

1-1 By: Nichols S.B. No. 1670
1-2 (In the Senate - Filed March 10, 2009; March 20, 2009, read
1-3 first time and referred to Committee on Transportation and Homeland
1-4 Security; March 31, 2009, reported favorably by the following
1-5 vote: Yeas 9, Nays 0; March 31, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the transfer of certain state property from the Texas
1-9 Department of Transportation to Polk County.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. (a) Not later than September 30, 2009, the
1-12 Texas Department of Transportation shall transfer to Polk County
1-13 the real property described by Subsection (f) of this section.

1-14 (b) Polk County may use the property transferred under this
1-15 Act only for a purpose that benefits the public interest of the
1-16 state. If Polk County uses the property for any purpose other than
1-17 a purpose that benefits the public interest of the state, Polk
1-18 County shall pay to the Texas Department of Transportation an
1-19 amount equal to the fair market value of the property on the date
1-20 Polk County begins using the property for the purpose other than a
1-21 purpose that benefits the public interest of the state, less the
1-22 amount that Polk County paid to the Texas Department of
1-23 Transportation under Subsection (c) of this section.

1-24 (c) On the effective date of the transfer authorized under
1-25 Subsection (a) of this section, Polk County shall pay an amount to
1-26 reimburse the Texas Department of Transportation for the
1-27 department's actual costs to acquire the property. If the Texas
1-28 Department of Transportation cannot determine that amount, the
1-29 amount shall be determined based on the average historical
1-30 right-of-way acquisition values for right-of-way located in
1-31 proximity to the property described by Subsection (f) of this
1-32 section on the date of original acquisition of the property by the
1-33 Texas Department of Transportation. Money received by the Texas
1-34 Department of Transportation under this subsection shall be
1-35 deposited in the state highway fund and used in the Texas Department
1-36 of Transportation district in which the property is located.

1-37 (d) The Texas Department of Transportation shall transfer
1-38 the property by an appropriate instrument of transfer. The
1-39 instrument of transfer must:

1-40 (1) provide that:

1-41 (A) Polk County may use the property only for a
1-42 purpose that benefits the public interest of the state; or

1-43 (B) if Polk County uses the property for any
1-44 purpose other than a purpose that benefits the public interest of
1-45 the state, Polk County shall pay to the Texas Department of
1-46 Transportation an amount equal to the fair market value of the
1-47 property on the date Polk County begins using the property for the
1-48 purpose other than a purpose that benefits the public interest of
1-49 the state, less the amount that Polk County paid to the Texas
1-50 Department of Transportation under Subsection (c) of this section;
1-51 and

1-52 (2) describe the property to be transferred by metes
1-53 and bounds.

1-54 (e) The Texas Department of Transportation shall retain
1-55 custody of the instrument of transfer after the instrument of
1-56 transfer is filed in the real property records of Polk County.

1-57 (f) The real property referred to in this section is
1-58 described as follows:

1-59 FIELDNOTES of 10.549 Acres in the M.L. Choate Survey, A-15, Polk
1-60 County, Texas and being all of a 1.338 Acre Tract described under
1-61 Parcel 28, Part 1 in a Judgment of Court in the State of Texas, et
1-62 al, versus Wayne Duncan and wife, Judy Duncan, dated August 6, 1975
1-63 and recorded in Volume 305, Page 357 of the Polk County Deed Records
1-64 and also being part of a 20.198 Acre Tract described under Parcel

2-1 26, Part 2 in a deed from H.D. Nixon and wife, Bonibel Nixon, et al,
2-2 to the State of Texas dated August 21, 1975 and recorded in Volume
2-3 305, Page 726 of said Deed Records. Said 10.549 Acres being more
2-4 particularly described as follows:
2-5 BEGINNING at the most Northerly West corner of said 20.198 Acre
2-6 Tract and an interior corner of a 224.204 Acre Tract conveyed to the
2-7 City of Livingston by deed recorded in Volume 450, Page 805 of said
2-8 Deed Records, found a concrete monument with a 1/2" iron rod for
2-9 corner;
2-10 THENCE with the most Northerly Northwest Line of said 20.198 Acre
2-11 Tract and a Southeast Line of said 224.204 Acre Tract, N48°28'33"E
2-12 399.68 feet to the most Northerly North corner of said 20.198 Acre
2-13 Tract and an interior corner of said 224.204 Acre Tract, found a
2-14 concrete monument with a 1/2" iron rod for corner;
2-15 THENCE with the most Northerly Northeast Line of said 20.198 Acre
2-16 Tract, a Southwest Line of said 224.204 Acre Tract, the Southwest
2-17 Line of Garden Ridge Subdivision as shown on a Plat recorded in
2-18 Volume 11, Page 31 of the Polk County Plat Records, the Southwest
2-19 Line of the residue of a 4.873 Acre Tract conveyed to Donald R.
2-20 Langston by deed recorded in Volume 1064, Page 882 of said Official
2-21 Records, and the Northeast Line of said 1.338 Acre Tract,
2-22 S41°33'29"E 1,149.91 feet to an interior corner of said 20.189 Acre
2-23 Tract and the South corner of said residue Tract, found a concrete
2-24 monument with a 1/2" iron rod for corner which bears N41°26'31"W 200
2-25 feet from Highway No. 59 centerline station 164+49.77 and also
2-26 marks the beginning of a Control of Access Line;
2-27 THENCE across and severing said 20.198 Acre Tract, S48°33'29"W, at
2-28 369.77 feet and N41°26'31"W 200 feet from station 161+10.00 pass the
2-29 end of said Control of Access Line and continue on same course a
2-30 total distance of 399.77 feet to an interior corner of said 20.198
2-31 Acre Tract and the East corner of a 1.250 Acre Tract conveyed to the
2-32 Polk County Chamber of Commerce by deed recorded in Volume 1089,
2-33 Page 79 of said Official Records, found a concrete monument with a
2-34 1/2" iron rod for corner which bears N41°26'31"W 200 feet from said
2-35 Highway centerline at station 160+50.00;
2-36 THENCE with the Northeast Line of said 1.250 Acre Tract, the
2-37 Northeast Line of said 224.204 Acre Tract, and the Southwest Line of
2-38 said 20.198 Acre Tract, N41°33'13"W 1,149.34 feet to the Place of
2-39 Beginning and containing 10.549 Acres of Land.
2-40 The bearings described herein are based upon the most Westerly
2-41 Northwest Line of said 20.198 Acre Tract.
2-42 (g) Polk County shall pay any transaction fees resulting
2-43 from the transfer of property under this Act.
2-44 SECTION 2. This Act takes effect immediately if it receives
2-45 a vote of two-thirds of all the members elected to each house, as
2-46 provided by Section 39, Article III, Texas Constitution. If this
2-47 Act does not receive the vote necessary for immediate effect, this
2-48 Act takes effect September 1, 2009.

2-49 * * * * *