  
24 the facility or structure is to be constructed or is located.

25 (i) A person who constructs, maintains, owns, or possesses a  
26 facility or structure on university land without a proper easement  
27 or lease is liable for a penalty of not less than \$50 or more than

1 \$1,000 a day for each day that a violation occurs. The penalty  
2 shall be recovered on behalf of the board of regents in a civil  
3 action by the attorney general.

4 (j) A person who owns, maintains, or possesses an  
5 unauthorized facility or structure is, for purposes of this  
6 section, the person who last owned, maintained, or possessed the  
7 facility or structure.

8 (k) A person who constructs, maintains, owns, or possesses a  
9 facility or structure on university land without the proper  
10 easement or lease is liable to the board of regents for the costs of  
11 removing that facility or structure.

12 (l) This section does not affect the authority of the board  
13 of regents under Section 66.41.

14 SECTION 7. Section 51.295, Natural Resources Code, is  
15 amended to read as follows:

16 Sec. 51.295. CONDITIONS FOR EASEMENT. Telephone,  
17 telegraph, electric transmission, powerline, and pipeline  
18 right-of-way easements and easements or rights-of-way for  
19 irrigation canals, laterals, and water pipelines shall be executed  
20 on terms to be determined by the commissioner [~~or the board of~~  
21 ~~regents, but no easement for an oil, gas, or sulphur pipeline or a~~  
22 ~~telephone, telegraph, electric transmission, or powerline easement~~  
23 ~~may be granted that does not provide for the annual privilege fee of~~  
24 ~~not less than two and one-half cents a lineal rod a year].~~

25 SECTION 8. Subsection (a), Section 51.296, Natural  
26 Resources Code, is amended to read as follows:

27 (a) [~~Except as provided in Subsection (b) of this section,~~

1 ~~no grant of easement or lease enumerated under Section 51.293 of~~  
2 ~~this code may be granted for a term that is longer than 10 years, but~~  
3 ~~an easement or lease may be renewed by the board of regents of The~~  
4 ~~University of Texas System.]~~ The term for easements or leases  
5 granted under Sections 51.291 and 51.292 [~~of this subchapter~~] may  
6 be for any term the commissioner deems to be in the best interest of  
7 the state.

8 SECTION 9. Section 51.297, Natural Resources Code, is  
9 amended to read as follows:

10 Sec. 51.297. RECORDING EASEMENTS. (a) Each easement  
11 granted under this subchapter [~~Sections 51.291 through 51.293 of~~  
12 ~~this code~~] shall be recorded in the county clerk's office of the  
13 county in which the land is located, and the recording fee shall be  
14 paid by the person who obtains the easement.

15 (b) The person who obtains an easement under this subchapter  
16 [~~Sections 51.291 and 51.292 of this code~~] shall furnish to the  
17 commissioner a certified copy of the easement. [~~The person who~~  
18 ~~obtains an easement under Section 51.293 of this code shall furnish~~  
19 ~~to the board of regents of The University of Texas System a~~  
20 ~~certified copy of the easement.~~]

21 SECTION 10. Section 51.299, Natural Resources Code, is  
22 amended to read as follows:

23 Sec. 51.299. FEES FOR CERTAIN FACILITIES. The rent to be  
24 charged for an easement or lease for an electric substation site,  
25 pumping station, loading rack, tank farm, or road or for an easement  
26 for a purpose not specifically listed by Section 51.291 or [7]  
27 51.292 [~~7, or 51.293 of this code~~] but granted in the best interest of



1 the state [~~or the permanent university fund land~~] shall be an amount  
2 agreed to between the lessee and the [~~board of regents with respect~~  
3 ~~to university land and the~~] commissioner [~~with respect to other~~  
4 ~~state land~~].

5 SECTION 11. Section 51.300, Natural Resources Code, is  
6 amended to read as follows:

7 Sec. 51.300. DISPOSITION OF INCOME. Income received by the  
8 commissioner under this subchapter from public school land shall be  
9 credited to the permanent school fund[, ~~and income received from~~  
10 ~~university land shall be credited to the available university~~  
11 ~~fund~~]. Other income received by the commissioner on other land  
12 under this subchapter shall be credited to the General Revenue  
13 Fund.

14 SECTION 12. Section 51.301, Natural Resources Code, is  
15 amended to read as follows:

16 Sec. 51.301. INTEREST ON PAST-DUE PAYMENTS. [~~(a)~~]  
17 Payments under this subchapter that are past due shall bear  
18 interest at a rate equal to the rate imposed by the comptroller  
19 under Section 111.060, Tax Code, for delinquent payments due the  
20 state, except that if the commissioner enters into an agreement  
21 with the grantee of the easement or lease specifying a lower rate,  
22 the payments bear interest at that lower rate [~~of 10 percent a~~  
23 ~~year~~].

24 [~~(b) If no date for payment is provided in the contract or if~~  
25 ~~no written contract has been executed, the unpaid annual fees shall~~  
26 ~~bear interest at a rate of 10 percent calculated from January 1~~  
27 ~~following the year for which the annual privilege fee was due.~~]

1           SECTION 13. Subsection (a), Section 51.302, Natural  
2 Resources Code, is amended to read as follows:

3           (a) No person may construct or maintain any structure or  
4 facility on land owned by the state, nor may any person who has not  
5 acquired a proper easement, lease, permit, or other instrument from  
6 the state as required by this chapter or Chapter 33 [~~of this code~~]  
7 and who owns or possesses a facility or structure that is now  
8 located on or across state land continue in possession of the land  
9 unless he obtains from the commissioner or[~~7~~] the board[~~, or the~~  
10 ~~board of regents~~] an easement, lease, permit, or other instrument  
11 required by this chapter or Chapter 33 [~~of this code~~] for the land  
12 on which the facility or structure is to be constructed or is  
13 located.

14           SECTION 14. The following provisions of the Natural  
15 Resources Code are repealed:

- 16           (1) Subsection (c), Section 51.121;  
17           (2) Section 51.128;  
18           (3) Section 51.130;  
19           (4) Section 51.294; and  
20           (5) Section 51.298.

21           SECTION 15. This Act takes effect immediately if it  
22 receives a vote of two-thirds of all the members elected to each  
23 house, as provided by Section 39, Article III, Texas Constitution.  
24 If this Act does not receive the vote necessary for immediate  
25 effect, this Act takes effect September 1, 2007.