

EDUCATION CODE

TITLE 3. HIGHER EDUCATION

SUBTITLE C. THE UNIVERSITY OF TEXAS SYSTEM

CHAPTER 66. PERMANENT UNIVERSITY FUND

SUBCHAPTER A. COMPOSITION, INVESTMENT, AND USE

Sec. 66.01. PERMANENT UNIVERSITY FUND. The composition, investment, purposes, and use of the permanent university fund are governed by Article VII, Sections 10, 11, 11a, 15, and 18, of the Texas Constitution.

Acts 1971, 62nd Leg., p. 3149, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

Sec. 66.02. AVAILABLE UNIVERSITY FUND. Distributions from the permanent university fund shall constitute the available university fund. All distributions from the permanent university fund shall be deposited in the State Treasury to the credit of the available university fund by the board of regents of The University of Texas System or by the custodian or custodians of the permanent university fund's securities. The University of Texas System shall provide the information necessary for the comptroller to accurately account for distributions from the permanent university fund and to protect state revenues. The system shall provide the information using the method, format, and frequency required by the comptroller.

Acts 1971, 62nd Leg., p. 3149, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971. Amended by Acts 1997, 75th Leg., ch. 1311, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1467, Sec. 1.04, eff. June 19, 1999.

Sec. 66.04. VALIDITY OF BONDS PURCHASED BY BOARD. Whenever the board has purchased the bonds of any city, county, or municipality, approved by the attorney general, the certificate of the attorney general attesting their validity shall be admitted and received as prima facie evidence of the validity of the bonds; and in all cases in which the proceeds of the sale of these bonds have

been received by the proper officers of the city, municipality, or county, or by the party acting for them in negotiating the sale of the bonds, the city, municipality, or county is thereafter estopped from denying the validity of the bonds and they shall be held to be valid and binding obligations. In the case of any bonds bought under this section, premium or discount shall be distributed over the life of the bonds.

Acts 1971, 62nd Leg., p. 3149, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

Sec. 66.05. REPORTS. (a) Before December 1 of each year the board of regents of The University of Texas System shall prepare a written report providing statements of assets and a schedule of changes in book value of the investments from the permanent university fund during the year ending August 31 preceding the publication of the report.

(b) The report shall contain a summary of all gains, losses and income from investments and an itemized list of all securities held for the fund on August 31. The report shall also contain any other information needed to clearly indicate the nature and extent of investments made of the fund and all income realized from the components of the fund.

(c) The report shall be distributed to the governor, state comptroller of public accounts, state auditor, attorney general, commissioner of higher education, and to the members of the legislature by the 1st day of January each year. The board shall furnish copies of the report to any interested person on request.

Added by Acts 1971, 62nd Leg., p. 3347, ch. 1024, art. 2, Sec. 20, eff. Sept. 1, 1971. Amended by Acts 1995, 74th Leg., ch. 823, Sec. 8, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 5.17, eff. Sept. 1, 1997.

Sec. 66.06. WRITTEN OBJECTIVES; PERFORMANCE EVALUATION.

(a) The board of regents of The University of Texas System shall develop written investment objectives concerning the investment of the permanent university fund. The objectives may address desired rates of return, risks involved, investment time frames, and any

other relevant considerations.

(b) The board of regents shall evaluate and analyze the investment results of the permanent university fund. The service shall compare investment results with the written investment objectives developed by the board of regents, and shall also compare the investment of the permanent university fund with the investment of other funds operating with substantially the same objectives and restrictions.

Added by Acts 1983, 68th Leg., p. 5097, ch. 925, Sec. 2, eff. Aug. 29, 1983. Amended by Acts 1995, 74th Leg., ch. 823, Sec. 9, eff. Aug. 28, 1995.

Sec. 66.07. CUSTODY AND INVESTMENT OF ASSETS PENDING TRANSACTIONS. With the approval of the comptroller, the board of regents of The University of Texas System may appoint one or more commercial banks, depository trust companies, or other entities to serve as a custodian or custodians of the permanent university fund's securities with authority to hold the money realized from those securities pending completion of an investment transaction if the money held is reinvested within one business day of receipt in investments determined by the board of regents. Money not reinvested within one business day of receipt shall be deposited in the state treasury not later than the fifth day after the date of receipt.

Added by Acts 1997, 75th Leg., ch. 1311, Sec. 2, eff. Sept. 1, 1997.

Sec. 66.08. INVESTMENT MANAGEMENT. (a) The board may delegate investment authority for the investment of the permanent university fund to the same extent as an institution with respect to an institutional fund under Chapter 163, Property Code.

(b) The board may enter into a contract with a nonprofit corporation for the corporation to invest funds under the control and management of the board, including the permanent university fund, as designated by the board. The corporation may not engage in any business other than investing funds designated by the board under the contract.

