

By: Orr

H.B. No. 3461

A BILL TO BE ENTITLED

AN ACT

relating to the powers and duties of the School Land Board and the commissioner of the General Land Office.

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

SECTION 1. Section 32.001(4), Natural Resources Code, is amended to read as follows:

(4) "Land" means:

(A) land dedicated to or acquired on behalf of the permanent school fund and the asylum funds under ~~[by]~~ the constitution and laws of this state;

(B) the mineral estate in areas within tidewater limits, including islands, lakes, bays, and the bed of the sea which belong to the state;

(C) the mineral estate in river beds and channels; and

(D) land owned by the state or held in trust for the use and benefit of the state or of a department, board, or agency of the state.

SECTION 2. Subchapter A, Chapter 32, Natural Resources Code, is amended by adding Section 32.003 to read as follows:

Sec. 32.003. APPLICATION OF SUNSET ACT. The School Land Board is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished September 1, 2017.

SECTION 3. Section 32.016(a), Natural Resources Code, is amended to read as follows:

(a) When necessary, the board shall meet on the first and third Tuesdays of each month at a time and location to be designated by the board ~~[in the land office]~~.

SECTION 4. Section 32.061, Natural Resources Code, is amended to read as follows:

Sec. 32.061. BOARD'S GENERAL DUTIES. Except as provided by Subchapter G, Chapter 51, of this code, the board shall:

(1) set the dates to open received bids for the sale of ~~[surveyed]~~ land ~~[dedicated to the permanent school fund]~~, for the lease of land for prospecting or exploring for, mining, producing, storing, caring for, transporting, preserving, selling, or disposing of oil, gas, or other minerals leased under this chapter, and for the commitment of land to a contract for development;

(2) determine the prices and set the terms and conditions under ~~[of the contract for]~~ which land shall be sold, leased, or committed to a contract for development;

(3) consult with the president, chairman, or other head of the department, board, or agency, as applicable, or with the representative of the head, on each matter before the board that affects land owned or held in trust for the use and benefit of a department, board, or agency of the state; and

(4) perform any other duties which may be required by law.

SECTION 5. Section 32.102, Natural Resources Code, is amended to read as follows:

1 Sec. 32.102. LIST OF LAND. From time to time as requested
2 by the board, the commissioner shall furnish the board a list of
3 land areas subject to the provisions of this chapter.

4 SECTION 6. Section 32.105, Natural Resources Code, is
5 amended to read as follows:

6 Sec. 32.105. DATE FOR OPENING BIDS. The date for opening
7 bids for the sale, lease, or commitment to a contract for
8 development of land shall be:

9 (1) the first or third Tuesday of a [the] month in
10 which the board meets; or

11 (2) any date on which the board has a special meeting.

12 SECTION 7. Sections 32.107(a), (b), and (c), Natural
13 Resources Code, are amended to read as follows:

14 (a) The board shall publish notice that the board will
15 receive bids for the sale, lease, or commitment to a contract for
16 development of land in at least three issues of at least four daily
17 newspapers or other publications, two of which may be
18 Internet-based journals, trade publications, newsletters, or
19 similar news media, that are, in the opinion of the commissioner,
20 likely to reach the public interested in responding to the notice of
21 sale, lease, or commitment to a contract for development.

22 (b) The notice shall be published at least 30 days before
23 the date the bids are due ~~[advertised to be opened]~~.

24 (c) The notice shall state that land is to be offered for
25 sale, lease, or commitment to a contract for development on a
26 certain date and at a certain time and the method of the sale,
27 lease, or commitment to a contract for development and shall give

1 notice of how ~~[that]~~ a person may obtain additional information
2 concerning ~~[publications from the land office that describe]~~ the
3 land offered for sale, lease, or commitment to a contract for
4 development.

5 SECTION 8. Sections 32.110(a) and (c), Natural Resources
6 Code, are amended to read as follows:

7 (a) On land sales and mineral leases made by the board, the
8 purchaser or bidder is required to pay by separate check an amount
9 equal to one and one-half percent of the bid or sale amount payable
10 to the commissioner as a special fee. The board may waive the
11 special fee on land sales to any state agency, board, commission,
12 political subdivision, or other governmental entity.

