

House Bill 3461
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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]~~.

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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.

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

Sec. 32.102. LIST OF LAND. From time to time as

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requested by the board, the commissioner shall furnish the board a list of land areas subject to the provisions of this chapter.

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

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

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

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

Same as House version.

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

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

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

(c) The notice shall state that land is to be offered for sale, lease, or commitment to a contract for development

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on a certain date and at a certain time and the method of the sale, lease, or commitment to a contract for development and shall give notice of how ~~[that]~~ a person may obtain additional information concerning ~~[publications from the land office that describe]~~ the land offered for sale, lease, or commitment to a contract for development.

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

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

(c) Failure to pay the special fee shall not void a bid, but the commissioner shall demand payment of the fee before accepting the bid and completing the transaction ~~[a lease is issued to the best bidder. If the best bidder fails or refuses to make the payment within 30 days after demand by the commissioner, the bidder is not entitled to a sale of or a lease on the tract covered by that bid and the cash bonus shall be automatically forfeited to be deposited by the commissioner in the State Treasury to the credit of the permanent school fund or the appropriate special mineral fund. The board, at its option, may offer the tract for sale or lease to the next~~

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~~best bidder under the same terms as submitted by and as would have been granted to the best bidder].~~

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

Sec. 32.253. PURPOSE OF TRADE. Land dedicated to or acquired for the use and benefit of the permanent school fund may be traded to:

- (1) aggregate sufficient acreage of contiguous land to create a manageable unit;
- (2) acquire land having unique biological, geological, cultural, or recreational value; [or]
- (3) create a buffer zone for the enhancement of already existing public land, facilities, or amenities; or
- (4) acquire land for the use and benefit of the permanent school fund as determined by the board to be in the best interest of the fund.

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

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

(12) "Sovereign land" means land that has not been sold

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and severed by the sovereign.

SECTION 11. The heading to Section 51.013, Natural Resources Code, is amended to read as follows:
Sec. 51.013. CLASSIFICATION [~~AND VALUATION~~]
OF LAND.

Same as House version.

SECTION 12. Section 51.013(b), Natural Resources Code, is amended to read as follows:
(b) After the classification [~~and determination of market value~~] is entered on the records of the land office, no further action needs to be taken by the commissioner and no notice is required to be given to the county clerk for the classification [~~and determination of market value~~] to be effective.

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SECTION 13. Section 51.014, Natural Resources Code, is amended to read as follows:
Sec. 51.014. RULES. [~~(a)~~] The commissioner may adopt rules necessary to carry out the provisions of this chapter and may alter or amend the rules to protect the public interest.
[~~(b) Before rules are adopted under Subsection (a) of this section, the commissioner shall submit the rules to the governor for his approval.~~]

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

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

(f) If the surrounding land is owned by more than one person, the owners of land with a common boundary with a tract of land approved ~~[1,200 acres or less that is]~~ for sale by the board shall have a preference right to purchase the tract before it is made available to any other person, provided the person with the preference right pays not less than the market value of the land as determined by the board and the board finds use of the preference to be in the best interest of the state. The board shall adopt rules to implement this preference right.

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

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

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

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

Sec. 51.056. APPLICATION OR REQUEST TO PURCHASE LAND. ~~[(a)]~~ A person who wants to purchase public school land shall submit to the commissioner a ~~[separate]~~ written application or request in a form designated by the commissioner ~~[for each tract]~~.

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

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~~[(1) designate the land to be purchased;~~
~~[(2) state the bid offered;~~
~~[(3) include an affidavit disclosing the names of all persons or entities either directly or indirectly interested in the purchase of the land.~~
~~[(c) The sale of the land is effective from the date of the receipt and filing of the application, affidavit, obligation, and the payment of the initial portion of the price offered.~~
~~[(d) The application to purchase and the notice of award shall state that the land is sold without condition of settlement and with a reservation of minerals, as determined by the board.]~~

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

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

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

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

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SECTION 17. The heading to Section 51.070, Natural

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Resources Code, is amended to read as follows:

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

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

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

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

Same as House version.

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

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

(b) After the entry is made on the file [~~wrapper~~], the land and all payments that have been made for it are

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forfeited to the state, and the land may be resold in accordance with the provisions of this subchapter ~~[offered for sale on a subsequent sale date]~~.

