

BILL ANALYSIS

Senate Research Center

S.B. 907
By: Perry
Higher Education
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The board of regents of the Texas Tech University System governs Texas Tech University, Texas Tech University Health Sciences Center, and Angelo State University.

Interested parties observe that current law relating to the university system and its board contains some unnecessary provisions and archaic language and might benefit from reorganization, particularly with regard to the powers and duties of the board for the component institutions.

S.B. 907 seeks to provide for that reorganization, among other provisions.

As proposed, S.B. 907 amends current law relating to the powers and duties of the board of regents of the Texas Tech University System and to workers' compensation coverage for employees of the system's components.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Subchapter A, Chapter 109, Education Code, to read as follows:

SUBCHAPTER A. GENERAL AND ADMINISTRATIVE PROVISIONS

SECTION 2. Amends Section 109.001, Education Code, by adding Subsection (d), as follows:

(d) Authorizes the board of regents of the Texas Tech University (TTU) System to accept, retain in depositories of its choosing, and administer, on terms and conditions acceptable to the board, gifts, grants, or donations of any kind, from any source, for use by the system or any of the component institutions of the system.

SECTION 3. Transfers Sections 109.21, 109.22, and 109.23, Education Code, to Subchapter A, Chapter 109, Education Code, redesignates them as Sections 109.002, 109.003, and 109.004, Education Code, and amends them as follows:

Sec. 109.002. BOARD OF REGENTS. Redesignates existing Section 109.21 as Section 109.002. Provides that the government, control, and direction of the policies of the university system and the component institutions are vested in a board of nine regents; requires that the regents be appointed by the governor with the advice and consent of the senate.

Sec. 109.003. BOARD MEMBERS: TERMS, VACANCIES. Redesignates existing Section 109.22 as Section 109.003. Provides that members of the Texas Higher Education Coordinating Board (board) will hold office for staggered terms of six years, with the terms of three members expiring on January 31 of odd-numbered years, rather than providing that, except for the initial appointees, members hold office of terms of six years expiring on January 31 of odd-numbered years. Requires any vacancy to be filled

for the unexpired portion of the term by appointment by the governor with the advice and consent of the senate. Deletes existing text requiring the governor, in making the initial appointments, to designate three for terms expiring in 1971, three for terms expiring in 1973, and three for terms expiring in 1975.

Sec. 109.004. CHIEF EXECUTIVE OFFICER: SELECTION, DUTIES. Redesignates existing Section 109.23 as Section 109.004. Requires the board to appoint, rather than provide, a chief executive officer, who shall devote the officer's, rather than his, attention to the executive management of the university system and who shall be directly accountable to the board for the conduct of the university system. Requires the board, when required by law to be the governing body of any other state educational institution or facility, to also direct the chief executive officer to be directly responsible for the executive management of that other institution or facility.

SECTION 4. Amends the heading to Subchapter B, Chapter 109, Education Code, to read as follows:

SUBCHAPTER B. POWERS AND DUTIES

SECTION 5. Transfers Sections 109.41, 109.42, 109.48, and 109.54, Education Code, to Subchapter B, Chapter 109, Education Code, redesignates them as Sections 109.051, 109.052, 109.053, and 109.054, Education Code, and amends them as follows:

Sec. 109.051. EMINENT DOMAIN. Redesignates existing Section 109.41 as Section 109.051. Provides that the board of regents has the power of eminent domain to acquire land needed to carry out the purposes of the university system and the component institutions.

Sec. 109.052. New heading: RESIDENCES FOR CHANCELLOR AND PRESIDENTS. Redesignates existing Section 109.42 as Section 109.052. Authorizes the board to purchase a house or purchase land and construct a house suitable for the residence of the chancellor of the university system or a president of a component university, rather than the university.

Sec. 109.053. UTILITIES EASEMENTS. Redesignates existing Section 109.48 as Section 109.053. Authorizes the board to convey, dedicate, or use any other appropriate method of conveyance to grant, convey, or dedicate rights, title, rights-of-way, or easements involving or in connection with the furnishing or providing of electricity, water, sewage disposal, natural gas, telephone, telegraph, or other utility service on, over, or through the campuses of the Texas Tech University System and the component institutions. Authorizes the chairman of the board to execute and deliver conveyances or dedications on behalf of the university system and the component institutions, rather than Texas Tech University. Makes nonsubstantive changes.

