

House Bill 3632
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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by grant, gift, devise, or bequest is not suitable for the purpose for which the grant, gift, devise, or bequest was originally made, the commissioner together with the agency, board, commission, department, or other state entity, if any, designated to possess, administer, or use the real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 may exchange the real property for real property that is suitable for such purpose.

(d) If real property acquired by grant, gift, devise, or bequest is not held as part of the permanent school fund or possessed, administered, or used by a particular state agency, the commissioner may manage that real property or sell or exchange the real property under terms and

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

(d) If real property acquired by grant, gift, devise, or bequest is not held as part of the permanent school fund or possessed, administered, or used by a particular state agency, board, commission, department, or other particular state entity, the commissioner may manage

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conditions the commissioner determines to be in the best interest of the state. Real property sold under this subsection must be sold in accordance with Section 31.158. Proceeds of the sale that are not required for the management of real property under this subsection shall be deposited in the Texas farm and ranch lands conservation fund established under Chapter 183. Real property acquired under this subsection may be dedicated by the commissioner to any state agency, board, commission, political subdivision, or other governmental entity of this state, or the federal government, for the benefit and use of the public in exchange for nonmonetary consideration, if the commissioner determines that the exchange is in the best interest of the state.

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

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

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

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that real property or sell or exchange the real property under terms and conditions the commissioner determines to be in the best interest of the state. Real property sold under this subsection must be sold in accordance with Section 31.158. Proceeds of the sale that are not required for the management of real property under this subsection shall be deposited in the Texas farm and ranch lands conservation fund established under Chapter 183. Real property acquired under this subsection may be dedicated by the commissioner to any state agency, board, commission, **or department**, a political subdivision or other governmental entity of this state, or the federal government, for the benefit and use of the public in exchange for nonmonetary consideration, if the commissioner determines that the exchange is in the best interest of the state.

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

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

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

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

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

(c) The special board of review must file a copy of the development plan in the deed records of the county in which the real property is located. Revisions to the development plan that are requested after the later of the 10th anniversary of the date on which the development plan was promulgated by the special board of review or

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the date on which the state no longer holds a financial or property interest in the real property subject to the plan are governed by local development policies and procedures.

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

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

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

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

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

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

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

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

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

- (1) money appropriated by the legislature to the fund;
- (2) public or private grants, gifts, donations, or contributions; ~~and~~
- (3) funds from any other source, including proceeds from the sale of bonds, state or federal mitigation funds, or funds from any local, state, or federal program;
- (4) proceeds of the sale of real property under Section 31.065(d) that are not required for the management of real property under that subsection; and
- (5) proceeds of the sale of real property under Section 31.066(d).

No equivalent provision.

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

- (1) money appropriated by the legislature to the fund;
- (2) public or private grants, gifts, donations, or contributions; ~~and~~
- (3) funds from any other source, including proceeds from the sale of bonds, state or federal mitigation funds, or funds from any local, state, or federal program;
- (4) proceeds of the sale of real property not required for the management of real property under Section 31.065(d); and
- (5) proceeds of the sale of real property under Section 31.066(d).

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

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

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

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

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

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

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

(d) Weighing the criteria set forth in Subsections (b) and

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

No equivalent provision.

SECTION __. The heading to Section 2165.2035, Government Code, is amended to read as follows:
Sec. 2165.2035. LEASE OF SPACE IN STATE-OWNED PARKING LOTS AND GARAGES; USE AFTER HOURS.

No equivalent provision.

SECTION __. Subchapter E, Chapter 2165, Government Code, is amended by adding Sections 2165.204 and 2165.2045 to read as follows:
Sec. 2165.204. LEASE OF SPACE IN STATE-OWNED PARKING LOTS AND GARAGES; EXCESS INDIVIDUAL PARKING SPACES. (a) The commission may lease to a private individual an individual parking space in a state-owned parking lot or garage located in the city of Austin that the commission determines is not needed to accommodate the regular parking requirements of state employees who work near

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the lot or garage and visitors to nearby state government offices.

(b) Money received from a lease under this section shall be deposited to the credit of the general revenue fund.

(c) On or before December 1 of each even-numbered year, the commission shall submit a report to the legislature and the Legislative Budget Board describing the effectiveness of the program under this section.

Sec. 2165.2045. LEASE OF SPACE IN STATE-OWNED PARKING LOTS AND GARAGES; EXCESS BLOCKS OF PARKING SPACE. (a) The commission may lease to an institution of higher education or a local government all or a significant block of a state-owned parking lot or garage located in the city of Austin that the commission determines is not needed to accommodate the regular parking requirements of state employees who work near the lot or garage and visitors to nearby state government offices.

(b) Money received from a lease under this section shall be deposited to the credit of the general revenue fund.

(c) On or before December 1 of each even-numbered year, the commission shall submit a report to the legislature and the Legislative Budget Board describing the effectiveness of the program under this section.

No equivalent provision.

SECTION __. (a) In this section, "commission" means the Texas Facilities Commission.