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

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

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

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

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

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

(4) "Necessary party" means:

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- (A) an applicant or good-faith claimant whose present legal interest in the surface or mineral estate of the land claimed to be vacant may be adversely affected by a vacancy determination;
- (B) a person who asserts a right to or who claims an interest in land claimed to be vacant;
- (C) a person who asserts a right to or who claims an interest in ~~[land claimed to be vacant or in]~~ land adjoining land claimed to be vacant as shown in the records of the land office or the county records, including tax records, of any county in which all or part of the land claimed to be vacant is located;
- (D) a person whose name appears in the records described by Paragraph (C); or
- (E) an attorney ad litem appointed under Section 51.180.
- (7) "Vacancy application" means a form submitted to the commissioner by an applicant to:
- (A) initiate a determination by the commissioner whether land claimed to be vacant is vacant; and
- (B) purchase ~~[vacant land;~~ or
- ~~[(C)]~~ lease vacant land.

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

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

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- (1) determine whether the vacancy application is administratively complete; and
- (2) provide to the applicant the notice required by this section.

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

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

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

[(1)] identify and locate all necessary parties [; and

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

(c) The commissioner shall provide the attorney ad litem

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with all documents submitted by the applicant and the results of the investigation to identify necessary parties, and the attorney ad litem shall search public land records and other available records to identify and locate necessary parties.

(d) If any necessary party cannot be located, the attorney ad litem shall represent the interests of that necessary party.

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

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

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

(2) states the application commencement date; and

(3) includes:

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

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

(b) If the attorney ad litem is unable to locate an identified ~~[identify each]~~ necessary party, the attorney ad litem shall notify the commissioner in writing, and the commissioner ~~[applicant]~~ shall provide notice required

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under this section by publication in the same manner prescribed by the Texas Rules of Civil Procedure.

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

(a) If the commissioner has not issued a final order with a finding of "Not Vacant Land" on or before the first anniversary of the application commencement date and one or more exceptions have been filed under Section 51.182(a) or 51.186(b), the commissioner shall order a hearing to determine if a vacancy exists. A hearing under this subchapter:

- (1) shall be held not later than the 60th day after the date the hearing is ordered;
- (2) shall be conducted as a contested case hearing subject to Chapter 2001, Government Code; and
- (3) may be waived by written agreement of all necessary parties and the commissioner.

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

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

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

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

(a-1) If a good-faith claimant does not apply to purchase or lease the interest before the later of the 121st day after the date the commissioner's order becomes final or the 60th day after the date of the final judicial determination of an appeal under this subchapter, then the good-faith claimant's preferential right expires.

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

No equivalent provision.

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SECTION __. Chapter 52.136, Natural Resources Code, is amended in Subsection (b) as follows:

(b) By acceptance of a lease, the lessee grants to the state an express contractual lien on and security interest in all oil and gas in and extracted from the area covered by the lease, all proceeds which may accrue to the lessee from the sale of the oil and gas, whether the proceeds are

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held by the lessee or another person, and all fixtures on and improvements to the area covered by the lease used in connection with the production or processing of the oil and gas, to secure the payment of royalties and other amounts due or to become due under the lease or this subchapter and to secure payment of damages or loss that the state may suffer by reason of the lessee's breach of a covenant or condition of the lease, whether express or implied. By acceptance of a lease, the lessee having a financial or cost bearing interest in the lease grants to the state an express contractual lien on and security interest in all oil and gas in and extracted from the area covered by any other lease of state land or minerals held by the lessee having a financial or cost bearing interest in the lease only to the extent of the interest of the lessee having a financial or cost bearing interest in the lease. A lessee or operator may request a hearing before the School Land Board, either prior to or after the exercising of the State's lien rights, for re-consideration of the lien and matters relating to the lien.

No equivalent provision.

SECTION __. Section 61.021, Natural Resources Code is amended to read as follows:

Sec. 61.021. AREA NOT COVERED BY SUBCHAPTER. (a) None of the provisions of this subchapter apply to beaches on islands or peninsulas that are not accessible by a public road or ferry facility for as long as the condition exists.

(b) A local government or local official may not adopt,

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apply, or enforce a beach access and use plan or any other provision of this subchapter within a state or national park area, wildlife refuge, or other designated state or national natural area.

(c) Any requirement to keep a beach open for vehicular traffic under this subchapter or the rules promulgated hereunder shall not apply to any beach or segment of beach within 3,100 feet of a natural science laboratory in any county with a population of 40,000 or fewer.

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

- (1) Section 32.103;
- (2) Section 51.052(a);
- (3) Section 51.057;
- (4) Section 51.058;
- (5) Section 51.059;
- (6) Section 51.060;
- (7) Section 51.061;
- (8) Section 51.062;
- (9) Section 51.063;
- (10) Section 51.064;
- (11) Section 51.068;
- (12) Section 51.084; and
- (13) Section 51.086(b).

