

1-1 By: Geren (Senate Sponsor - Averitt) H.B. No. 3632  
1-2 (In the Senate - Received from the House April 29, 2009;  
1-3 May 1, 2009, read first time and referred to Committee on Natural  
1-4 Resources; May 11, 2009, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 10, Nays 0;  
1-6 May 11, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 3632 By: Averitt

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the authority of the state to acquire, sell, or exchange  
1-11 certain land.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 31.065, Natural Resources Code, is  
1-14 amended by amending Subsections (a) and (c) and adding Subsections  
1-15 (d) and (e) to read as follows:

1-16 (a) In the absence of any law to the contrary, the  
1-17 commissioner may, if the commissioner [~~he~~] determines it to be in  
1-18 the best interest of the state, accept grants, gifts, devises, or  
1-19 bequests, either absolutely or in trust, of money or real or  
1-20 personal property on behalf of the state. Real property so acquired  
1-21 by the state becomes public free school land unless the person  
1-22 making the grant, gift, devise, or bequest provides that the real  
1-23 property is to be possessed, administered, or used by a particular  
1-24 state agency, board, commission, department, or other particular  
1-25 state entity or provides that it is to be held in some other manner  
1-26 by the state.

1-27 (c) If the commissioner determines that the real property  
1-28 acquired by the state by grant, gift, devise, or bequest is not  
1-29 suitable for the purpose for which the grant, gift, devise, or  
1-30 bequest was originally made, the commissioner together with the  
1-31 agency, board, commission, department, or other state entity, if  
1-32 any, designated to possess, administer, or use the real property  
1-33 may exchange the real property for real property that is suitable  
1-34 for such purpose.

1-35 (d) If real property acquired by grant, gift, devise, or  
1-36 bequest is not held as part of the permanent school fund or  
1-37 possessed, administered, or used by a particular state agency,  
1-38 board, commission, department, or other particular state entity,  
1-39 the commissioner may manage that real property or sell or exchange  
1-40 the real property under terms and conditions the commissioner  
1-41 determines to be in the best interest of the state. Real property  
1-42 sold under this subsection must be sold in accordance with Section  
1-43 31.158. Proceeds of the sale that are not required for the  
1-44 management of real property under this subsection shall be  
1-45 deposited in the Texas farm and ranch lands conservation fund  
1-46 established under Chapter 183. Real property acquired under this  
1-47 subsection may be dedicated by the commissioner to any state  
1-48 agency, board, commission, or department, a political subdivision  
1-49 or other governmental entity of this state, or the federal  
1-50 government, for the benefit and use of the public in exchange for  
1-51 nonmonetary consideration, if the commissioner determines that the  
1-52 exchange is in the best interest of the state.

1-53 (e) The commissioner may adopt rules necessary to implement  
1-54 this section.

1-55 SECTION 2. Section 31.066, Natural Resources Code, is  
1-56 amended by amending Subsections (a) and (c) and adding Subsection  
1-57 (d) to read as follows:

1-58 (a) If it is necessary for the United States government to  
1-59 acquire real property in this state to conduct remedial action at a  
1-60 site listed on the National Priorities List under the federal  
1-61 Comprehensive Environmental Response, Compensation and Liability  
1-62 Act of 1980 (42 U.S.C. Section 9601 et seq.), the commissioner [~~land~~  
1-63 ~~office~~] may accept transfer on behalf of the state of the title and

2-1 interest in the real property from the United States government.  
 2-2 The commissioner [~~land office~~] may accept a transfer following  
 2-3 completion of remedial action at a site only on the condition that  
 2-4 the state will not incur any liability under that federal law solely  
 2-5 by acquiring the title and interest in the real estate.

2-6 (c) Any title and interest in real property acquired by the  
 2-7 commissioner [~~land office~~] under this section shall be held in the  
 2-8 name of the state. Title or interest acquired under this section  
 2-9 does not become a part of the permanent school fund or any other  
 2-10 fund created by the Texas Constitution.

2-11 (d) The commissioner may sell any title or interest acquired  
 2-12 by the state under this section in accordance with Section 31.158.  
 2-13 Proceeds of the sale shall be deposited in the Texas farm and ranch  
 2-14 lands conservation fund established under Chapter 183.

2-15 SECTION 3. Section 31.167, Natural Resources Code, is  
 2-16 amended by amending Subsection (c) and adding Subsections (d) and  
 2-17 (e) to read as follows:

2-18 (c) The special board of review must file a copy of the  
 2-19 development plan in the deed records of the county in which the real  
 2-20 property is located. Revisions to the development plan that are  
 2-21 requested after the later of the 10th anniversary of the date on  
 2-22 which the development plan was promulgated by the special board of  
 2-23 review or the date on which the state no longer holds a financial or  
 2-24 property interest in the real property subject to the plan are  
 2-25 governed by local development policies and procedures.

