

- SUBJECT:** Distribution of unclaimed land grant mineral proceeds
- COMMITTEE:** Business and Industry — committee substitute recommended
- VOTE:** 7 ayes — Deshotel, Bohac, Garza, S. Miller, Quintanilla, Solomons, Workman
- 0 nays
- 2 absent — Orr, Giddings
- WITNESSES:** For — Al Cisneros, Eileen Fowler, Don Tomlinson, Land Grant Justice Association; (*Registered, but did not testify:* F. H. “Tocho” Canales, Tejano Land Grant Movement; Hector Uribe, Texas Land Grant Justice Association; and 22 others representing themselves)
- Against — None
- BACKGROUND:** In Texas, after a dormancy period, unclaimed property is turned over to the comptroller, who tries to locate the rightful owner. Unclaimed monies are deposited into the General Revenue Fund and returned to the owner when located. Property is declared unclaimed after a set dormancy period, which begins after the last act of ownership. This is usually defined as the owner’s last transaction or communication with the property holder. In January 1985, unclaimed mineral royalties in Texas began to be turned over to the comptroller.
- According to the General Land Office, the governments of Spain and Mexico awarded about 26 million acres of land in what is now Texas in specific grants during the 16th and 17th centuries. In total, Texas contains about 172 million acres of land.
- DIGEST:** CSHB 2611 would direct the comptroller to distribute unclaimed mineral royalties to the descendants of Spanish and Mexican land grantees.
- The bill would direct the comptroller to segregate unclaimed mineral royalties from other unclaimed properties in the General Revenue Fund. The comptroller then would have to determine the remaining unconveyed mineral rights of each original land grant as determined by a land survey.

Based on Railroad Commission records, the comptroller would then determine the total amount of mineral production for each original land grant from January 1, 1985, to the present.

The bill would prescribe a formula to determine the percentage that each original land grant constituted of the whole of the original land grants.

Descendants of an original land grant recipient would be allowed to submit claims for their shares of the grant's mineral estate against unclaimed land grant mineral proceeds with the comptroller. The claimant would be required to establish heirship from a Spanish or Mexican land grantee and the extent of his or her interest in the mineral proceeds of the land grant.

CSHB 2611 would allow attorneys to represent claimants on an hourly or contingency basis and to charge more than the standard 10 percent "finder's fee" normally allowed in unclaimed property cases.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2011. The bill only would affect claims to unclaimed mineral royalties made on or after the effective date.

**SUPPORTERS
SAY:**

CSHB 2611 would create a method for the comptroller to distribute unclaimed mineral royalties to the descendants of Spanish and Mexican land grant recipients. Since 1985, oil and gas companies have sent royalty payments to the comptroller when they were unable to locate the rightful owners. The companies often are unable to determine whom the heirs were or where they lived. More often than not in these situations, the rightful owners died without specifying their heirs in their wills. The comptroller holds these funds in trust for the unknown owners. Up to 95 percent of the unclaimed mineral royalties contain some kind of information on the true owners, but it is often insufficient to identify, let alone locate, them. Sometimes the royalty payments even lack information on the well head from which they were generated. Absent a change in current law, these funds likely will never be distributed.

Descendants of Spanish and Mexican land grantees are proper recipients of the state's unclaimed mineral royalties because these descendants still own significant portions of the mineral rights of the original land grants. Genealogists and title searchers are able to determine with clarity which

descendants own a share of remaining mineral rights in the state. This makes the descendants an appropriate class to receive the royalties, especially since the bill would require that they not have received royalties from these inherited mineral rights previously.

OPPONENTS
SAY:

The bill would inappropriately award funds from the comptroller's unclaimed property accounts to people who do not have legal title to it. CSHB 2611 would require that all unclaimed mineral royalties be placed in a special fund to be distributed to descendants of the original Spanish and Mexican land grants regardless of where in Texas the mineral royalties originated. Almost all of the unclaimed oil and gas royalty payments in the unclaimed property accounts are linked to a specific person, and these royalties belong to the named owner. Only about 5 percent of these unclaimed royalties are not tied to a specific owner. This 5 percent is, however, tied to a specific well head, many of which are not located on land that was included in a specific Spanish or Mexican land grant. It would be wrong to award royalties from wells not on land grant properties to the descendants of original land grant owners because there is no link of ownership.

The state cannot afford to award funds from the comptroller's unclaimed property accounts to anyone but the rightful owner. The \$2.2 billion in unclaimed property generates significant interest, which becomes essential general revenue. CSHB 2611 would award unclaimed property to people who cannot prove that they own it, which would reduce the interest revenue upon which the state has come to rely.

OTHER
OPPONENTS
SAY:

The bill should include a mechanism to allow people to claim unclaimed mineral royalties from areas of Texas outside of the original Spanish and Mexican land grants. This would ensure that no one's present or future claims to unclaimed mineral royalties would be harmed by the bill.

NOTES:

The companion bill, SB 1657 by Hinojosa, was referred to the Senate Finance Committee on March 23.