

1-1 By: Seliger S.B. No. 654  
1-2 (In the Senate - Filed February 15, 2007; February 28, 2007,  
1-3 read first time and referred to Committee on Natural Resources;  
1-4 April 23, 2007, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 23, 2007,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 654 By: Seliger

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the management of certain public land; providing for  
1-11 penalties.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subsection (a), Section 51.073, Natural  
1-14 Resources Code, is amended to read as follows:

1-15 (a) Before it is sold, the commissioner shall classify and  
1-16 determine the market value of land on which leases have [~~been~~  
1-17 ~~cancelled or have~~] expired and land forfeited to the state.

1-18 SECTION 2. Subsections (a), (b), and (d), Section 51.121,  
1-19 Natural Resources Code, are amended to read as follows:

1-20 (a) Unsold public school land may be leased for any purpose  
1-21 the commissioner determines is in the best interest of the state  
1-22 under terms and conditions set by the commissioner. Improvements  
1-23 [~~Commercial improvements~~] on land under this subsection shall not  
1-24 become the property of the state and shall be taxed in the same  
1-25 manner as other private property.

1-26 (b) Improvements [~~Commercial improvements~~] on land leased  
1-27 under Subsection (a) [~~of this section~~] shall be removed prior to the  
1-28 expiration of the lease unless the commissioner determines it to be  
1-29 in the best interest of the state that removal of the improvements  
1-30 not be required and includes such a provision in the terms and  
1-31 conditions of the lease [~~a renewal or an extension of the lease has~~  
1-32 ~~been finalized prior to the expiration of the term of the lease. If~~  
1-33 ~~commercial improvements are not removed prior to the expiration of~~  
1-34 ~~the lease and if there has been no renewal or extension prior to the~~  
1-35 ~~expiration of the lease, then the commercial improvements on the~~  
1-36 ~~land shall become property of the state~~].

1-37 (d) In leases granted under this subchapter [~~that are for~~  
1-38 ~~terms of 20 years or more~~], the commissioner may grant the lessee a  
1-39 preference right to purchase the leased premises. In order to grant  
1-40 this preference right, the commissioner must include such a  
1-41 provision in the lease. The provision may provide that the  
1-42 preference right to purchase may be exercised at any time during the  
1-43 term of the lease. If the commissioner does include the preference  
1-44 right to purchase in the lease, the lessee shall have a preference  
1-45 right to purchase the leased premises before the leased premises  
1-46 are made available for sale to any other person. All sales under  
1-47 this subsection must be for a price [~~not less than market value as~~  
1-48 ~~determined by the board~~ [~~an appraiser~~] and under any other terms and  
1-49 conditions that the commissioner deems to be in the best interest of  
1-50 the state. The preference right to purchase granted under this  
1-51 subsection is superior to any other preference right to purchase  
1-52 granted under any other section of this code or under any other law.  
1-53 Nothing in this subsection shall be construed to allow the  
1-54 commissioner to grant a preference right to purchase submerged  
1-55 land.

1-56 SECTION 3. Section 51.127, Natural Resources Code, is  
1-57 amended to read as follows:

1-58 Sec. 51.127. RECORDING MEMORANDUM OF LEASE. (a) The  
1-59 [~~After the lessee has paid the rent for the land for a year in~~  
1-60 ~~advance, the~~] commissioner shall prepare a descriptive memorandum  
1-61 of the lease at the time the lease is executed and deliver the lease  
1-62 and the memorandum to the lessee [~~clerk of the county in which the~~  
1-63 ~~land is located~~].

2-1 (b) ~~The lessee [When a lease is filed for record, the clerk]~~  
2-2 ~~shall deliver the [prepare a] memorandum [or abstract] of the lease~~  
2-3 ~~to the clerk of the county in which the land is located [and shall~~  
2-4 ~~record the memorandum or abstract in a well-bound book or on~~  
2-5 ~~microfilm kept in his office].~~

2-6 (c) The clerk shall record the memorandum in the county  
2-7 clerk's office [or abstract shall contain:

- 2-8 ~~[(1) the number of the survey leased,~~
- 2-9 ~~[(2) the name of the original grantee,~~
- 2-10 ~~[(3) the amount of land leased,~~
- 2-11 ~~[(4) the name of the lessee,~~
- 2-12 ~~[(5) the date of the lease, and~~
- 2-13 ~~[(6) the term of years the lease is to run].~~

2-14 (d) On payment of the recording fee [required by law], the  
2-15 clerk shall deliver the recorded memorandum [lease] to the lessee.  
2-16 The lessee shall provide to the commissioner a certified copy of the  
2-17 recorded memorandum.

