

## **BILL ANALYSIS**

C.S.H.B. 3461

By: Orr

Land & Resource Management  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The School Land Board is responsible for overseeing the management of public lands, minerals, and other real estate assets dedicated to the permanent school fund. Provisions in the Natural Resources Code provide the statutory basis for the authority of the board, provide that the commissioner of the General Land Office is responsible for the administration of public lands, set out procedures for the sale of public land, and provide procedures for the determination of unsurveyed public land by the land commissioner and the preference right of certain parties.

C.S.H.B. 3461 makes various changes relating to the powers and duties of the board and the commissioner.

### **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**

C.S.H.B. 3461 amends the Natural Resources Code to add land acquired on behalf of the permanent school fund and the asylum funds to the definition of "land" for purposes of provisions relating to the School Land Board, including a duty of the board and the permissible purposes for which public school land may be traded, and to the definition of "surveyed land" for purposes of provisions relating to the management of public school and asylum land.

C.S.H.B. 3461 specifies that the board meets on specified days each month at a time and location to be designated by the board, rather than in the General Land Office. The bill describes a board duty as determining the prices and setting the terms and conditions under which land will be sold, rather than the terms of the contract for which land is sold. The bill specifies that the requirement for the commissioner of the General Land Office to furnish the board with a list of land from time to time is as requested by the board. The bill requires the board to open bids for the sale, lease, or commitment to a contract for development of land on a date on which the board has a special meeting, in addition to the scheduled board meeting dates.

C.S.H.B. 3461 changes publication requirements for a notice of sale, lease, or commitment to a contract for development from four daily newspapers to four daily newspapers or other publications, two of which may be Internet-based journals, trade publications, newsletters, or similar news media, that the commissioner considers likely to reach the public interested in responding to the notice. The bill specifies that the notice is required to be published at least 30 days before the date the bids are due, rather than advertised to be opened. The bill requires the notice to include how a person may obtain additional information concerning the land being offered, rather than that the person may obtain publications from the land office that describe the land.

C.S.H.B. 3461 authorizes the board to waive a special fee on land sales to any state agency, board, commission, political subdivision, or other governmental entity. The bill requires the commissioner to demand payment of the fee before accepting the bid and completing the transaction, rather than before a lease is issued to the best bidder. The bill removes a provision relating to the best bidder's failure to make the payment within 30 days.

C.S.H.B. 3461 adds acquiring land for the use and benefit of the permanent school fund to the purposes for which public school land may be traded.

C.S.H.B. 3461 adds a definition of "sovereign land" for purposes of provisions relating to land, timber, and surface resources. The bill removes the determination of the market value of land from provisions relating to the duty of the commissioner to classify and reclassify land. The bill removes the requirement that the commissioner submit rules necessary to carry out provisions relating to land, timber, and surface resources to the governor for approval before the commissioner may adopt such rules.

C.S.H.B. 3461 amends provisions relating to the conditions for sale of public school land and asylum land. The bill changes a provision relating to the preference right to purchase of owners of surrounding land to refer to a tract of land approved for sale by the board, rather than land in a tract or a tract of land 1,200 acres or less. The bill changes the authorization of the asset management division to contract for the services of a real estate broker or of a private brokerage or real estate firm to assist in a transaction to apply to any sale, lease, or exchange of land under these provisions, rather than only when no bid meeting minimum requirements is received or an award of a bid does not result in a final transaction.

C.S.H.B. 3461 authorizes a person to submit a request to purchase land in a form designated by the commissioner, as an alternative to an application, removes the requirement that a person submit a separate application for each tract, and removes provisions relating to the contents of an application, the effective date of a sale, and a required statement on the application to purchase and the notice of award regarding condition of settlement and reservation of minerals.

C.S.H.B. 3461 requires the commissioner to issue a land award, rather than a notice of award, for each tract of land sold. The bill requires unpaid and delinquent principal, rather than unpaid and delinquent principal and interest, on sales of public land to bear interest at a rate set by the board and removes the specification that the times and terms for payment of such principal and interest established by the board are established by rule or by contract. The bill specifies that no patent may be issued for any public school land until all principal, accrued interest, late charges, and other fees and expenses are paid in full, rather than until all unpaid principal and compounded interest is paid to the time of issuing the patent.