13 (c) Failure to pay the special fee shall not void a bid, but
14 the commissioner shall demand payment of the fee before accepting
15 the bid and completing the transaction ~~[a lease is issued to the~~
16 ~~best bidder. If the best bidder fails or refuses to make the~~
17 ~~payment within 30 days after demand by the commissioner, the bidder~~
18 ~~is not entitled to a sale of or a lease on the tract covered by that~~
19 ~~bid and the cash bonus shall be automatically forfeited to be~~
20 ~~deposited by the commissioner in the State Treasury to the credit of~~
21 ~~the permanent school fund or the appropriate special mineral fund.~~
22 ~~The board, at its option, may offer the tract for sale or lease to~~
23 ~~the next best bidder under the same terms as submitted by and as~~
24 ~~would have been granted to the best bidder].~~

25 SECTION 9. Section 32.253, Natural Resources Code, is
26 amended to read as follows:

27 Sec. 32.253. PURPOSE OF TRADE. Land dedicated to or

1 acquired for the use and benefit of the permanent school fund may be
2 traded to:

3 (1) aggregate sufficient acreage of contiguous land to
4 create a manageable unit;

5 (2) acquire land having unique biological,
6 geological, cultural, or recreational value; ~~or~~

7 (3) create a buffer zone for the enhancement of
8 already existing public land, facilities, or amenities; or

9 (4) acquire land for the use and benefit of the
10 permanent school fund as determined by the board to be in the best
11 interest of the fund.

12 SECTION 10. Section 51.001, Natural Resources Code, is
13 amended by amending Subdivision (8) and adding Subdivision (12) to
14 read as follows:

15 (8) "Surveyed land" means all or part of any tract of
16 land surveyed either on the ground or by protraction and dedicated
17 to or acquired on behalf of the public school fund which is unsold
18 and for which field notes are on file in the land office or that may
19 be delineated on the maps of that office as such.

20 (12) "Sovereign land" means land that has not been
21 sold and severed by the sovereign.

22 SECTION 11. The heading to Section 51.013, Natural
23 Resources Code, is amended to read as follows:

24 Sec. 51.013. CLASSIFICATION ~~[AND VALUATION]~~ OF LAND.

25 SECTION 12. Section 51.013(b), Natural Resources Code, is
26 amended to read as follows:

27 (b) After the classification ~~[and determination of market~~

1 ~~value]~~ is entered on the records of the land office, no further
2 action needs to be taken by the commissioner and no notice is
3 required to be given to the county clerk for the classification [~~and~~
4 ~~determination of market value]~~ to be effective.

5 SECTION 13. Section 51.014, Natural Resources Code, is
6 amended to read as follows:

7 Sec. 51.014. RULES. [~~(a)~~] The commissioner may adopt
8 rules necessary to carry out the provisions of this chapter and may
9 alter or amend the rules to protect the public interest.

10 [~~(b) Before rules are adopted under Subsection (a) of this~~
11 ~~section, the commissioner shall submit the rules to the governor~~
12 ~~for his approval.]~~

13 SECTION 14. Sections 51.052(e), (f), (g), (i), and (k),
14 Natural Resources Code, are amended to read as follows:

15 (e) The owner of land that surrounds [~~land in~~] a tract of
16 land approved for sale by the board shall have a preference right to
17 purchase the tract before the land is made available for sale to any
18 other person, provided the person having the preference right pays
19 not less than the market value for the land as determined by the
20 board and the board finds use of the preference to be in the best
21 interest of the state. The board shall adopt rules to implement
22 this preference right.

23 (f) If the surrounding land is owned by more than one
24 person, the owners of land with a common boundary with a tract of
25 land approved [~~1,200 acres or less that is~~] for sale by the board
26 shall have a preference right to purchase the tract before it is
27 made available to any other person, provided the person with the

1 preference right pays not less than the market value of the land as
 2 determined by the board and the board finds use of the preference to
 3 be in the best interest of the state. The board shall adopt rules to
 4 implement this preference right.

5 (g) If land is located within the boundaries of or adjacent
 6 to any state park, refuge, natural area, or historical site subject
 7 to the management and control of the Parks and Wildlife Department,
 8 the department has a preference right to purchase the land before it
 9 is made available ~~[for sale]~~ to any other person. A sale to the
 10 department under this section may not be for less than the market
 11 value of the land, as determined by the board.

