

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 986  
By: Duncan  
Higher Education  
4/3/2013  
Committee Report (Substituted)

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

In 1999, S.B. 1088 formally established the Texas Tech University System by adding Section 109.001 (Texas Tech University System), Education Code. Currently the Texas Tech University System Board of Regents governs Texas Tech University (TTU), Texas Tech University Health Sciences Center (TTUHSC), and Angelo State University (ASU). The current statute contains some unnecessary provisions and archaic language that have accumulated since 1939. Re-organizing the statutes regarding the powers and duties of the board for the component institutions provides users with greater recognition of the orderly flow. The only "new" authority given to the board of regents is the authority to accept gifts on behalf of the system. The board currently has expressed stated statutory authority to receive gifts on behalf of TTU, ASU, and TTUHSC, but only implied authority to accept gifts on behalf of the system.

C.S.S.B. 986 amends current law relating to the powers and duties of the board of regents of the Texas Tech University System

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the board of regents of the Texas Tech University System is modified in SECTION 10 (Section 110.11, Education Code) of this bill.

Rulemaking authority previously granted to the State Rural Medical Education Board is rescinded in SECTION 10 (Section 110.11, Education Code) of this bill.

### **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), to provide that the board of regents of Texas Tech University (TTU) (board) is authorized 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 who are required to 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 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 except for the initial appointees, members hold office of terms of six years expiring on January 31 of odd-numbered years. 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 a chief executive officer who is required to devote the officer's attention to the executive management of the university system and who is required to be directly accountable to the board for the conduct of the university system, rather than to provide a chief executive officer, who is required to devote his attention to the executive management of the university and who is required to be directly accountable to the board for the conduct of the university.

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 to Subchapter B, Chapter 109, as amended by this Act, redesignates them as Sections 109.051, 109.052, 109.053, and 109.0054, Education Code, and amends them as follows:

Sec. 109.051. EMINENT DOMAIN. Redesignates existing Section 109.41 as Section 109.005. Provides that the board has the power of eminent domain to acquire land and improvements 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 109.006. Authorizes the board to purchase a house or to purchase land and construct a house suitable for the residence of the chancellor of the university system or a president of a component university.

Sec. 109.053. UTILITIES EASEMENTS. Redesignates existing Section 109.48 as Section 109.007. Authorizes the board, on terms, conditions, stipulations, and compensation as determined by 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 university system and the component institutions, rather than through the campus of TTU in Lubbock County. 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 on behalf of TTU.

Sec. 109.054. MANAGEMENT OF LANDS. Redesignates existing Section 109.54 as Section 109.008. Prohibits the board from selling any of the original main campus of TTU located in Lubbock, Lubbock County, unless the sale is approved by act of the legislature.

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

#### SUBCHAPTER C. TEXAS TECH UNIVERSITY

SECTION 7. Transfers Sections 109.01, Education Code, to Subchapter C, Chapter 109, Education Code, redesignates it as Section 109.101, Education Code, and makes no further change to this section.

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 it as follows:

Sec. 109.102. DORMITORIES: RULES AND REGULATIONS. Redesignates existing Section 109.43 as Section 109.02. Makes no further change to this section.

Sec. 109.103. New heading: MUSEUM. Redesignates existing Section 109.45 as Section 109.03. (a) Authorizes the board to establish a history, science, and art museum. Deletes existing text authorizing the board to 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, a history, science, and art 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 authorizing 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 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 existing Subsection (d) authorizing the board, at its discretion, 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.

Deletes 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 is required to 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 109.04. Authorizes the board to accept donations, gifts, grants, and endowments for TTU to be held for the benefit of the institution, rather than to be held 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 109.151. (a) Makes no change to this subsection.

(b) Provides that money in the special mineral fund is considered to be institutional funds, as defined by Section 51.009 (Defining and Accounting for Certain Income), of TTU and is to be used exclusively for TTU, rather than TTU and its branches 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. Makes no further change to this section.

Sec. 109.153. SUBDIVISION OF LAND; TITLES. Redesignates existing Section 109.63 as Section 109.153. (a) Authorizes the board to have the lands surveyed or subdivided into tracts, lots, or blocks which, in its 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. Makes a nonsubstantive change.

(b) Makes no change to this subsection.

Sec. 109.154. SALE OF LEASES; ADVERTISEMENTS; PAYMENTS. Redesignates existing Section 109.64 as Section 109.154. (a) Requires the board, 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 which all reasonably insure an advantageous sale, 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 is authorized to designate.

(b) Requires that an advertisement for the land from which the oil, gas, sulphur or other minerals is proposed to be leased to made by publishing, rather than inserting, in two or more papers of general circulation in this state, and in addition, authorized the board, in its discretion, to 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, such as 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, rather than at public auction at TTU at any hour between 10 a.m. and 5 p.m.

(d) Requires payments to be made in case, certified check, cashier's check or electronic payment, rather than in cash, certified check, or cashier's check, 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.

