

## **BILL ANALYSIS**

Senate Research Center

S.B. 1602  
By: Estes  
Natural Resources  
4/11/2005  
As Filed

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

The General Land Office (GLO) is responsible for maintaining official county maps showing surveys of state-owned lands as well as original surveys of private lands severed from the sovereign. Many of these original surveys were performed in the nineteenth century or earlier. The official maps and records of the GLO are living documents, and surveys performed on behalf of the state and private parties are still filed as part of the official records.

Surveys of state lands are required to determine state ownership of property or prepare state property for sale or lease. In some cases, GLO survey staff cannot complete needed surveys within the deadlines associated with a particular project. In those instances, a private survey firm will be contracted to perform the work on behalf of the GLO. In other situations, surveyors hired by private parties file new surveys of private lands with the GLO for entry in the agency's official records. When the private surveyor's work is submitted to GLO, staff of the GLO's Surveying Division review the submitted plat and field notes. The GLO charges a fee to cover its cost to review such surveys. If an error is discovered, the plat and/or field notes are returned to the surveyor for correction and re-submission. No additional charge for such corrections may be assessed, pursuant to Natural Resources Code Section 21.044. Once a survey and its associated field notes are accepted by the GLO, it is made part of the GLO's official maps and records. Once a survey is made part of the GLO's official maps and records, it is legally presumed to be correct.

The GLO interprets Natural Resources Code Section 21.044 to apply only to surveys submitted for filing in the GLO but not yet accepted, rather than to surveys already accepted and filed as part of the official records of the Land Office. However, a question has recently arisen regarding the responsibility of a surveyor to re-perform a survey already accepted and filed in the records of the GLO. If a contract surveyor were to be required to re-perform surveys already accepted by GLO, surveyors will be very reluctant to contract with GLO. As a practical matter, some surveyors may refuse to contract with GLO or will substantially increase their fees for doing so. This situation would have a materially negative impact on the GLO's ability to conduct its business. Given that the statute specifically requires that "the surveyor who made the survey" correct a survey, the GLO believes its interpretation has merit. Otherwise, it is difficult to understand who would be required to re-perform an allegedly erroneous survey originally accepted in the nineteenth century or even earlier.

As proposed, S.B. 1602 confirms the GLO's interpretation of Section 21.044.

### **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 Section 21.044, Natural Resources Code, by adding Subsection (d), as follows:

- (d) Requires nothing in this section to require the commissioner of the General Land Office (commissioner) or any surveyor to re-perform all or part of any survey after the date such survey is accepted by the commissioner for filing in the official records of the Land Office.

SECTION 2. Effective date: September 1, 2005.