

BILL ANALYSIS

C.S.H.B. 3032
By: Keffer
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In 1928, the Brazos River Authority (BRA), originally the Brazos River Conservation and Reclamation District, was created by the State of Texas to “conserve, control and utilize to beneficial service the storm and flood waters of the Brazos River and its tributary streams.” Due, in large part, to major flooding in the area, a dam on the Brazos River in northwest Palo Pinto County was proposed in the 1930s and construction began in 1938. Morris Sheppard Dam was completed in 1941, and Lake Possum Kingdom, primarily located in Palo Pinto County with more than 310 miles of shoreline.

The SET Ranch, located in Palo Pinto and Stephens Counties, has been a working cattle ranch since the original Texas land grants of 1854, and was named in 1881 under the assemblage and ownership of three families – Small, Ewen, and Taylor. It continues today as a working cattle ranch, wildlife and land management and soil and water conservation programs in consultation with specialists and state agencies. During the acquisition of the property for the construction of the dam, the BRA acquired more than 4,298 acres of SET Ranch land for the reservoir. 576 acres of that purchase were sold by the BRA in 1944 and have since been acquired and rejoined with the SET Ranch. Approximately 880 acres of the original land acquired by the BRA from the SET Ranch and located above the 1000' contour line and is surrounded and contiguous and adjacent to the ranch. This land has no public ground access. Approximately 130 acres of the 880 acres are leased by the BRA to individuals as residential sites and the remaining approximate 750 acres will be offered for sale under C.S.H.B. 3032.

C.S.H.B. 3032 amends Chapter 8502, Special District Local Laws Code, by adding a new Section 8502.013a requiring the procedures the BRA must follow in a sale of BRA property at Possum Kingdom Lake located within described tracts of land acquired from the SET Ranch, located above the 1000' contour line, not leased by the BRA for residential purposes, and which are not located within the BRA or FERC project boundary to the SET Ranch at fair market value.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to any state officer, institution, or agency.

ANALYSIS

SECTION 1.

Adds Section 8502.013a to the Special District Local Laws Code as follows:

Sec. 8502.013a (a) defines important terms in this section.

Sec. 8502.013a (b) requires the Authority to offer to sell certain property around Possum Kingdom Lake that is surrounded by a single freeholder or the Lake for its fair market value to that single freeholder. The subsection requires the sale to occur in accordance with the directives of this subsection. This subsection also provides the manner in which fair market value is to be determined.

Sec. 8502.013a (c) requires the Authority to provide notice of any property exempted from sale under this subsection and authorizes the Offeree to challenge the exemption.

Sec. 8502.013a (d) requires the Offeree to pay survey and closing costs.

Sec. 8502.013a (e) provides that any a dispute concerning the designation of property as Captive Property To Be Sold shall be resolved by action in the district court of Travis County, and any claim to governmental immunity on behalf of the Authority is waived for the determination of any such dispute.

Sec. 8502.013a (f) requires the Authority to provide a Special Warranty Deed encompassing all interests in the property held by the Authority, subject only to those restrictions and prohibitions contained in the deed of conveyance under which the Authority originally acquired title to the property; provides a hold harmless provision for the Authority in the event of temporary flooding.

Sec. 8502.013a (g) reserves the Authority the right to enter the property to be sold.

Sec. 8502.013a (h) requires the purchaser to place a conservation easement on the property.

Sec. 8502.013a (i) provides that Chapters 232 and 272, Local Government Code, shall not apply to any sale of property under this section.

Sec. 8502.013a (j) authorizes the Authority to use proceeds from the sale of property under this section for any Authority purpose.

Sec. 8502.013a (k) provides that this section prevails if there is a conflict with another law.

SECTION 2.

Section 8502.013a, Special District Local Laws Code, as added by this Act, prevails to the extent that it conflicts with any other state law.

SECTION 3.

Effective Date: September 1, 2009, unless the bill receives the vote necessary for immediate effect.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute:

1. corrects certain definitions including adding more specific definitions for the lake and the property to be sold in the substitute;
2. adds definitions for "FERC License" and "Adjacent Land";
3. clarifies that the property shall be offered to anyone who owns adjacent land in proportion to the other adjacent landowners wishing to acquire the property;
4. adds a subdivision to determine the fair market value of the property;
5. adds a subsection to require the Authority to provide notice of any property exempted from sale under this subsection and to authorize the Offeree to challenge the exemption;
6. shifts survey and closing costs to the Offeree;
7. clarifies which restrictions and prohibitions shall be contained in the special warranty deed;
8. provides a hold harmless provision for the Authority in the event of temporary flooding;
9. adds a subsection reserving the Authorities right to enter the property to be sold; and
10. adds a subsection requiring the purchaser to place a conservation easement on the property to be sold; and
11. adds a subsection that provides that this section prevails if there is a conflict with another law.