2-26 (d) After issuance of an order establishing a development  
 2-27 plan for real property that is not part of the permanent school fund  
 2-28 or in which the permanent school fund does not have a financial  
 2-29 interest, the composition of any future special board of review  
 2-30 called to consider revision of that order must consist of:

2-31 (1) the presiding officer of the governing board of  
 2-32 the agency or institution possessing the real property or the  
 2-33 presiding officer's designated representative;

2-34 (2) two members who are employed by the agency or  
 2-35 institution possessing the real property, appointed by the  
 2-36 presiding officer of the governing board of the agency or  
 2-37 institution or the presiding officer's designated representative;

2-38 (3) the county judge of the county in which the real  
 2-39 property is located; and

2-40 (4) if the real property is located within the  
 2-41 corporate boundaries or extraterritorial jurisdiction of a  
 2-42 municipality, the mayor of the municipality.

2-43 (e) The member described by Subsection (d)(1) serves as the  
 2-44 presiding officer of the special board of review.

2-45 SECTION 4. Section 183.058(a), Natural Resources Code, is  
 2-46 amended to read as follows:

2-47 (a) The Texas farm and ranch lands conservation fund is an  
 2-48 account in the general revenue fund that may be appropriated only to  
 2-49 the land office to be used as provided by Subsection (b). The fund  
 2-50 may not be used for grants to purchase or acquire any right or  
 2-51 interest in property by eminent domain. The fund consists of:

2-52 (1) money appropriated by the legislature to the fund;

2-53 (2) public or private grants, gifts, donations, or  
 2-54 contributions; [~~and~~]

2-55 (3) funds from any other source, including proceeds  
 2-56 from the sale of bonds, state or federal mitigation funds, or funds  
 2-57 from any local, state, or federal program;

2-58 (4) proceeds of the sale of real property not required  
 2-59 for the management of real property under Section 31.065(d); and

2-60 (5) proceeds of the sale of real property under  
 2-61 Section 31.066(d).

2-62 SECTION 5. Sections 191.021(b) and (d), Natural Resources  
 2-63 Code, are amended to read as follows:

2-64 (b) If an institution of higher education notifies the  
 2-65 committee in a timely manner (as established by the committee's  
 2-66 rules) that it protests the proposed designation of a building or  
 2-67 land under its control as a landmark, the matter becomes a contested  
 2-68 case under the provisions of Sections 12 through 20 of the  
 2-69 Administrative Procedure and Texas Register Act. In the conduct of

3-1 proceedings under the Administrative Procedure and Texas Register  
3-2 Act, both the hearing officer in his or her recommendations to the  
3-3 committee and the committee in its determinations of findings of  
3-4 fact and conclusions of law shall consider, in addition to such  
3-5 other objective criteria as the committee may establish pursuant to  
3-6 Section 191.091 of this chapter:

3-7 (1) that the primary mission of institutions of higher  
3-8 education is the provision of educational services to the state's  
3-9 citizens;

3-10 (2) that the authority for expenditure of the portion  
3-11 of the state's resources allocated to institutions of higher  
3-12 education for construction and repair purposes is entrusted to the  
3-13 governing boards of institutions of higher education for the  
3-14 purpose of the furtherance of the primary mission of the respective  
3-15 institutions of higher education;

3-16 (3) whether the benefit to the state from landmark  
3-17 designation outweighs the potential inflexibility of use that may  
3-18 be a consequence of the designation; and

3-19 (4) whether the cost of remodeling and/or restoration  
3-20 that might be required under the permit procedures of the committee  
3-21 if the building were designated as a landmark may be so  
3-22 substantially greater than remodeling under procedures established  
3-23 by law for the review of remodeling projects for higher education  
3-24 buildings not so designated as to impair the proper use of funds  
3-25 designated by the state for educational purposes at the  
3-26 institution.

3-27 (d) Weighing the criteria set forth in Subsections (b) and  
3-28 (c) of this section against the criteria it adopts pursuant to  
3-29 Section 191.092 of this chapter and such criteria as it may adopt  
3-30 with regard to permit requirements, the committee shall designate a  
3-31 building or land under the control of an institution of higher  
3-32 education as a landmark or include a requirement in a permit only if  
3-33 the record before the committee establishes by clear and convincing  
3-34 evidence that such designation or inclusion would be in the public  
3-35 interest.

3-36 SECTION 6. This Act does not make an appropriation. A  
3-37 provision in this Act that creates a new governmental program,  
3-38 creates a new entitlement, or imposes a new duty on a governmental  
3-39 entity is not mandatory during a fiscal period for which the  
3-40 legislature has not made a specific appropriation to implement the  
3-41 provision.

3-42 SECTION 7. This Act takes effect immediately if it receives  
3-43 a vote of two-thirds of all the members elected to each house, as  
3-44 provided by Section 39, Article III, Texas Constitution. If this  
3-45 Act does not receive the vote necessary for immediate effect, this  
3-46 Act takes effect September 1, 2009.

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