(c) The board must approve the:

(1) articles of incorporation and bylaws of the corporation and any amendment to the articles of incorporation or bylaws;

(2) investment policies of the corporation, including changes to those policies;

(3) audit and ethics committee of the corporation; and

(4) code of ethics of the corporation.

(d) The board of directors of the corporation shall have nine members, determined as follows:

(1) seven members appointed by the board, of whom:

(A) three must be members of the board;

(B) three must have a substantial background and expertise in investments; and

(C) one must be a qualified individual as determined by the board, which may include the chancellor of The University of Texas System; and

(2) two members appointed by the board of regents of The Texas A&M University System, at least one of whom must have a substantial background and expertise in investments.

(e) Each appointed member of the board of directors of the corporation is subject to removal and replacement by and at the pleasure of the appointing entity.

(f) If an investment contract entered into under Subsection (b) includes the permanent university fund within the scope of funds under the control and management of the board to be invested by the corporation, the board shall provide for an annual financial audit of the permanent university fund. The audit shall be performed by the auditors of The University of Texas System and The Texas A&M University System and presented to the board.

(g) The corporation shall file quarterly reports with the board concerning matters required by the board.

(h) The corporation:

(1) is subject to the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes); and

(2) is subject to the provisions of Chapter 551, Government Code (the open meetings law), that apply to the board of

regents of The University of Texas System, except that the board of directors of the corporation:

(A) may discuss an investment or potential investment with one or more employees of the corporation or with a third party to the extent permitted to the board of trustees of the Texas growth fund under Section 551.075, Government Code; and

(B) is not subject to Section 551.121 or Section 551.125, Government Code, rather any director of the corporation may attend any meeting of the board of directors by telephone conference call provided that the telephone conference is audible to the public at the meeting location specified in the notice of the meeting during each part of the meeting that is required to be open to the public.

(i) The corporation may not enter into an agreement or transaction with a:

(1) director, officer, or employee of the corporation acting in other than an official capacity on behalf of the corporation; or

(2) business entity in which a director, officer, or employee of the corporation has an interest

(j) An agreement or transaction entered into in violation of Subsection (i) is void.

(k) For purposes of this section, a person has an interest in a business entity if:

(1) the person owns five percent or more of the voting stock or shares of the business entity;

(2) the person owns five percent or more of the fair market value of the business entity; or

(3) money received by the person from the business entity exceeds five percent of the person's gross income for the preceding calendar year.

(l) A former director of the corporation may not make any communication to or appearance before a director, officer, or employee of the corporation before the second anniversary of the date an individual ceased to be a director of the corporation if the communication or appearance is made:

(1) with the intent to influence; and

(2) on behalf of any person in connection with any matter on which the person seeks action by the corporation.

(m) A former officer or employee of the corporation may not represent any person or receive compensation for services rendered on behalf of any person regarding a particular matter in which the former officer or employee participated during the period of service or employment with the corporation, either through personal involvement or because the particular matter was within the officer's or employee's responsibility.

(n) An individual who violates Subsection (1) or (m) commits an offense. An offense under this subsection is a Class A misdemeanor.

(o) In this section:

(1) "Board" means the board of regents of The University of Texas System.

(2) "Institution" and "institutional fund" have the meanings assigned by Chapter 163, Property Code.

(3) "Participated" means to have taken action as an officer or employee through decision, approval, disapproval, recommendation, giving advice, investigation, or similar action.

(4) "Particular matter" means a specific investigation, application, request for a ruling or determination, rulemaking proceeding, contract, claim, charge, accusation, arrest, or judicial or other proceeding.

Added by Acts 1983, 68th Leg., p. 5100, ch. 926, Sec. 2, eff. Aug. 29, 1983. Renumbered from Education Code Sec. 66.06 by Acts 1987, 70th Leg., ch. 167, Sec. 5.01(a)(20), eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 213, Sec. 3, eff. May 23, 1995; Acts 1997, 75th Leg., ch. 19, Sec. 1, eff. April 25, 1997; Acts 2001, 77th Leg., ch. 118, Sec. 3.06, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 834 (H.B. 860), Sec. 3, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 834 (H.B. 860), Sec. 4, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 335 (H.B. 2825), Sec. 1, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1366 (S.B. 1604), Sec. 3, eff. June 14, 2013.

Sec. 66.09. COST VALUE OF INVESTMENTS AND OTHER ASSETS OF THE PERMANENT UNIVERSITY FUND. If substantially all of the assets of the permanent university fund are invested in an internal investment fund established by the board of regents of The University of Texas System, the cost value of the permanent university fund's investment in the commingled fund for the purpose of Sections 18(a) and (b), Article VII, Texas Constitution, shall be calculated by multiplying the permanent university fund's ownership percentage in the commingled fund by the commingled fund's net asset value at cost as determined by the board of regents. The permanent university fund's ownership percentage of the commingled fund shall be determined by dividing the permanent university fund's units of participation or shares by the total units or shares of the commingled fund.