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No equivalent provision.

SECTION __. Section 32.002, Natural Resources Code, is amended by amending Subsections (a) and (b) and

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adding Subsections (a-1) and (f) to read as follows:

(a) This chapter does not apply to:

(1) land dedicated by the constitution or a law of this state to The University of Texas System, land donated by a will or instrument in writing or otherwise to The University of Texas System, as trustee, for a scientific, educational, or other charitable or public purpose, or any other land under the control of the Board of Regents of The University of Texas System;

(2) land whose title is vested in the state for the use and benefit of any part of The Texas A&M University System or land under the control of the Board of Regents of The Texas A&M University System;

(3) minerals subject to lease under Subchapter F, Chapter 52, ~~[of this code,]~~ commonly known as the Relinquishment Act, and Subchapters B and C, Chapter 53~~[, of this code]~~;

(4) ~~[oil and gas underlying land owned by the state that was acquired to construct or maintain a highway, road, street, or alley, which is located in a producing area, unless the oil or gas is leased for the specific purpose of drilling a horizontal well;~~

~~[(5) oil and gas underlying land owned by the state that was acquired to construct or maintain a highway, road, street, or alley if the Texas Transportation Commission has determined that such right of way is no longer needed for use by citizens as a road pursuant to Section 202.021, Transportation Code;~~

~~[(6)]~~ land owned by the ~~[Texas]~~ Parks and Wildlife Department; or

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(5) [(7)] land owned by the Texas Board of Criminal Justice.

(a-1) Oil and gas underlying land that is owned by this state, was acquired to construct or maintain a highway, road, street, or alley, is located in a producing area, and is subject to an oil or gas lease may be pooled or unitized only prospectively and is subject to Sections 32.201, 32.202, and 32.203.

(b) For purposes of Subsection (a-1) [Subsection (a)(4) of this section], land is located in a producing area if the closest boundary line of the surface of such land is within 2,500 feet of a well capable of producing oil or gas in paying quantities [as of January 1, 1985].

(f) This chapter does not authorize drilling or other operations on the surface of land during the period in which the land is used by this state as a highway, road, street, or alley.

No equivalent provision.

SECTION __. Section 32.203, Natural Resources Code, is amended to read as follows:

Sec. 32.203. COMPENSATORY ROYALTY. Compensatory royalty shall be paid to the state on any lease offered and granted under Section 32.201 of this code if the lease is not being held by production on the tract, by production from a pooled unit, or by payment of shut-in royalties in accordance with the terms of the lease, and if oil or gas is sold and delivered in paying quantities from a well located within 2,500 feet of the leased premises and completed in a producible reservoir

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underlying the state lease or in any case in which drainage is occurring. Such compensatory royalty shall be paid at the royalty rate provided in the state lease based on the value of production from the well as provided in the lease on which such well is located. The compensatory royalty shall be paid in the same proportion that the acreage of the state lease has to the acreage of the state lease plus the acreage of a standard [the] proration unit under statewide field rules or, if applicable, the special field rules adopted by the Railroad Commission of Texas for the field in which [surrounding] the [draining] well has been completed. The compensatory royalty is to be paid monthly to the commissioner on or before the last day of the month next succeeding the month in which the oil or gas is sold and delivered from the well ~~[causing the drainage or from the well located within 2,500 feet of the leased premises and completed in a producible reservoir under the state lease]~~. Notwithstanding anything herein to the contrary, compensatory royalty payable under this section shall be no less than an amount equal to double the annual rental payable under the state lease. Payment of compensatory royalty shall maintain the state lease in force and effect for so long as such payments are made as provided in this section.

No equivalent provision.

SECTION __. Subchapter F, Chapter 32, Natural Resources Code, is amended by adding Section 32.207 to read as follows:

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Sec. 32.207. ADVERTISING FOR BIDS; POOLING.
Section 52.076 applies to oil and gas under land owned
by this state that was acquired to construct or maintain a
highway, road, street, or alley in the same manner as that
section applies to oil and gas under a riverbed or channel.

No equivalent provision.

SECTION __. Sections 32.002 and 32.203, Natural Resources Code, as amended by this Act, and Section 32.207, Natural Resources Code, as added by this Act, do not authorize:

- (1) any person, including this state or a local government, to claim damages relating to production from a legally permitted and legally producing well the drilling of which was commenced before the effective date of this Act; or
- (2) a state or local taxing authority to reallocate liability for severance or ad valorem taxes or increase the amount of those taxes imposed based on production from or the value attributable to production from a legally permitted and legally producing well the drilling of which was commenced before the effective date of this Act.

SECTION 30. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

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