C.S.H.B. 3461 adds late charges and other fees and expenses to the items the nonpayment of which makes the land subject to forfeiture by the commissioner and specifies that this provision addresses a sale of sovereign land. The bill authorizes forfeited land to be resold in accordance with provisions for sale of public school and asylum land, rather than offered for sale on a subsequent sale date. The bill removes the provision prohibiting leased and forfeited land from being sold until it is advertised. The bill requires all sales of escheated land that is part of the permanent school fund to be made at a price not less than the minimum prices set by the court under provisions relating to escheat proceedings and in the same manner as the sale of public school land under provisions of law relating to the sale of public school and asylum land, rather than requiring the sale to be made to the highest bidder at a price not less than the greater of \$2.50 an acre or the minimum price set by the court.

C.S.H.B. 3461 removes from the definition of "necessary party" certain redundant language regarding a person who asserts a right to or who claims an interest in land claimed to be vacant. The bill changes the deadline for processing a vacancy application to be not later than the 45th day after the date the commissioner accepts certain copies as properly filed by the applicant, rather than when the applicant files the copies with the commissioner. The bill removes the requirement that an applicant provide evidence to the commissioner to establish the applicant's ownership of all interests in the land surrounding the land claimed to be vacant, and instead requires the commissioner, if the applicant cannot provide the evidence, to investigate the ownership interests of the land claimed to be vacant and the surrounding land to ensure that all necessary parties have been identified and located. The bill requires the investigation to conclude not later than the 60th day after the application commencement date. The bill requires the commissioner, if the investigation yields evidence that a necessary party may not have been identified and located, to conclude the investigation, appoint an attorney ad litem to identify and locate all necessary parties within a certain time frame and makes conforming changes. The bill requires the commissioner to provide the attorney ad litem with all documents submitted by the

applicant and the results of the investigation to identify necessary parties, and requires the attorney ad litem to search public land records and other available records to identify and locate necessary parties. The bill requires the attorney ad litem to represent the interests of the necessary party, if any necessary party cannot be located.

C.S.H.B. 3461 adds that any time after the 30th day after the application commencement date, if the commissioner considers it necessary, the commissioner shall provide to each necessary party identified and located as of that date a written notice with certain information relating to a vacancy application. The bill requires the attorney ad litem, if the attorney ad litem is unable to locate an identified necessary party, to notify the commissioner in writing, requires the commissioner to provide the required notice, and makes conforming changes. The bill adds the requirement that one or more exceptions have been filed to conditions under which the commissioner is required to order a hearing to determine if a vacancy exists. The bill adds to the final orders the commissioner is authorized to issue an order finding a vacancy if a hearing is not required. The bill establishes that if a good-faith claimant does not close a transaction to purchase or lease the interest in land declared vacant before the 121st day after the date the terms and conditions are determined by the board, then the good-faith claimant's preferential right expires.

C.S.H.B. 3461 repeals the following provisions in the Natural Resources Code:

- Section 32.103, relating to the minimum appraised value of land
- Section 51.052(a), providing that land be sold without condition of settlement and residence
- Section 51.057, relating to the delivery of applications to buy land to the land office
- Section 51.058, relating to the method for making a first payment
- Section 51.059, relating to opening applications
- Section 51.060, relating to recordation of first payments
- Section 51.061, relating to collection of remittances
- Section 51.062, relating to disposition of first payments
- Section 51.063, relating to duplicate high bids
- Section 51.064, relating to individual bids
- Section 51.068, relating to fund accounts
- Section 51.084, relating to sale without condition of residence
- Section 51.086(b), relating to the initial and subsequent payments on a contract for sale of escheated permanent school land

### **EFFECTIVE DATE**

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.H.B. 3461 removes a provision in the original transferring rulemaking authority from the commissioner of the General Land Office to the School Land Board relating to land, timber, and surface resources.

C.S.H.B. 3461 differs from the original by authorizing the asset management division of the General Land Office to contract for the services of a real estate broker or of a private brokerage or real estate firm to assist in any sale, lease, or exchange of land under provisions relating to the sale of public school and asylum land, rather than authorizing the division to contract for the services only if an award of a bid under provisions relating to conditions for the sale of land do not result in a final transaction as in the original.