

By: Otto

H.B. No. 2979

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the transfer of certain state property from the Texas  
3 Department of Transportation to Polk County.

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

5 SECTION 1. (a) Not later than September 30, 2009, the Texas  
6 Department of Transportation shall transfer to Polk County the real  
7 property described by Subsection (f) of this section.

8 (b) Polk County may use the property transferred under this  
9 Act only for a purpose that benefits the public interest of the  
10 state. If Polk County uses the property for any purpose other than  
11 a purpose that benefits the public interest of the state, Polk  
12 County shall pay to the Texas Department of Transportation an  
13 amount equal to the fair market value of the property on the date  
14 Polk County begins using the property for the purpose other than a  
15 purpose that benefits the public interest of the state, less the  
16 amount that Polk County paid to the Texas Department of  
17 Transportation under Subsection (c) of this Act.

18 (c) On the effective date of the transfer authorized under  
19 Subsection (a), Polk County shall pay an amount to reimburse the  
20 Texas Department of Transportation for the department's actual  
21 costs to acquire the property. If the Texas Department of  
22 Transportation cannot determine that amount, the amount shall be  
23 determined based on the average historical right-of-way  
24 acquisition values for right-of-way located in proximity to the

1 property described by Subsection (f) on the date of original  
2 acquisition of the property by the Texas Department of  
3 Transportation. Money received by the Texas Department of  
4 Transportation under this subsection shall be deposited in the  
5 state highway fund and used in the Texas Department of  
6 Transportation district in which the property is located.

7 (d) The Texas Department of Transportation shall transfer  
8 the property by an appropriate instrument of transfer. The  
9 instrument of transfer must:

10 (1) provide that:

11 (A) Polk County may use the property only for a  
12 purpose that benefits the public interest of the state; or

13 (B) if Polk County uses the property for any  
14 purpose other than a purpose that benefits the public interest of  
15 the state, Polk County shall pay to the Texas Department of  
16 Transportation an amount equal to the fair market value of the  
17 property on the date Polk County begins using the property for the  
18 purpose other than a purpose that benefits the public interest of  
19 the state, less the amount that Polk County paid to the Texas  
20 Department of Transportation under Subsection (c) of this Act; and

21 (2) describe the property to be transferred by metes  
22 and bounds.

23 (e) The Texas Department of Transportation shall retain  
24 custody of the instrument of transfer after the instrument of  
25 transfer is filed in the real property records of Polk County.

26 (f) The real property referred to in this section is  
27 described as follows:

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1 FIELDNOTES of 10.549 Acres in the M.L. Choate Survey, A-15, Polk  
2 County, Texas and being all of a 1.338 Acre Tract described under  
3 Parcel 28, Part 1 in a Judgment of Court in the State of Texas, et  
4 al, versus Wayne Duncan and wife, Judy Duncan, dated August 6, 1975  
5 and recorded in Volume 305, Page 357 of the Polk County Deed Records  
6 and also being part of a 20.198 Acre Tract described under Parcel  
7 26, Part 2 in a deed from H.D. Nixon and wife, Bonibel Nixon, et al,  
8 to the State of Texas dated August 21, 1975 and recorded in Volume  
9 305, Page 726 of said Deed Records. Said 10.549 Acres being more  
10 particularly described as follows:

11 BEGINNING at the most Northerly West corner of said 20.198 Acre  
12 Tract and an interior corner of a 224.204 Acre Tract conveyed to the  
13 City of Livingston by deed recorded in Volume 450, Page 805 of said  
14 Deed Records, found a concrete monument with a 1/2" iron rod for  
15 corner;

16 THENCE with the most Northerly Northwest Line of said 20.198 Acre  
17 Tract and a Southeast Line of said 224.204 Acre Tract, N48°28'33"E  
18 399.68 feet to the most Northerly North corner of said 20.198 Acre  
19 Tract and an interior corner of said 224.204 Acre Tract, found a  
20 concrete monument with a 1/2" iron rod for corner;

21 THENCE with the most Northerly Northeast Line of said 20.198 Acre  
22 Tract, a Southwest Line of said 224.204 Acre Tract, the Southwest  
23 Line of Garden Ridge Subdivision as shown on a Plat recorded in  
24 Volume 11, Page 31 of the Polk County Plat Records, the Southwest  
25 Line of the residue of a 4.873 Acre Tract conveyed to Donald R.  
26 Langston by deed recorded in Volume 1064, Page 882 of said Official  
27 Records, and the Northeast Line of said 1.338 Acre Tract,

1 S41°33'29"E 1,149.91 feet to an interior corner of said 20.189 Acre  
2 Tract and the South corner of said residue Tract, found a concrete  
3 monument with a 1/2" iron rod for corner which bears N41°26'31"W 200  
4 feet from Highway No. 59 centerline station 164+49.77 and also  
5 marks the beginning of a Control of Access Line;  
6 THENCE across and severing said 20.198 Acre Tract, S48°33'29"W, at  
7 369.77 feet and N41°26'31"W 200 feet from station 161+10.00 pass the  
8 end of said Control of Access Line and continue on same course a  
9 total distance of 399.77 feet to an interior corner of said 20.198  
10 Acre Tract and the East corner of a 1.250 Acre Tract conveyed to the  
11 Polk County Chamber of Commerce by deed recorded in Volume 1089,  
12 Page 79 of said Official Records, found a concrete monument with a  
13 1/2" iron rod for corner which bears N41°26'31"W 200 feet from said  
14 Highway centerline at station 160+50.00;  
15 THENCE with the Northeast Line of said 1.250 Acre Tract, the  
16 Northeast Line of said 224.204 Acre Tract, and the Southwest Line of  
17 said 20.198 Acre Tract, N41°33'13"W 1,149.34 feet to the Place of  
18 Beginning and containing 10.549 Acres of Land.  
19 The bearings described herein are based upon the most Westerly  
20 Northwest Line of said 20.198 Acre Tract.

21 (g) Polk County shall pay any transaction fees resulting  
22 from the transfer of property under this Act.

23 SECTION 2. This Act takes effect immediately if it receives  
24 a vote of two-thirds of all the members elected to each house, as  
25 provided by Section 39, Article III, Texas Constitution. If this  
26 Act does not receive the vote necessary for immediate effect, this  
27 Act takes effect September 1, 2009.