

BILL ANALYSIS

Senate Research Center
80R2845 ESH-D

H.B. 890
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Education
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Section 6 (County School Lands; Proceeds of Sales; Investment; Available School Fund), Article 7, Texas Constitution provides that all lands granted to certain counties for educational purposes are of right the property of the counties to which they were granted. Each county may sell or dispose of its lands in whole or part, in a manner to be provided by the commissioners court of the county. This arrangement made sense in the 19th century, as then it was common to have a number of very small community schools located in various parts of the county. With the rise of independent school districts that have taxing authority, this arrangement has become increasingly cumbersome.

The Texas Constitution stipulates that all proceeds be held in trust for the benefit of the public schools of the county or be distributed to the schools in the county. However, there is no vehicle in current law for the county government to use proceeds from the property to make improvements or provide for maintenance of the land. Therefore, counties are forced to use their budget to provide funding for any improvement and maintenance projects. Since many counties are reluctant to do this, they eventually sell the property and distribute the money to the schools in the county.

H.B. 890 improves management of such property and makes it easier to maximize the return. The bill provides the county commissioners court the option to place the principal in trust in the event the land is sold and provides that the interest from the trust would benefit the students of the county in perpetuity.

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 Subchapter E, Chapter 45, Education Code, by adding Section 45.113, as follows:

Sec. 45.113. TRUST FOR COUNTY PERMANENT SCHOOL FUND. (a) Authorizes the commissioners court of a county, notwithstanding former Subchapter E (County School Lands), Chapter 17, as that subchapter existing on May 1, 1995, to sell or otherwise dispose of county school lands in the manner determined by the court, to establish an irrevocable trust for the proceeds of a sale or other disposition under Subdivision (1), and to invest the principal of a trust created under Subdivision (2) in any investment permitted for other county funds under Chapter 2256 (Public Funds Investment), Government Code.

(b) Requires the members of the commissioners court and their successors in office to be the sole trustees of a trust established under Subsection (a)(2). Prohibits the trustees from delegating the authority to manage or invest the trust but authorizes the trustees to contract with qualified persons for investment advice.

(c) Provides that the principal of a trust established under Subsection (a)(2) constitutes a portion of the county permanent school fund and requires the

principal to be held in perpetuity for the benefit of the public schools in the county. Provides that the income of a trust established under Subsection (a)(2) constitutes a portion of the county available school fund and may be distributed as permitted by law.

SECTION 2. Effective date: upon passage or September 1, 2007.