

## BILL ANALYSIS

Senate Research Center  
80R10603 T

S.B. 1326  
By: Estes  
Natural Resources  
4/11/2007  
As Filed

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

Possum Kingdom Lake is a reservoir maintained by the Brazos River Authority and was created by the Morris Sheppard Dam completed in 1941. Possum Kingdom Lake is primarily in Palo Pinto County with 310 miles of shoreline. There are approximately 1,575 residential lease sites and approximately 66 commercial lease sites, also managed by the Brazos River Authority on the property surrounding the Lake. Lease rates, provisions in lease language, services provided and related issues have generated confusion and controversy recently.

As proposed, S.B. 1326 requires the Brazos River Authority to offer leaseholders the opportunity to purchase the land they are currently leasing at fair market values.

### 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 Chapter 221, Water Code, by adding Section 221.020, as follows:

Sec. 221.020. SALE OF LOTS SUBJECT TO RESIDENTIAL AND COMMERCIAL LEASES. (a) Defines "FERC order," "1980 FERC order," "lake," "project lands," "buffer zone," "residential leaseholder," and "commercial leaseholder."

- (b) Authorizes a leaseholder to purchase the lot as provided by this section.
- (c) Requires the Brazos River Authority (authority) to make available a form for an application of intent to purchase the lot within 90 days of the effective date of this section. Sets forth certain requirements relating to certain dates relating to the processing and accepting of applications.
- (d) Sets forth certain requirements relating to purchases of lots at fair market value. Sets forth certain required actions and procedures related to appraisals and reports that must be conducted in a certain manner and within certain timeframes to determine fair market value.
- (e) Sets forth certain responsibilities of a prospective purchaser of a lot.
- (f) Requires the lease in effect as of January 1, 2007, or after, to remain in effect until such transaction is completed. Provides that a lease of the lot expires on the date the sale of the lot is complete.
- (g) Sets forth certain requirements of an eligible leaseholder relating to waivers and a lease valuation if an eligible leaseholder is unable or unwilling to purchase a lot.
- (h) Provides that a lot sold under this section is subject to all existing restrictions, including any applicable easements, placed on the lot by the Federal Energy Regulatory Commission under the FERC order, if any, but does not include the terms of the existing leases unless otherwise mentioned herein.

- (i) Authorizes a residential lot sold under this section to be used only for a single-family residential structure and related facilities and only for normal residential, noncommercial, recreational use and enjoyment.
- (j) Requires a commercial leaseholder that purchases a lot and sublets said lot for residential use to comply with Section 94.204 (Conditions for Retention of Security Deposit or Rent Repayment), Property Code, if applicable.
- (k) Sets forth certain requirements and provisions relating to a shoreline buffer zone.
- (l) Sets forth certain requirements of an owner of a lot relating to fees due to the authority.
- (m) Sets forth certain requirements and provisions of the authority relating to roadways.
- (n) Requires the purchaser of a lot under this section to comply with certain rules.
- (o) Provides that a person who purchases a lot under this section agrees to perform certain obligations to maintain the quality of the lake's water and of the environment in the lake's vicinity.
- (p) Sets forth certain requirements and prohibitions relating to historical items located on a lot purchased under this section.
- (q) Provides that a leaseholder who purchases a lot under this section agrees that the water level in the lake varies and that the authority is not responsible for keeping the lake full.
- (r) Provides that the authority reserves the right to modify Morris Sheppard (Possum Kingdom) Dam so that the water surface elevation of the lake is raised from 1,000 feet above mean sea level to 1,015 feet above mean sea level. Exempts that authority from responsibility or liability for any personal injury or damage to a lot or improvements on the lot caused by the resultant increase in the water level or caused by natural flooding.
- (s) Sets forth certain provisions relating to the authority's rights and responsibilities relating to damage or the taking of property.
- (t) Provides that the authority reserves its interest in all oil, gas, and other minerals in and under the real property sold under this section.
- (u) Authorizes the authority to use proceeds from the sale of a lot under this section for any authority purpose.
- (v) Requires a purchase to be completed by January 1, 2015, if a declaration of intent to purchase by a leaseholder is made under this section.
- (w) Authorizes the authority to seek any available legal remedy if the owner of a lot sold under this section does not comply with this section.
- (x) Sets forth certain laws that do not apply to sale of a lot under this section.
- (y) Requires a prevailing party to recover court costs and any reasonable attorney's fees and provides that the authority expressly waives any claim to governmental immunity if such a dispute arises in the event of a dispute arising under this section between the authority and a person who purchases a lot under this section.

(z) Provides that a provision that applies to the purchaser of a lot under this section applies to any subsequent owner of the lot.

SECTION 2. Provides that if the provisions of this section conflict with any other provisions of this code, then the provisions of this section shall prevail, notwithstanding all such conflicting provisions.

SECTION 3. Effective date: upon passage or September 1, 2007.