(b) The commission shall conduct a study on the actual

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usage of state parking facilities by state employees. In conducting the study, the commission shall:

(1) for each state parking facility under the commission's charge and control, consider the:

(A) available parking capacity of the facility;

(B) number of state employees using the facility;

(C) number of visitors using the facility;

(D) amount and nature of revenue realized from the facility; and

(E) excess capacity available within the facility; and

(2) develop recommendations for the redevelopment of significantly underused parking facilities to purposes more suited to the efficient administration of state government.

(c) Not later than September 1, 2010, the commission shall report the results of the study conducted under this section to the governor and the Legislative Budget Board.

(d) This section expires January 1, 2011.

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

(b) Polk County may use the property transferred under this Act only for a purpose that benefits the public interest of the state. If Polk County uses the property for any purpose other than a purpose that benefits the public

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interest of the state, Polk County shall pay to the Texas Department of Transportation an amount equal to the fair market value of the property on the date Polk County begins using the property for the purpose other than a purpose that benefits the public interest of the state, less the amount that Polk County paid to the Texas Department of Transportation under Subsection (c) of this section.

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

(d) The Texas Department of Transportation shall transfer the property by an appropriate instrument of transfer. The instrument of transfer must:

(1) provide that:

(A) Polk County may use the property only for a

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purpose that benefits the public interest of the state; or
(B) if Polk County uses the property for any purpose other than a purpose that benefits the public interest of the state, Polk County shall pay to the Texas Department of Transportation an amount equal to the fair market value of the property on the date Polk County begins using the property for the purpose other than a purpose that benefits the public interest of the state, less the amount that Polk County paid to the Texas Department of Transportation under Subsection (c) of this section; and
(2) describe the property to be transferred by metes and bounds.
(e) The Texas Department of Transportation shall retain custody of the instrument of transfer after the instrument of transfer is filed in the real property records of Polk County.
(f) The real property referred to in this section is described as follows:
FIELDNOTES of 10.549 Acres in the M.L. Choate Survey, A-15, Polk County, Texas and being all of a 1.338 Acre Tract described under Parcel 28, Part 1 in a Judgment of Court in the State of Texas, et al, versus Wayne Duncan and wife, Judy Duncan, dated August 6, 1975 and recorded in Volume 305, Page 357 of the Polk County Deed Records and also being part of a 20.198 Acre Tract described under Parcel 26, Part 2 in a deed from H.D. Nixon and wife, Bonibel Nixon, et al, to the State of Texas dated August 21, 1975 and recorded in

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Volume 305, Page 726 of said Deed Records. Said 10.549 Acres being more particularly described as follows:

BEGINNING at the most Northerly West corner of said 20.198 Acre Tract and an interior corner of a 224.204 Acre Tract conveyed to the City of Livingston by deed recorded in Volume 450, Page 805 of said Deed Records, found a concrete monument with a 1/2" iron rod for corner;

THENCE with the most Northerly Northwest Line of said 20.198 Acre Tract and a Southeast Line of said 224.204 Acre Tract, N48°28'33"E 399.68 feet to the most Northerly North corner of said 20.198 Acre Tract and an interior corner of said 224.204 Acre Tract, found a concrete monument with a 1/2" iron rod for corner;

THENCE with the most Northerly Northeast Line of said 20.198 Acre Tract, a Southwest Line of said 224.204 Acre Tract, the Southwest Line of Garden Ridge Subdivision as shown on a Plat recorded in Volume 11, Page 31 of the Polk County Plat Records, the Southwest Line of the residue of a 4.873 Acre Tract conveyed to Donald R. Langston by deed recorded in Volume 1064, Page 882 of said Official Records, and the Northeast Line of said 1.338 Acre Tract, S41°33'29"E 1,149.91 feet to an interior corner of said 20.189 Acre Tract and the South corner of said residue Tract, found a concrete monument with a 1/2" iron rod for corner which bears N41°26'31"W 200 feet from Highway No. 59 centerline station 164+49.77 and also marks the beginning of a

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Control of Access Line;

THENCE across and severing said 20.198 Acre Tract, S48°33'29"W, at 369.77 feet and N41°26'31"W 200 feet from station 161+10.00 pass the end of said Control of Access Line and continue on same course a total distance of 399.77 feet to an interior corner of said 20.198 Acre Tract and the East corner of a 1.250 Acre Tract conveyed to the Polk County Chamber of Commerce by deed recorded in Volume 1089, Page 79 of said Official Records, found a concrete monument with a 1/2" iron rod for corner which bears N41°26'31"W 200 feet from said Highway centerline at station 160+50.00;

THENCE with the Northeast Line of said 1.250 Acre Tract, the Northeast Line of said 224.204 Acre Tract, and the Southwest Line of said 20.198 Acre Tract, N41°33'13"W 1,149.34 feet to the Place of Beginning and containing 10.549 Acres of Land.

The bearings described herein are based upon the most Westerly Northwest Line of said 20.198 Acre Tract.

(g) Polk County shall pay any transaction fees resulting from the transfer of property under this Act.

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

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SECTION 5. 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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SECTION 7. Same as House version.

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