Added by Acts 1999, 76th Leg., ch. 1467, Sec. 1.06, eff. June 19, 1999.

SUBCHAPTER B. PERMANENT UNIVERSITY FUND BONDS AND NOTES

Sec. 66.21. REGISTRATION. All bonds and notes issued pursuant to the provisions of Article VII, Section 18, of the Texas Constitution, as originally adopted or as amended, shall be registered by the comptroller of public accounts after they have been approved by the attorney general.

Acts 1971, 62nd Leg., p. 3150, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

Sec. 66.22. REFUNDING BONDS AND NOTES. Any bonds or notes issued pursuant to the constitutional provisions described in Section 66.21 of this code, or issued pursuant to this subchapter, may be refunded by the governing board which issued the bonds or notes, upon such terms and conditions, including interest rates and maturities, as may be determined by that board, provided that such terms and conditions shall not be inconsistent with the applicable

constitutional provisions. Any such bonds or notes may be so refunded by the issuance of refunding bonds or notes, either to be exchanged for the bonds or notes being refunded and cancelled, or to be sold, with the proceeds to be used for the redemption and cancellation of the bonds or notes being refunded.

Acts 1971, 62nd Leg., p. 3150, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

Sec. 66.23. REFUNDING BONDS AND NOTES: APPROVAL; REGISTRATION. All refunding bonds or notes authorized to be issued under this subchapter and the records relating to their issuance, including any proceedings relating to the redemption of any outstanding bonds or notes, shall be submitted to the attorney general for examination, and if he finds that they have been issued in accordance with law, he shall approve them, and then they shall be registered by the comptroller of public accounts, and after such approval and registration they shall be incontestable. When any such refunding bonds or notes are issued to be exchanged for any outstanding bonds or notes, the comptroller of public accounts shall register and deliver such refunding bonds on surrender for cancellation of the bonds or notes being refunded. When any such refunding bonds or notes are sold, with the proceeds to be used for redeeming any outstanding bonds or notes, the comptroller of public accounts shall register such refunding bonds or notes, even though the bonds or notes to be redeemed shall not have been surrendered for redemption or cancellation.

Acts 1971, 62nd Leg., p. 3150, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

Sec. 66.24. AUTHORIZED INVESTMENTS; SECURITY FOR DEPOSITS. All bonds and notes, whether original or refunding, issued pursuant to the constitutional provisions or issued pursuant to this subchapter, shall be fully negotiable instruments, and all bonds and notes are declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of

cities, towns, villages, counties, school districts, and all other political corporations or subdivisions of the State of Texas; and the bonds and notes shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, and all other political corporations or subdivisions of the State of Texas; and the bonds and notes shall be lawful and sufficient security for those deposits to the extent of their par value when accompanied by all unmatured coupons appurtenant to them.

Acts 1971, 62nd Leg., p. 3150, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

Sec. 66.25. TAX EXEMPT. The carrying out of the purposes of the constitutional provisions and of this subchapter will be performing an essential public function under the constitution, and all bonds and notes, whether original or refunding, heretofore or hereafter issued pursuant to the constitutional provisions or this subchapter, and their transfer and the income from them, including the profits made on their sale, shall at all times be free from taxation of this state.

Acts 1971, 62nd Leg., p. 3151, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

SUBCHAPTER C. MANAGEMENT OF UNIVERSITY LANDS

Sec. 66.41. MANAGEMENT OF UNIVERSITY LANDS. The board of regents of The University of Texas System has the sole and exclusive management and control of the lands set aside and appropriated to, or acquired by, the permanent university fund. The board may sell, lease, and otherwise manage, control, and use the lands in any manner and at prices and under terms and conditions the board deems best for the interest of the permanent university fund, not in conflict with the constitution. However, the land shall not be sold at a price less per acre than that at which the same class of other public land may be sold under the statutes. No grazing lease shall be made for a period of more than 10 years.

Acts 1971, 62nd Leg., p. 3151, ch. 1024, art. 1, Sec. 1, eff. Sept.

1, 1971.

Sec. 66.42. DUTY OF LAND COMMISSIONER. The commissioner of the general land office shall:

(1) furnish to the board of regents complete and accurate maps and all other data necessary to show the location and condition of every tract of the university lands;

(2) furnish to the board any additional information it may require; and

(3) render to the board any possible assistance it may request in the discharge of its duties under this chapter.