2-18 ~~[(c) Except for the record made under this section, no other~~  
2-19 ~~record of a lease is required.]~~

2-20 SECTION 4. Subsection (a), Section 51.291, Natural  
2-21 Resources Code, is amended to read as follows:

2-22 (a) Except as provided by Subsection (b) ~~[of this section]~~,  
2-23 the commissioner may execute grants of easements or other interests  
2-24 in property for rights-of-way or access across, through, and under  
2-25 unsold public school land, the portion of the Gulf of Mexico within  
2-26 the jurisdiction of the state, the state-owned riverbeds and beds  
2-27 of navigable streams in the public domain, and all islands,  
2-28 saltwater lakes, bays, inlets, marshes, and reefs owned by the  
2-29 state within tidewater limits for:

- 2-30 (1) telephone, telegraph, electric transmission, and  
2-31 power lines;
- 2-32 (2) oil pipelines, including pipelines connecting the  
2-33 onshore storage facilities with the offshore facilities of a  
2-34 deepwater port, as defined by the federal Deepwater Port Act of 1974  
2-35 (33 U.S.C.A. Section 1501 et seq.), gas pipelines, sulphur  
2-36 pipelines, and other electric lines and pipelines of any nature;
- 2-37 (3) irrigation canals, laterals, and water pipelines;
- 2-38 (4) roads; and
- 2-39 (5) any other purpose the commissioner considers to be  
2-40 in the best interest of the state.

2-41 SECTION 5. Section 51.292, Natural Resources Code, is  
2-42 amended to read as follows:

2-43 Sec. 51.292. EASEMENTS AND LEASES FOR CERTAIN  
2-44 FACILITIES. The commissioner may execute grants of easements or  
2-45 leases for electric substations, pumping stations, loading racks,  
2-46 and tank farms, and for any other purpose the commissioner  
2-47 determines to be in the best interest of the state, to be located on  
2-48 state land other than land owned by The University of Texas System.

2-49 SECTION 6. Section 51.293, Natural Resources Code, is  
2-50 transferred to Subchapter C, Chapter 66, Education Code,  
2-51 redesignated as Section 66.46, Education Code, and amended to read  
2-52 as follows:

2-53 Sec. 66.46 ~~[51.293]~~. EASEMENTS ON UNIVERSITY LAND. (a) The  
2-54 board [Board] of regents [Regents] of The University of Texas  
2-55 System may [continue to] execute grants of [all right-of-way]  
2-56 easements or other interests in property for rights-of-way or  
2-57 access [under authority already granted] across land that belongs  
2-58 to the state but is dedicated to the support and maintenance of The  
2-59 University of Texas System for telephone, telegraph, electric  
2-60 transmission, and powerlines, for oil pipelines, gas pipelines,  
2-61 sulphur pipelines, and other electric lines and pipelines of any  
2-62 nature, and for irrigation canals, laterals, and water pipelines.

2-63 (b) The board of regents may ~~[continue to] execute [under~~  
2-64 ~~authority already granted] grants of easements [or leases] for the~~  
2-65 ~~erection and maintenance of electric substations, pumping~~  
2-66 ~~stations, loading racks, and tank farms on university land, and for~~  
2-67 ~~any other purpose the board determines to be in the best interest of~~  
2-68 ~~the permanent university fund land.~~

2-69 (c) In addition to the purposes for which grants of

3-1 easements may be executed under Subsections (a) and (b) [~~of this~~  
 3-2 ~~section~~], the board of regents may execute grants of easements on  
 3-3 university land for any other purpose and on any terms it considers  
 3-4 to be in the best interest of the permanent university fund land.

3-5 (d) An easement under this section may not be granted for a  
 3-6 term that is longer than 10 years, but the easement may be renewed  
 3-7 by the board of regents. The rent to be charged for an easement  
 3-8 under this section shall be an amount agreed to by the grantee and  
 3-9 the board.