Sec. 109.054. MANAGEMENT OF LANDS. Redesignates existing Section 109.54 as Section 109.054. Provides that the board has the sole and exclusive management and control of lands set aside and appropriated to or acquired by the institutions under its governance. Authorizes the board to lease, sell, exchange, acquire, dispose of, and otherwise manage, control, and use the lands in any manner and at prices and under terms and conditions the board deems best for the interest of the institutions. Prohibits the board from selling any of the original main campus of Texas Tech University located in Lubbock, Lubbock County, unless the sale is approved by act of the legislature. Provides that no grazing lease shall be made for a period of more than five years.

SECTION 6. Amends the heading to Subchapter C, Chapter 109, Education Code, to read as follows:

SUBCHAPTER C. TEXAS TECH UNIVERSITY

SECTION 7. Transfers Section 109.01, Education Code, to Subchapter C, Chapter 109, Education Code, redesignates it as Section 109.101, Education Code, and amends it to read as follows:

Sec. 109.101. TEXAS TECH UNIVERSITY. Redesignates existing Section 109.01 as Section 109.101. Provides that Texas Tech University is a coeducational institution of higher education located in the city of Lubbock.

SECTION 8. Redesignates Sections 109.43, 109.45, and 109.52, Education Code, as Sections 109.102, 109.103, and 109.104, Education Code, and amends them as follows:

Sec. 109.102. DORMITORIES: RULES AND REGULATIONS. Redesignates existing Section 109.43 as Section 109.102. Authorizes the board to adopt rules and regulations it deems advisable requiring any class or classes of students to reside in university dormitories or other buildings.

Sec. 109.103. New heading: MUSEUM. Redesignates existing Section 109.45 as Section 109.103. (a) Authorizes the board to establish a history, science, and art museum, rather than rent, lease, or convey, for a sum of money to be determined by the board, a part of the campus, not to exceed four acres, to the city of Lubbock for the sole purpose of building, with bonds or current city taxes, and maintaining with city tax money, such a museum.

(b) Authorizes the board to provide a building or any part of a building for the sole purpose of maintaining a history, science, and art museum, rather than authorizes the board to rent or lease a building or any part of a building on the parcel of land to the city of Lubbock for the sole purpose of maintaining a history and art museum for a sum of money to be determined by the board.

Deletes text of existing Subsection (c) authorizing the board to dedicate for public use a street or streets leading to and connecting the parcel of land and building and to provide ingress and egress to and from a public highway and to and from adjacent parking lots.

Deletes text of existing Subsection (d) authorizing the board to contract with the city of Lubbock for the staffing, operation, and maintenance of a history and art museum with funds provided by the city of Lubbock at its discretion.

Deletes text of existing Subsection (e) authorizing the board to enter into contracts and agreements which are necessary and proper for carrying out the provisions of this section, provided that no expenditure of money by the board shall be made except as may be appropriated by the legislature.

Sec. 109.104. DONATIONS, GIFTS, GRANTS, AND ENDOWMENTS. Redesignates existing Section 109.52 as Section 109.104. Authorizes the board to accept donations, gifts, grants, and endowments for Texas Tech University to be held for the benefit of the institution, rather than in trust, and administered by the board.

SECTION 9. Amends Subchapter D, Chapter 109, Education Code, as follows:

SUBCHAPTER D. MINERAL DEVELOPMENT IN UNIVERSITY LAND

Sec. 109.151. MINERAL LEASES; DISPOSITION OF PROCEEDS. Redesignates existing Section 109.61 as Section 109.151. (a) Authorizes the board to lease for oil, gas, sulphur, or other mineral development to the highest bidder at public auction all or part of the lands under the exclusive control of the board owned by the State of Texas and acquired for the use of Texas Tech University and its divisions.

(b) Requires that any money received by virtue of this section be deposited in a special fund managed by the board to be known as the Texas Tech University

special mineral fund. Provides that money in the fund is considered to be institutional funds, as defined by Section 51.009 (Defining and Accounting for Certain Income), of the university and is to be used exclusively for the university, rather than for the university and its branches and divisions. Requires that all deposits in and investments of the fund be made in accordance with Section 51.0031 (Deposits and Investments). Provides that Section 34.017 (Special Mineral Funds), Natural Resources Code, does not apply to the fund.

Sec. 109.152. MAJORITY OF BOARD TO ACT. Redesignates existing Section 109.62 as Section 109.152. Provides that a majority of the board has power to act in all cases under this subchapter except as otherwise provided in this subchapter.

