

BILL ANALYSIS

Senate Research Center
83R9162 CAC-D

S.C.R. 30
By: Uresti
Jurisprudence
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The State of Texas, on behalf of the permanent school fund, acting by and through Jerry E. Patterson, Commissioner of the General Land Office and Chairman of the School Land Board, alleges that:

(1) the permanent school fund owns approximately 157 acres of mineral classified lands, identified as Survey 5 1/2 ("the permanent school fund property") located in Pecos County, Texas, and exercises sole and exclusive management and control of the lands set aside and appropriated to or acquired by the permanent school fund, which was created and is governed by Sections 2, 4, and 5, Article VII, Texas Constitution;

(2) the State of Texas, through the board of regents of The University of Texas System ("the board"), owns university blocks 23, 24, and 26 ("university lands") located in Pecos County, Texas, and exercises sole and exclusive management and control of the lands set aside and appropriated to or acquired by the permanent university fund, which was created and is governed by Sections 10, 11, 15, and 18, Article VII, Texas Constitution;

(3) during the year 2008, the board began removing a fence located on or about the true boundary of the university lands and began constructing a new fence west of the true boundary of the university lands, staked a new fence line west of the true boundary of the university lands, and stated that the location of the new fence was based on a survey performed by Frank F. Friend, the field notes of which were filed in the General Land Office in 1939;

(4) the university lands were originally surveyed in 1879 by R. M. Thomson, and Friend later resurveyed the university lands in 1936, purportedly under the authority of Section 66.41, Education Code, which called for lands to be resurveyed when it was impracticable to establish lines and corners as originally surveyed;

(5) the Friend survey placed the western boundary of the university lands west of the original R. M. Thomson line, established in 1879;

(6) the university lands in conflict are subject to lease for oil and gas exploration, and any attempt by the board to lease the tracts as described in the Friend resurvey could wrongfully include 157 acres of permanent school fund minerals, creating problems for the permanent school fund and any potential lessees; and

(7) the legislature takes no position on this issue.

RESOLVED

That the State of Texas, on behalf of the permanent school fund, acting by and through Jerry E. Patterson, Commissioner of the General Land Office and Chairman of the School Land Board, is granted permission to sue the State of Texas and the board of regents of The University of Texas System subject to Chapter 107, Civil Practice and Remedies Code.

That the permanent school fund may not seek recovery of monetary damages from the state, but may only seek a determination of the boundary of the permanent school fund property and a

determination of the permanent school fund's rights through a court order that fixes and determines the true boundary between the university lands and the permanent school fund property.

That the suit authorized by this resolution may be brought in Pecos or Travis County.

That the relief awarded in the suit authorized by this resolution is limited to the relief authorized under Chapter 37, Civil Practice and Remedies Code, or Chapter 22, Property Code, or both.

That the secretary of the board of regents of The University of Texas System be served process as provided by Section 107.002(a)(3), Civil Practice and Remedies Code.