3-10 (e) Income received from university land under this section  
 3-11 shall be credited to the available university fund.

3-12 (f) Payments under this subchapter that are past due shall  
 3-13 bear interest at a rate equal to the rate imposed by the comptroller  
 3-14 under Section 111.060, Tax Code, for delinquent payments due the  
 3-15 state, except that if the board of regents enters into an agreement  
 3-16 with the grantee of the easement specifying a lower rate, the  
 3-17 payments bear interest at that lower rate.

3-18 (g) Each easement granted under this section shall be  
 3-19 recorded in the county clerk's office of the county in which the  
 3-20 land is located, and the recording fee shall be paid by the person  
 3-21 who obtains the easement. The person who obtains the easement shall  
 3-22 furnish to the board of regents a certified copy of the easement.

3-23 (h) No person may construct or maintain any structure or  
 3-24 facility on land dedicated to the support and maintenance of The  
 3-25 University of Texas System, nor may any person who has not acquired  
 3-26 a proper easement, lease, permit, or other instrument from the  
 3-27 board of regents and who owns or possesses a facility or structure  
 3-28 that is now located on or across land dedicated to the support and  
 3-29 maintenance of The University of Texas System continue in  
 3-30 possession of the land unless the person obtains from the board an  
 3-31 easement, lease, permit, or other instrument for the land on which  
 3-32 the facility or structure is to be constructed or is located.

3-33 (i) A person who constructs, maintains, owns, or possesses a  
 3-34 facility or structure on university land without a proper easement  
 3-35 or lease is liable for a penalty of not less than \$50 or more than  
 3-36 \$1,000 a day for each day that a violation occurs. The penalty  
 3-37 shall be recovered on behalf of the board of regents in a civil  
 3-38 action by the attorney general.

3-39 (j) A person who owns, maintains, or possesses an  
 3-40 unauthorized facility or structure is, for purposes of this  
 3-41 section, the person who last owned, maintained, or possessed the  
 3-42 facility or structure.

3-43 (k) A person who constructs, maintains, owns, or possesses a  
 3-44 facility or structure on university land without the proper  
 3-45 easement or lease is liable to the board of regents for the costs of  
 3-46 removing that facility or structure.

3-47 (l) This section does not affect the authority of the board  
 3-48 of regents under Section 66.41.

3-49 SECTION 7. Section 51.295, Natural Resources Code, is  
 3-50 amended to read as follows:

3-51 Sec. 51.295. CONDITIONS FOR EASEMENT. Telephone,  
 3-52 telegraph, electric transmission, powerline, and pipeline  
 3-53 right-of-way easements and easements or rights-of-way for  
 3-54 irrigation canals, laterals, and water pipelines shall be executed  
 3-55 on terms to be determined by the commissioner [~~or the board of~~  
 3-56 ~~regents, but no easement for an oil, gas, or sulphur pipeline or a~~  
 3-57 ~~telephone, telegraph, electric transmission, or powerline easement~~  
 3-58 ~~may be granted that does not provide for the annual privilege fee of~~  
 3-59 ~~not less than two and one-half cents a lineal rod a year].~~

3-60 SECTION 8. Subsection (a), Section 51.296, Natural  
 3-61 Resources Code, is amended to read as follows:

3-62 (a) [~~Except as provided in Subsection (b) of this section,~~  
 3-63 ~~no grant of easement or lease enumerated under Section 51.293 of~~  
 3-64 ~~this code may be granted for a term that is longer than 10 years, but~~  
 3-65 ~~an easement or lease may be renewed by the board of regents of The~~  
 3-66 ~~University of Texas System.] The term for easements or leases  
 3-67 granted under Sections 51.291 and 51.292 [~~of this subchapter~~]  
 3-68 be for any term the commissioner deems to be in the best interest of  
 3-69 the state.~~

4-1 SECTION 9. Section 51.297, Natural Resources Code, is  
 4-2 amended to read as follows:

4-3 Sec. 51.297. RECORDING EASEMENTS. (a) Each easement  
 4-4 granted under this subchapter [~~Sections 51.291 through 51.293 of~~  
 4-5 ~~this code~~] shall be recorded in the county clerk's office of the  
 4-6 county in which the land is located, and the recording fee shall be  
 4-7 paid by the person who obtains the easement.

