

AN ACT

relating to the authority of the state to acquire, sell, or exchange certain land.

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

SECTION 1. Section 31.065, Natural Resources Code, is amended by amending Subsections (a) and (c) and adding Subsections (d) and (e) to read as follows:

(a) In the absence of any law to the contrary, the commissioner may, if the commissioner ~~he~~ determines it to be in the best interest of the state, accept grants, gifts, devises, or bequests, either absolutely or in trust, of money or real or personal property on behalf of the state. Real property so acquired by the state becomes public free school land unless the person making the grant, gift, devise, or bequest provides that the real property is to be possessed, administered, or used by a particular state agency, board, commission, department, or other particular state entity or provides that it is to be held in some other manner by the state.

(c) If the commissioner determines that the real property acquired by the state by grant, gift, devise, or bequest is not suitable for the purpose for which the grant, gift, devise, or bequest was originally made, the commissioner together with the agency, board, commission, department, or other state entity, if any, designated to possess, administer, or use the real property

1 may exchange the real property for real property that is suitable
2 for such purpose.

3 (d) If real property acquired by grant, gift, devise, or
4 bequest is not held as part of the permanent school fund or
5 possessed, administered, or used by a particular state agency,
6 board, commission, department, or other particular state entity,
7 the commissioner may manage that real property or sell or exchange
8 the real property under terms and conditions the commissioner
9 determines to be in the best interest of the state. Real property
10 sold under this subsection must be sold in accordance with Section
11 31.158. Proceeds of the sale that are not required for the
12 management of real property under this subsection shall be
13 deposited in the Texas farm and ranch lands conservation fund
14 established under Chapter 183. Real property acquired under this
15 subsection may be dedicated by the commissioner to any state
16 agency, board, commission, or department, a political subdivision
17 or other governmental entity of this state, or the federal
18 government, for the benefit and use of the public in exchange for
19 nonmonetary consideration, if the commissioner determines that the
20 exchange is in the best interest of the state.

21 (e) The commissioner may adopt rules necessary to implement
22 this section.

23 SECTION 2. Section 31.066, Natural Resources Code, is
24 amended by amending Subsections (a) and (c) and adding Subsection
25 (d) to read as follows:

26 (a) If it is necessary for the United States government to
27 acquire real property in this state to conduct remedial action at a

1 site listed on the National Priorities List under the federal
2 Comprehensive Environmental Response, Compensation and Liability
3 Act of 1980 (42 U.S.C. Section 9601 et seq.), the commissioner [~~land~~
4 ~~office~~] may accept transfer on behalf of the state of the title and
5 interest in the real property from the United States government.
6 The commissioner [~~land-office~~] may accept a transfer following
7 completion of remedial action at a site only on the condition that
8 the state will not incur any liability under that federal law solely
9 by acquiring the title and interest in the real estate.

10 (c) Any title and interest in real property acquired by the
11 commissioner [~~land-office~~] under this section shall be held in the
12 name of the state. Title or interest acquired under this section
13 does not become a part of the permanent school fund or any other
14 fund created by the Texas Constitution.

15 (d) The commissioner may sell any title or interest acquired
16 by the state under this section in accordance with Section 31.158.
17 Proceeds of the sale shall be deposited in the Texas farm and ranch
18 lands conservation fund established under Chapter 183.

19 SECTION 3. Section 31.167, Natural Resources Code, is
20 amended by amending Subsection (c) and adding Subsections (d) and
21 (e) to read as follows:

22 (c) The special board of review must file a copy of the
23 development plan in the deed records of the county in which the real
24 property is located. Revisions to the development plan that are
25 requested after the later of the 10th anniversary of the date on
26 which the development plan was promulgated by the special board of
27 review or the date on which the state no longer holds a financial or

1 property interest in the real property subject to the plan are
2 governed by local development policies and procedures.