Sec. 109.153. SUBDIVISION OF LAND; TITLES. Redesignates existing Section 109.63 as Section 109.153. (a) Requires the board to have the lands surveyed or subdivided into tracts, lots, or blocks which in its judgment, rather than in their judgment, will be most conducive and convenient to an advantageous sale or lease of oil, gas, sulphur, or other minerals in and under and that may be produced from the lands; and authorizes the board to make maps and plats which it deems necessary to carry out the purposes of this subchapter.

(b) Authorizes the board to obtain authentic abstracts of title to the lands from time to time as it deems necessary and take necessary steps to perfect a merchantable title to the lands.

Sec. 109.154. SALE OF LEASES; ADVERTISEMENTS; PAYMENTS. Redesignates existing Section 109.64 as Section 109.154. (a) Requires the board to place the oil, gas, sulphur, or other mineral leases on the land on the market in a tract or tracts, or any part of a tract, which the board may designate whenever in the opinion of the board there is a demand for the purchase of oil, gas, sulphur, or other mineral leases on any tract or part of any tract of land which can be reasonably expected to result in an advantageous sale, rather than will reasonably insure an advantageous sale.

(b) Requires the board to have advertised a brief description of the land from which the oil, gas, sulphur, or other minerals is proposed to be leased. Requires the advertisement to be made by publishing, rather than inserting, in two or more papers of general circulation in this state, and in addition, the board may, in its discretion, cause the advertisement to be placed in an oil and gas journal published in and out of the state. Authorizes the board to specify that publication of the offer by electronic means, including an Internet posting, satisfies the requirement for publication of the advertisement in at least two papers of general circulation in this state.

(c) Authorizes the board to sell the lease or leases to the highest bidder at public auction. Deletes existing text specifying the place and time of such auction.

(d) Requires the highest bidder to pay to the board on the day of the sale 25 percent of the bonus bid, and the balance of the bid to be paid within 24 hours after the bidder is notified that the bid has been accepted. Requires that payments be made in cash, certified check, cashier's check, or electronic payment, as the board directs. Provides that the failure of the bidder to pay the balance of the amount bid will forfeit to the board the 25 percent of the bonus bid paid. Makes a nonsubstantive change.

Sec. 109.155. SEPARATE BIDS; MINIMUM ROYALTY; DELAY RENTAL. Redesignates existing Section 109.65 as Section 109.155. (a) Requires that a separate bid be made for each tract or subdivision of a tract.

(b) Requires that no bid be accepted which offers a royalty of less than one-eighth of the gross production of oil, gas, sulphur, and other minerals in the land bid

upon. Authorizes the board to increase this minimum royalty at the discretion of the board. Makes nonsubstantive changes.

(c) Requires that every bid carry the obligation to pay an amount not less than \$5 per acre, rather than \$1 per acre, for delay in drilling or development. Requires that the amount be fixed by the board in advance of the advertisement. Requires that the delay rental, rather than amount fixed, be paid every year for five years unless in the meantime production in paying quantities is had upon the land or the land is released by the lessee.

Sec. 109.156. REJECTION OF BIDS; WITHDRAWAL OF LAND. Redesignates existing Section 109.66 as Section 109.156. Authorizes the board to reject any and all bids and to withdraw any land advertised for lease.

Sec. 109.157. ACCEPTANCE; CONDITIONS AND PROVISIONS OF LEASE. Redesignates existing Section 109.67 as Section 109.157. (a) Authorizes the lands advertised to be leased for oil, gas, sulphur, and other mineral purposes under the terms of this section and subject to regulations prescribed by the board which are not inconsistent with the provisions of this section if, in the opinion of the board, the highest bidder, rather than any one of the bidders, has offered a reasonable and proper price for any tract, which is not less than the price set by the board.

(b) Requires that no lease be made by the board which will permit the drilling or mining for oil, gas, sulphur, or other minerals within 500 feet, rather than 300 feet, of any building or structure on the land without the consent of the board. Requires that the lease also provide that the lessee operating the property drill and carry on the lessee's, operations in such a way as not to interfere with uses of the property, rather than cause the abandonment of the property, for university purposes, and that the leased property be subject to the use by the state for all university purposes. Makes a nonsubstantive change. Deletes text requiring the board to continue to operate the university.

Sec. 109.158. New heading: ACCEPTANCE AND FILING OF BIDS; TERMINATION OF LEASE. Redesignates existing Section 109.68 as Section 109.158. (a) Requires the board to accept the bid and reject all others and file the accepted bid in the general land office if the board determines that a satisfactory bid has been received for the oil, gas, sulphur, or other mineral lands.