12 (i) If no bid meeting minimum requirements is received for a
 13 tract of land offered at a sealed bid sale under Subchapter D of
 14 Chapter 32, or if the transaction involves commercial real estate
 15 and the board determines that it is in the best interest of the
 16 permanent school fund, the asset management division of the land
 17 office may solicit proposals or negotiate a sale, exchange, or
 18 lease of the land to any person. ~~[The asset management division
 19 may contract for the services of a real estate broker or of a
 20 private brokerage or real estate firm to assist in a transaction
 21 under this subsection.]~~ The board must approve any negotiated
 22 sale, exchange, or lease of any land under this section.

23 (k) The ~~[If an award of a bid under this section does not
 24 result in a final transaction, the]~~ asset management division of
 25 the land office may contract for the services of a real estate
 26 broker or of a private brokerage or real estate firm to assist in
 27 any sale, lease, or exchange of land under this subchapter ~~[the real~~

1 ~~estate transaction~~].

2 SECTION 15. Section 51.056, Natural Resources Code, is
3 amended to read as follows:

4 Sec. 51.056. APPLICATION OR REQUEST TO PURCHASE LAND.

5 ~~[(a)]~~ A person who wants to purchase public school land shall
6 submit to the commissioner a ~~[separate]~~ written application or
7 request in a form designated by the commissioner ~~[for each tract]~~.

8 ~~[(b) Each application shall:~~

9 ~~[(1) designate the land to be purchased;~~

10 ~~[(2) state the bid offered;~~

11 ~~[(3) include an affidavit disclosing the names of all~~
12 ~~persons or entities either directly or indirectly interested in the~~
13 ~~purchase of the land.~~

14 ~~[(c) The sale of the land is effective from the date of the~~
15 ~~receipt and filing of the application, affidavit, obligation, and~~
16 ~~the payment of the initial portion of the price offered.~~

17 ~~[(d) The application to purchase and the notice of award~~
18 ~~shall state that the land is sold without condition of settlement~~
19 ~~and with a reservation of minerals, as determined by the board.]~~

20 SECTION 16. Section 51.066, Natural Resources Code, is
21 amended to read as follows:

22 Sec. 51.066. LAND ~~[NOTICE OF]~~ AWARD. (a) The commissioner
23 shall prepare and issue a land ~~[notice of]~~ award for each tract of
24 sovereign land sold.

25 (b) Each land ~~[notice of]~~ award shall be appropriately
26 numbered and shall be worded in a manner that will constitute a
27 receipt for the first or full payment after it is signed by the

1 commissioner.

2 (c) One copy of the land ~~[notice of]~~ award shall be retained
3 in the land office and the other copy shall be sent to the
4 purchaser.

5 SECTION 17. The heading to Section 51.070, Natural
6 Resources Code, is amended to read as follows:

7 Sec. 51.070. UNPAID PRINCIPAL ~~[AND INTEREST]~~ ON PUBLIC
8 SCHOOL LAND SALES.

9 SECTION 18. Sections 51.070(a) and (b), Natural Resources
10 Code, are amended to read as follows:

11 (a) Unpaid and delinquent principal ~~[and interest]~~ on sales
12 of public school land shall bear interest at a rate set by the
13 board, which principal and interest shall be payable at the times
14 and on such terms as are established by the board ~~[by rule or by~~
15 ~~contract]~~.

16 (b) No patent may be issued for any public school land until
17 all ~~[unpaid]~~ principal, accrued ~~[and compounded]~~ interest, late
18 charges, and other fees and expenses are ~~[is]~~ paid in full ~~[to the~~
19 ~~time of issuing the patent]~~.

20 SECTION 19. Section 51.071, Natural Resources Code, is
21 amended to read as follows:

22 Sec. 51.071. FORFEITURE OF LAND. (a) If principal,
23 accrued ~~[and]~~ interest, late charges, and other fees and expenses
24 on a sale of sovereign land are ~~[is]~~ not paid when due as required by
25 the terms set by the board, the land is subject to forfeiture by the
26 commissioner by entry on the file ~~[wrapper]~~ containing the papers
27 "Land Forfeited" or similar words, the date of the forfeiture, and

1 the official signature of the commissioner.