3 (d) After issuance of an order establishing a development
4 plan for real property that is not part of the permanent school fund
5 or in which the permanent school fund does not have a financial
6 interest, the composition of any future special board of review
7 called to consider revision of that order must consist of:

8 (1) the presiding officer of the governing board of
9 the agency or institution possessing the real property or the
10 presiding officer's designated representative;

11 (2) two members who are employed by the agency or
12 institution possessing the real property, appointed by the
13 presiding officer of the governing board of the agency or
14 institution or the presiding officer's designated representative;

15 (3) the county judge of the county in which the real
16 property is located; and

17 (4) if the real property is located within the
18 corporate boundaries or extraterritorial jurisdiction of a
19 municipality, the mayor of the municipality.

20 (e) The member described by Subsection (d)(1) serves as the
21 presiding officer of the special board of review.

22 SECTION 4. Section 183.058(a), Natural Resources Code, is
23 amended to read as follows:

24 (a) The Texas farm and ranch lands conservation fund is an
25 account in the general revenue fund that may be appropriated only to
26 the land office to be used as provided by Subsection (b). The fund
27 may not be used for grants to purchase or acquire any right or

1 interest in property by eminent domain. The fund consists of:

2 (1) money appropriated by the legislature to the fund;

3 (2) public or private grants, gifts, donations, or
4 contributions; ~~and~~

5 (3) funds from any other source, including proceeds
6 from the sale of bonds, state or federal mitigation funds, or funds
7 from any local, state, or federal program;

8 (4) proceeds of the sale of real property not required
9 for the management of real property under Section 31.065(d); and

10 (5) proceeds of the sale of real property under
11 Section 31.066(d).

12 SECTION 5. Sections 191.021(b) and (d), Natural Resources
13 Code, are amended to read as follows:

14 (b) If an institution of higher education notifies the
15 committee in a timely manner (as established by the committee's
16 rules) that it protests the proposed designation of a building or
17 land under its control as a landmark, the matter becomes a contested
18 case under the provisions of Sections 12 through 20 of the
19 Administrative Procedure and Texas Register Act. In the conduct of
20 proceedings under the Administrative Procedure and Texas Register
21 Act, both the hearing officer in his or her recommendations to the
22 committee and the committee in its determinations of findings of
23 fact and conclusions of law shall consider, in addition to such
24 other objective criteria as the committee may establish pursuant to
25 Section 191.091 of this chapter:

26 (1) that the primary mission of institutions of higher
27 education is the provision of educational services to the state's

1 citizens;

2 (2) that the authority for expenditure of the portion
3 of the state's resources allocated to institutions of higher
4 education for construction and repair purposes is entrusted to the
5 governing boards of institutions of higher education for the
6 purpose of the furtherance of the primary mission of the respective
7 institutions of higher education;

8 (3) whether the benefit to the state from landmark
9 designation outweighs the potential inflexibility of use that may
10 be a consequence of the designation; and

11 (4) whether the cost of remodeling and/or restoration
12 that might be required under the permit procedures of the committee
13 if the building were designated as a landmark may be so
14 substantially greater than remodeling under procedures established
15 by law for the review of remodeling projects for higher education
16 buildings not so designated as to impair the proper use of funds
17 designated by the state for educational purposes at the
18 institution.

19 (d) Weighing the criteria set forth in Subsections (b) and
20 (c) of this section against the criteria it adopts pursuant to
21 Section 191.092 of this chapter and such criteria as it may adopt
22 with regard to permit requirements, the committee shall designate a
23 building or land under the control of an institution of higher
24 education as a landmark or include a requirement in a permit only if
25 the record before the committee establishes by clear and convincing
26 evidence that such designation or inclusion would be in the public
27 interest.

1 SECTION 6. This Act does not make an appropriation. A
2 provision in this Act that creates a new governmental program,
3 creates a new entitlement, or imposes a new duty on a governmental
4 entity is not mandatory during a fiscal period for which the
5 legislature has not made a specific appropriation to implement the
6 provision.

7 SECTION 7. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I certify that H.B. No. 3632 was passed by the House on April 28, 2009, by the following vote: Yeas 144, Nays 0, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 3632 on May 29, 2009, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 3632 on May 31, 2009, by the following vote: Yeas 139, Nays 0, 1 present, not voting.

Chief Clerk of the House

H.B. No. 3632

I certify that H.B. No. 3632 was passed by the Senate, with amendments, on May 23, 2009, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 3632 on May 31, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor