SUBJECT: Allowing release of state interest in certain land

COMMITTEE: Land and Resource Management Committee — favorable, without amendment

VOTE: 6 ayes — Saunders, Alexander, Combs, Hamric, Howard, B. Turner

0 nays

3 absent — Mowery, Hilderbran, Krusee

WITNESSES: For — Kathryn Keller, Texas Farm Bureau

Against — None

BACKGROUND: A "land patent" is an original land title granted by the state. In 1900 all unpatented Texas land not granted to individuals or dedicated for other purposes reverted to the School Land Fund. However, in some cases the legal requirements for securing patents were not met in the 1800s, and some persons have belatedly learned that land they thought they had purchased years ago and on which they have been paying taxes does not belong to them but actually belongs to the state School Land Fund. To acquire a valid land patent, these individuals would have to purchase the land from the state.

A 1976 attorney general's opinion (H-881) determined that the Legislature was powerless to make a free grant of school lands without a constitutional amendment explicitly granting that authority. In 1981 and in 1991 the Legislature adopted and the voters approved temporary constitutional amendments authorizing the General Land Office to issue patents for public school land if a person met specific criteria. The 1981 amendment expired in 1990; the 1991 amendment expired in 1993. In 1993 the Legislature adopted and the voters approved another constitutional amendment (HJR 3 by Saunders), by which the state relinquished its claim to a one-third interest in lands and minerals for a specific tract in Fort Bend and Austin counties.

DIGEST:

HB 1798 would establish a three-member panel, consisting of the attorney general, the comptroller and the commissioner of the General Land Office, that could issue patents releasing all or part of the state's interest in land, including mineral rights, if the panel found unanimously that the land was surveyed, unsold permanent school fund land not patentable under the law in effect prior to January 1, 1996. Persons claiming title to the land would have to:

• have held the land under color of title;

• held the land under a chain of title originating at least 50 years previously (on or before January 1, 1946) and not based on a patent or grant from the sovereign;

• acquired the land without knowledge that title was not based on a patent or grant;

• have a deed to the land recorded in the appropriate county;

• have paid all taxes due on the land and any interest and penalties for any prior tax delinquency.

The bill would not apply to beach land, submerged or filled land or islands or land found state-owned in a court decision rendered on or after January 1, 1946. It could not be used to settle boundary disputes or change the mineral reservation on an existing patent.

Persons claiming title would apply for a patent by filing with the land commissioner an application on a form approved by the commissioner, attaching all documentation necessary to support the claimant's request. If the General Land Office determined after reviewing the application that all criteria had been met, the land commissioner would convene the review panel to determine whether the patent should be issued.

The bill would take effect when a constitutional amendment proposed by the 74th Legislature authorizing the Legislature to settle land title disputes (HJR 82) took effect.

SUPPORTERS/ OPPONENTS SAY:

See arguments for HJR 82, also on today's calendar.

NOTES:

The committee amendment would allow, rather than require, the three-member panel to issue a land patent.