2 (b) After the entry is made on the file ~~[wrapper]~~, the land
3 and all payments that have been made for it are forfeited to the
4 state, and the land may be resold in accordance with the provisions
5 of this subchapter ~~[offered for sale on a subsequent sale date]~~.

6 SECTION 20. Section 51.073, Natural Resources Code, is
7 amended to read as follows:

8 Sec. 51.073. CLASSIFICATION AND SALE OF LEASED AND
9 FORFEITED LAND. ~~[(a)]~~ Before it is sold, the commissioner shall
10 classify and determine the market value of land on which leases have
11 expired and land forfeited to the state.

12 ~~[(b) Except as provided in Section 51.064 of this code, no~~
13 ~~land may be sold until it is advertised.]~~

14 SECTION 21. Section 51.086(a), Natural Resources Code, is
15 amended to read as follows:

16 (a) All sales of escheated land that is a part of the
17 permanent school fund must be made ~~[to the highest bidder]~~ at a
18 price that may not be less than ~~[the greater of \$2.50 an acre or]~~ the
19 minimum price set by the court under Section 71.107, Property Code,
20 and in the same manner as the sale of public school land as provided
21 by this chapter.

22 SECTION 22. Sections 51.172(4) and (7), Natural Resources
23 Code, are amended to read as follows:

24 (4) "Necessary party" means:

25 (A) an applicant or good-faith claimant whose
26 present legal interest in the surface or mineral estate of the land
27 claimed to be vacant may be adversely affected by a vacancy

1 determination;

2 (B) a person who asserts a right to or who claims
3 an interest in land claimed to be vacant;

4 (C) a person who asserts a right to or who claims
5 an interest in ~~[land claimed to be vacant or in]~~ land adjoining land
6 claimed to be vacant as shown in the records of the land office or
7 the county records, including tax records, of any county in which
8 all or part of the land claimed to be vacant is located;

9 (D) a person whose name appears in the records
10 described by Paragraph (C); or

11 (E) an attorney ad litem appointed under Section
12 51.180.

13 (7) "Vacancy application" means a form submitted to
14 the commissioner by an applicant to:

15 (A) initiate a determination by the commissioner
16 whether land claimed to be vacant is vacant; and

17 (B) purchase ~~[vacant land]~~ or

18 ~~[(C)]~~ lease vacant land.

19 SECTION 23. Section 51.177(a), Natural Resources Code, is
20 amended to read as follows:

21 (a) Not later than the 45th day after the date the
22 commissioner accepts [applicant files] the duplicate copies as
23 properly filed by the applicant ~~[with the commissioner]~~ as provided
24 by Section 51.176(f), the commissioner shall:

25 (1) determine whether the vacancy application is
26 administratively complete; and

27 (2) provide to the applicant the notice required by

1 this section.

2 SECTION 24. Section 51.180, Natural Resources Code, is
3 amended to read as follows:

4 Sec. 51.180. ATTORNEY AD LITEM. (a) If the ~~[The]~~
5 applicant cannot ~~[must]~~ provide evidence to the commissioner to
6 establish the applicant's ownership of all interests as defined by
7 Section 51.172 in the land surrounding the land claimed to be
8 vacant, the commissioner shall investigate the ownership interests
9 of the land claimed to be vacant and the surrounding land to ensure
10 that all necessary parties have been identified and located.

11 (b) The investigation must conclude not later than the 60th
12 day after the application commencement date. If the investigation
13 yields any ~~[applicant fails to provide sufficient]~~ evidence that a
14 necessary party may not have been identified and located, as
15 determined by the commissioner, the commissioner shall, not later
16 than the 30th day after the conclusion of the investigation
17 ~~[application commencement date]~~, appoint an attorney ad litem to [~~+~~

18 [~~(1)~~] identify and locate all necessary parties
19 [~~+~~ ~~and~~

20 [~~(2)~~ ~~represent the interests of any necessary party~~
21 ~~that has not been located~~].