(b) Redesignates existing Subsection (c) as Subsection (b). Requires that the lease terminate unless extended as provided in Sections 109.160 and 109.161, rather than Sections 109.70 and 109.71 of this code, if before the expiration of five years, oil, gas, sulphur, or other minerals have not been produced in paying quantities.

Deletes existing Subsection (b) authorizing the yearly payments be discontinued whenever the royalties amount to as much as the yearly payments fixed by the board.

Sec. 109.159. AWARD AND FILING OF LEASE. Redesignates existing Section 109.69 as Section 109.159. Makes no further change to this section.

Sec. 109.160. EXPLORATORY TERM OF LEASE; EXTENSION; OTHER PROVISIONS. Redesignates existing Section 109.70 as Section 109.160. (a) Prohibits the exploratory term of a lease as determined by the board prior to the promulgation of the advertisement from exceeding five years, and requires that each lease provide that the lease will terminate at the expiration of its exploratory term unless by unanimous vote of the board the lease is extended for a period not to exceed three years. Makes a nonsubstantive change.

(b) Deletes existing text authorizing the lease to be extended if the board finds that there is a likelihood of oil, gas, sulphur, or other minerals being discovered by the lessees, and that the lessees have proceeded with diligence to protect the interest of the state.

(c) Makes no change to this subsection.

Sec. 109.161. EXTENSION OF LEASES. Redesignates existing Section 109.71 as Section 109.161. Authorizes the board by unanimous vote to extend the lease for a period not to exceed three years, on the condition that the lessee shall continue to pay yearly rental as provided in the lease and shall comply with any additional terms the board requires, rather than terms which the board may see fit and proper to demand, when in the discretion of the board it is deemed for the best interest of the state to extend a lease issued by the board.

Sec. 109.162. CONTROL OF DRILLING AND PRODUCTION. Redesignates existing Section 109.72 as Section 109.162. Requires that the drilling for and the production of oil, gas, and other minerals from the lands be governed and controlled by the Railroad Commission of Texas and other applicable regulatory bodies which govern and control other fields in this state.

Sec. 109.163. DRILLING OPERATIONS; SUSPENSION OF RENT; CONTINUANCE OF LEASE; DUTY TO PREVENT DRAINAGE. Redesignates existing Section 109.73 as Section 109.163. Requires that no rentals be payable as to the tract on which the operations are being conducted as long as the operations are proceeding in a good and workmanlike manner in a good faith attempt to produce oil, gas, sulphur, or other minerals from the well, rather than as long as the operations are proceeding in good faith, if during the term of a lease issued under the provisions of this subchapter the lessee is engaged in actual drilling operations for the discovery of oil, gas, sulphur, or other minerals.

(b) Makes no change to this subsection.

(c) Makes a nonsubstantive change.

Sec. 109.164. TITLE TO RIGHTS PURCHASED; ASSIGNMENT; RELINQUISHMENT. Redesignates existing Section 109.74 as Section 109.164. (a) Changes a reference to owners to lessee.

(b) Makes no change to this subsection.

(c) Makes a conforming change.

(d) Requires the board to authorize any required infrastructure, including the opening of roads deemed reasonably necessary in carrying out the purposes of this subchapter. Deletes existing text referring to the laying of pipeline and telephone line.

Sec. 109.165. PAYMENT OF ROYALTIES; RECORDS; REPORT OF RECEIPTS. Redesignates existing Section 109.75 as Section 109.165. (a) Requires the royalty as stipulated in the sale to be paid to the general land office in Austin on or before the last day of each month for the preceding month during the life of the rights purchased if oil, gas, or other minerals are developed on any of the lands leased by the board. Changes a reference to Section 109.61 to Section 109.151.

(b) Changes a reference to owner to lessee.

(c) Changes a reference to Section 109.61 to Section 109.151.

Sec. 109.166. PROTECTION FROM DRAINAGE; FORFEITURE OF RIGHTS. Redesignates existing Section 109.76 as Section 109.166. (a) Changes a reference to owner to lessee.

(b) Makes a conforming change.

(c) Changes a reference to Section 109.77 of this code to Section 109.167.

Sec. 109.167. FORFEITURE AND OTHER REMEDIES; LIENS. Redesignates existing Section 109.77 as Section 109.167. (a) Makes no change to this subsection.

(b) Changes references to owner to lessee. Changes references to his to the lessee's.

(c)-(e) Makes conforming changes.