4-8 (b) The person who obtains an easement under this subchapter  
 4-9 [~~Sections 51.291 and 51.292 of this code~~] shall furnish to the  
 4-10 commissioner a certified copy of the easement. [~~The person who~~  
 4-11 ~~obtains an easement under Section 51.293 of this code shall furnish~~  
 4-12 ~~to the board of regents of The University of Texas System a~~  
 4-13 ~~certified copy of the easement.~~]

4-14 SECTION 10. Section 51.299, Natural Resources Code, is  
 4-15 amended to read as follows:

4-16 Sec. 51.299. FEES FOR CERTAIN FACILITIES. The rent to be  
 4-17 charged for an easement or lease for an electric substation site,  
 4-18 pumping station, loading rack, tank farm, or road or for an easement  
 4-19 for a purpose not specifically listed by Section 51.291 or [7]  
 4-20 51.292 [~~, or 51.293 of this code~~] but granted in the best interest of  
 4-21 the state [~~or the permanent university fund land~~] shall be an amount  
 4-22 agreed to between the lessee and the [~~board of regents with respect~~  
 4-23 ~~to university land and the~~] commissioner [~~with respect to other~~  
 4-24 ~~state land~~].

4-25 SECTION 11. Section 51.300, Natural Resources Code, is  
 4-26 amended to read as follows:

4-27 Sec. 51.300. DISPOSITION OF INCOME. Income received by the  
 4-28 commissioner under this subchapter from public school land shall be  
 4-29 credited to the permanent school fund [~~, and income received from~~  
 4-30 ~~university land shall be credited to the available university~~  
 4-31 ~~fund~~]. Other income received by the commissioner on other land  
 4-32 under this subchapter shall be credited to the General Revenue  
 4-33 Fund.

4-34 SECTION 12. Section 51.301, Natural Resources Code, is  
 4-35 amended to read as follows:

4-36 Sec. 51.301. INTEREST ON PAST-DUE PAYMENTS. [~~(a)~~]  
 4-37 Payments under this subchapter that are past due shall bear  
 4-38 interest at a rate equal to the rate imposed by the comptroller  
 4-39 under Section 111.060, Tax Code, for delinquent payments due the  
 4-40 state, except that if the commissioner enters into an agreement  
 4-41 with the grantee of the easement or lease specifying a lower rate,  
 4-42 the payments bear interest at that lower rate [~~of 10 percent a~~  
 4-43 ~~year~~].

4-44 [~~(b) If no date for payment is provided in the contract or if~~  
 4-45 ~~no written contract has been executed, the unpaid annual fees shall~~  
 4-46 ~~bear interest at a rate of 10 percent calculated from January 1~~  
 4-47 ~~following the year for which the annual privilege fee was due.~~]

4-48 SECTION 13. Subsection (a), Section 51.302, Natural  
 4-49 Resources Code, is amended to read as follows:

4-50 (a) No person may construct or maintain any structure or  
 4-51 facility on land owned by the state, nor may any person who has not  
 4-52 acquired a proper easement, lease, permit, or other instrument from  
 4-53 the state as required by this chapter or Chapter 33 [~~of this code~~]  
 4-54 and who owns or possesses a facility or structure that is now  
 4-55 located on or across state land continue in possession of the land  
 4-56 unless he obtains from the commissioner or [7] the board [~~, or the~~  
 4-57 ~~board of regents~~] an easement, lease, permit, or other instrument  
 4-58 required by this chapter or Chapter 33 [~~of this code~~] for the land  
 4-59 on which the facility or structure is to be constructed or is  
 4-60 located.

4-61 SECTION 14. The following provisions of the Natural  
 4-62 Resources Code are repealed:

- 4-63 (1) Subsection (c), Section 51.121;
- 4-64 (2) Section 51.128;
- 4-65 (3) Section 51.130;
- 4-66 (4) Section 51.294; and
- 4-67 (5) Section 51.298.

4-68 SECTION 15. This Act takes effect immediately if it  
 4-69 receives a vote of two-thirds of all the members elected to each

5-1 house, as provided by Section 39, Article III, Texas Constitution.  
5-2 If this Act does not receive the vote necessary for immediate  
5-3 effect, this Act takes effect September 1, 2007.

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