Sec. 109.155. SEPARATE BIDS; MINIMUM ROYALTY; DELAY RENTAL. Redesignates existing Section 109.65 as Section 109.155. (a) Makes no change to this subsection.

(b) Authorizes the board to increase this minimum royalty at the discretion of the board. Makes nonsubstantive changes.

(c) Requires every bid to carry the obligation to pay an amount not less than \$5, rather than \$1, per acre for delay in drilling or development. Requires that the delay rental, rather than the 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. Makes no further change to this section.

Sec. 109.157. ACCEPTANCE; CONDITIONS AND PROVISIONS OF LEASE. Redesignates existing Section 109.67 as Section 109.157. (a) Authorizes the lands advertised, 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, 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.

(b) Prohibits any lease from being made by the board which will permit the drilling or mining for oil, gas, sulphur, or other minerals within 500, 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 is

required to drill and carry on its operations in such a way as not to interfere with uses of the property for TTU purposes, and requires that the leased property be subject to the use by the state for all TTU purposes. Deletes existing text requiring the lease to also provide that the lessee operating the property is required to drill and carry on his operations in such a way as not to cause the abandonment of the property for university purposes and requiring that the leased property be subject to the use by the state for all TTU purposes, and requiring the board to continue to operate TTU.

Sec. 109.158. New heading: ACCEPTANCE AND FILING OF BIDS; TERMINATION OF LEASE. Redesignates existing Section 109.68 as Section 109.158. (a) Makes no change to this subsection.

(b) Redesignates existing Subsection (c) as Subsection (b). Requires that the lease, if before the expiration of five years oil, gas, sulphur, or other minerals have not been produced in paying quantities, to terminate unless extended as provided in Sections 109.160, rather than 109.70, and 109.161, rather than 109.71, of this code. Deletes existing text in Subsection (b) authorizing the yearly payments, whenever the royalties shall amount to as much as the yearly payments fixed by the board, to be discontinued.

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, rather than is extended for a period of three years.

(b) Requires that the lease, if oil, gas, sulphur, or other minerals are being produced in paying quantities from the premises, to continue in force and effect as long as the oil, gas, sulphur, or other minerals are being so produced. 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, 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, to by unanimous vote to extend the lease for a period not to exceed three years, on the condition that the lessee is required to continue to pay yearly rental as provided in the lease and is required to comply with any additional terms the board requires, rather than may see fit and proper to demand. Makes a nonsubstantive change.

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. (a) Requires that no rentals, 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, 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.

(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 references to owner to lessee.

(b) Makes no change to this subdivision.

(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, rather than the laying of pipeline and telephone line and the opening of roads deemed reasonably necessary in carrying out the purposes of this subchapter.

Sec. 109.165. PAYMENT OF ROYALTIES; RECORDS; REPORT OF RECEIPTS. Redesignates existing Section 109.75 as 109.165. (a) Requires that the royalty as stipulated in the sale, if oil, gas, or other minerals are developed on any of the lands leased by the board, 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 purchase. Requires that the royalty payments be set aside as specified in Section 109.151, rather than Section 109.61, and used as provided in that section.

(b) Changes a reference to owner to lessee.

(c) Requires the commissioner of the General Land Office to tender to the board on or before the 10th day of each month a report of all receipts that are collected from the lease or sale of oil, gas, sulphur, or other minerals and that are deposited in the special fund as provided by Section 109.151, rather than Section 109.61, during the preceding month.

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

(b) Makes a conforming change.

(c) Authorizes the sale and all rights acquired, on failure to protect the land from drainage as provided in this section, to be forfeited by the board in the manner provided in Section 109.167, rather than Section 109.77 of this code for forfeitures.

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)-(e) Changes references to owner to lessee.

(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 109.037. (a) Makes no change to this subsection.

(b) Requires the commissioner of the General Land Office to transmit all payments received to the board for deposit to the credit of the TTU special mineral fund as provided by Section 109.151, rather than 109.61.

Sec. 109.169. FORMS, REGULATIONS, RULES, AND CONTRACTS. Redesignates existing Section 109.79 as Section 109.169. Requires the board to adopt proper forms, regulations, rules, and contracts which, in its judgment, will protect the income from lands leased pursuant to this subchapter.

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, and 110.11, Education Code, as follows:

Sec. 110.01. SEPARATE INSTITUTION. Provides that the Texas Tech University Health Sciences Center (TTUHSC) is a separate institution and not a department, school, or branch of TTU but is under the direction, management, and control of the board.

Sec. 110.02. CONCURRENT AND SEPARATE POWERS. Provides that the board has the same powers of governance, control, jurisdiction, and management, rather than the same powers of direction, management, and control, over TTUHSC as it exercises over the university system and its components.

Sec. 110.11. MEDICAL SCHOOL ADMISSION POLICIES. Requires the board to promulgate appropriate rules and regulations pertaining to the admission of students to the medical school. Deletes existing text requiring the board to promulgate appropriate rules and regulations pertaining to the admission of students to the medical school which will 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.

SECTION 11. 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 12. Effective date: upon passage or September 1, 2013.