(f) Requires the state to have a first lien on oil, gas, sulphur, or other minerals produced or that may be produced in the leased area, and on all rigs, tanks, vats, pipelines, telephone lines, and machinery and appliances used in the production and handling of oil, gas, sulphur, or other minerals produced, to secure the amount due from the lessee, rather than the owner of the lease.

Sec. 109.168. FILING OF DOCUMENTS AND PAYMENT OF ROYALTIES, FEES, AND RENTALS. Redesignates existing Section 109.78 as Section 109.168. (a) Makes no change to this subsection.

(b) Changes a reference to Section 109.61 to Section 109.151.

Sec. 109.169. FORMS, REGULATIONS, RULES, AND CONTRACTS. Redesignates existing Section 109.79 as Section 109.169. Makes no further change to this section.

Sec. 109.170. MANAGEMENT OF SURFACE AND MINERAL ESTATES. Redesignates existing Section 109.80 as Section 109.170. Makes no further change to this section.

SECTION 10. Amends Sections 110.01, 110.02, 110.11, and 110.32, Education Code, as follows:

Sec. 110.01. TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER; SEPARATE INSTITUTION. Provides that Texas Tech University Health Sciences Center (TTUHSC) is a separate institution and not a department, school, or branch of Texas Tech University (TTU) but is under the direction, management, and control of the Texas Tech University System Board of Regents.

Sec. 110.02. New heading: CONCURRENT POWERS. Provides that the board of regents has the same powers of governance, control, jurisdiction, and management, rather than the same powers of direction, management, and control, over the Health Sciences Center as it exercises over Texas Tech University System and its components. Deletes existing text requiring the board to act separately and independently on all matters affecting the Health Sciences Center as a separate institution. Makes a nonsubstantive change

Sec. 110.11. MEDICAL SCHOOL ADMISSION POLICIES. Requires the board of regents to promulgate appropriate rules and regulations pertaining to the admission of students to the medical school.

Deletes existing text requiring the Board of Regents to provide for admission of those students to its entering class each year who are equally or as well qualified as all other students and who have entered a contract with or received a commitment for a stipend, grant, loan or scholarship from the State Rural Medical Education Board.

Deletes existing text authorizing The State Rural Medical Education Board to contract with medical students providing for such students to engage in a general or family practice of medicine for not less than four years after licensing and a period of medical residency, as determined by the rules and regulations established by the State Rural Medical Education Board, in cities of Texas which have a population of less than 5,000 or in rural areas, as that term may be defined by the State Rural Medical Education Board, and said Board is hereby given the authority to define and from time to time redefine the term rural area, at the time the medical practice is commenced.

Deletes existing text requiring that this contract provide for a monthly stipend of at least \$100 to be granted by the State Rural Medical Education Board to each person under contract with the State while enrolled as a medical school student.

Sec. 110.32. CONCURRENT POWERS. Provides that the board of regents has the same powers of governance, control, jurisdiction, and management, rather than direction, management, and control, over the Texas Tech University Health Sciences Center (TTUHSC) at El Paso as the board of regents exercises over the other component institutions of the Texas Tech University System.

SECTION 11. Amends the heading to Section 501.022, Labor Code, to read as follows:

Sec. 501.022. EMPLOYEES OF COMPONENT INSTITUTIONS OR SYSTEM ADMINISTRATION OF TEXAS TECH UNIVERSITY SYSTEM.

SECTION 12. Amends Section 501.022, Labor Code, by amending Subsection (a) and adding Subsections (e) and (f), as follows:

(a) Provides that an eligible employee of Texas Tech University, Texas Tech University Health Sciences Center, Angelo State University, Texas Tech University System Administration, Texas Tech University Health Sciences Center at El Paso, or another agency under the direction and control of the board of regents of Texas Tech University System is entitled to participate in the workers' compensation program for state employees provided under this chapter.

(e) Provides that, for purposes of this chapter, Texas Tech University (TTU) System Administration is a state agency and requires that TTU System Administration act in the capacity of employer.

(f) Provides that, for purposes of this chapter, Texas Tech University Health Sciences Center (TTUHSC) in El Paso is a state agency and requires that TTUHSC act in the capacity of employer.

SECTION 13. Repealers: Sections 109.44 (Research Park), 109.46 (Lease of Land for Armory), 109.47 (Lease of Land for National Guard Armory), 109.49 (Sale of Crops), 110.04 (Chief Executive Officer), and 110.14 (Sale of Obsolete Medical Equipment), Education Code.

SECTION 14. Effective date: upon passage or September 1, 2015.