22 (c) The commissioner shall provide the attorney ad litem
23 with all documents submitted by the applicant and the results of the
24 investigation to identify necessary parties, and the attorney ad
25 litem shall search public land records and other available records
26 to identify and locate necessary parties.

27 (d) If any necessary party cannot be located, the attorney

1 ad litem shall represent the interests of that necessary party.

2 SECTION 25. Sections 51.181(a) and (b), Natural Resources
3 Code, are amended to read as follows:

4 (a) Not later than the 30th day after the application
5 commencement date, and at any time after that date that the
6 commissioner considers it necessary to notify an identified
7 necessary party, the commissioner shall provide to each necessary
8 party identified and located as of that date a written notice that:

9 (1) informs the necessary party that a vacancy
10 application has been filed;

11 (2) states the application commencement date; and

12 (3) includes:

13 (A) a copy of the vacancy application and any
14 attachments; and

15 (B) a form for requesting subsequent notices
16 regarding the application.

17 (b) If the attorney ad litem is unable to locate an
18 identified ~~[identify each]~~ necessary party, the attorney ad litem
19 shall notify the commissioner in writing, and the commissioner
20 ~~[applicant]~~ shall provide notice required under this section by
21 publication in the same manner prescribed by the Texas Rules of
22 Civil Procedure.

23 SECTION 26. Section 51.187(a), Natural Resources Code, is
24 amended to read as follows:

25 (a) If the commissioner has not issued a final order with a
26 finding of "Not Vacant Land" on or before the first anniversary of
27 the application commencement date and one or more exceptions have

1 been filed under Section 51.182(a) or 51.186(b), the commissioner
2 shall order a hearing to determine if a vacancy exists. A hearing
3 under this subchapter:

4 (1) shall be held not later than the 60th day after the
5 date the hearing is ordered;

6 (2) shall be conducted as a contested case hearing
7 subject to Chapter 2001, Government Code; and

8 (3) may be waived by written agreement of all
9 necessary parties and the commissioner.

10 SECTION 27. Section 51.188(a), Natural Resources Code, is
11 amended to read as follows:

12 (a) At any time during or after an investigation of or
13 hearing regarding a vacancy application, the commissioner may
14 determine that land claimed to be vacant is not vacant and issue a
15 final order with a finding of "Not Vacant Land[~~-~~]" or an order
16 finding a vacancy if a hearing is not required under Section 51.187.

17 SECTION 28. Section 51.194, Natural Resources Code, is
18 amended by amending Subsection (a) and adding Subsections (a-1) and
19 (a-2) to read as follows:

20 (a) A good-faith claimant who has been notified by the
21 commissioner that a vacancy exists under this subchapter has a
22 preferential right to purchase or lease the interest claimed in the
23 land before the land was declared vacant. The preferential right
24 may be exercised after a final judicial determination or after the
25 commissioner's final order and the period for filing an appeal has
26 expired.

27 (a-1) If a good-faith claimant does not apply to purchase or

1 lease the interest before the later of the 121st day after the date
2 the commissioner's order becomes final or the 60th day after the
3 date of the final judicial determination of an appeal under this
4 subchapter, then the good-faith claimant's preferential right
5 expires.

6 (a-2) If a good-faith claimant does not close a transaction
7 to purchase or lease the interest before the 121st day after the
8 date the terms and conditions are determined by the board, then the
9 good-faith claimant's preferential right expires.

10 SECTION 29. The following provisions of the Natural
11 Resources Code are repealed:

- 12 (1) Section 32.103;
- 13 (2) Section 51.052(a);
- 14 (3) Section 51.057;
- 15 (4) Section 51.058;
- 16 (5) Section 51.059;
- 17 (6) Section 51.060;
- 18 (7) Section 51.061;
- 19 (8) Section 51.062;
- 20 (9) Section 51.063;
- 21 (10) Section 51.064;
- 22 (11) Section 51.068;
- 23 (12) Section 51.084; and
- 24 (13) Section 51.086(b).

25 SECTION 30. This Act takes effect immediately if it
26 receives a vote of two-thirds of all the members elected to each
27 house, as provided by Section 39, Article III, Texas Constitution.

H.B. No. 3461

1 If this Act does not receive the vote necessary for immediate
2 effect, this Act takes effect September 1, 2009.