Acts 1971, 62nd Leg., p. 3151, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

Sec. 66.43. UNIVERSITY LANDS: SURVEYS; PERSONNEL. (a) The board of regents shall cause to be done such surveying or resurveying of the blocks and subdivisions of the university lands as may be necessary to enable the lines of the blocks and sections and fractional sections to be determined and identified and have such corners as may be necessary to that end permanently marked. When it is impracticable to establish such lines and corners as originally surveyed, or when such sections have not been actually surveyed on the ground, the blocks shall be surveyed or resurveyed and divided into surveys of sections and fractional sections, and as many corners thereof as may be necessary for the identification shall be permanently marked. The surveyors to do such surveying shall be employed by the board. The field notes of such surveys shall be returned to the general land office, and when correct and in accordance with law shall be approved by the commissioner of the general land office, filed in the general land office, and become archives therein.

(b) The board of regents may employ and compensate personnel the board deems necessary in connection with performance of any duties under this section or under Subchapter D of this chapter.

Acts 1971, 62nd Leg., p. 3151, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

Sec. 66.44. MANAGEMENT OF MINERALS OTHER THAN OIL AND GAS.

The board of regents has the sole and exclusive management and control of all minerals, other than oil and gas, in lands set aside and appropriated to, or acquired by the permanent university fund. The board may sell, lease, and otherwise manage and control the minerals, other than oil and gas, in those lands as may seem best to it for the interests of the permanent university fund. The board may also explore and have explored and developed the minerals and may make any contract or contracts with any person, association of persons, firm, or corporation for the exploration, development, mining, production, disposition, and sale of the minerals in those lands.

Acts 1971, 62nd Leg., p. 3152, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

Sec. 66.45. SOIL AND WATER CONSERVATION PLANS. Under each lease issued under this subchapter for agricultural or grazing purposes, the lessee shall be required to implement a soil and water conservation plan reviewed and approved by the board of regents of The University of Texas System under procedures adopted by the board. The board, in reviewing a plan, and the lessee, in implementing a plan, may be assisted by the United States Department of Agriculture Soil Conservation Service.

Added by Acts 1985, 69th Leg., ch. 613, Sec. 7, eff. Sept. 1, 1985.

Sec. 66.46. EASEMENTS ON UNIVERSITY LAND. (a) The board of regents of The University of Texas System may execute grants of easements or other interests in property for rights-of-way or access across land that belongs to the state but is dedicated to the support and maintenance of The University of Texas System for telephone, telegraph, electric transmission, and powerlines, for oil pipelines, gas pipelines, sulphur pipelines, and other electric lines and pipelines of any nature, and for irrigation canals, laterals, and water pipelines.

(b) The board of regents may execute grants of easements for the erection and maintenance of electric substations, pumping stations, loading racks, and tank farms on university land, and for

any other purpose the board determines to be in the best interest of the permanent university fund land.

(c) In addition to the purposes for which grants of easements may be executed under Subsections (a) and (b), the board of regents may execute grants of easements on university land for any other purpose and on any terms it considers to be in the best interest of the permanent university fund land.

(d) An easement under this section may not be granted for a term that is longer than 10 years, but the easement may be renewed by the board of regents. The rent to be charged for an easement under this section shall be an amount agreed to by the grantee and the board.

(e) Income received from university land under this section shall be credited to the available university fund.

(f) Payments under this subchapter that are past due shall bear interest at a rate equal to the rate imposed by the comptroller under Section [111.060](#), Tax Code, for delinquent payments due the state, except that if the board of regents enters into an agreement with the grantee of the easement specifying a lower rate, the payments bear interest at that lower rate.

(g) Each easement granted under this section shall be recorded in the county clerk's office of the county in which the land is located, and the recording fee shall be paid by the person who obtains the easement. The person who obtains the easement shall furnish to the board of regents a certified copy of the easement.

(h) No person may construct or maintain any structure or facility on land dedicated to the support and maintenance of The University of Texas System, nor may any person who has not acquired a proper easement, lease, permit, or other instrument from the board of regents and who owns or possesses a facility or structure that is now located on or across land dedicated to the support and maintenance of The University of Texas System continue in possession of the land unless the person obtains from the board an easement, lease, permit, or other instrument for the land on which the facility or structure is to be constructed or is located.

(i) A person who constructs, maintains, owns, or possesses a

facility or structure on university land without a proper easement or lease is liable for a penalty of not less than \$50 or more than \$1,000 a day for each day that a violation occurs. The penalty shall be recovered on behalf of the board of regents in a civil action by the attorney general.

(j) A person who owns, maintains, or possesses an unauthorized facility or structure is, for purposes of this section, the person who last owned, maintained, or possessed the facility or structure.

(k) A person who constructs, maintains, owns, or possesses a facility or structure on university land without the proper easement or lease is liable to the board of regents for the costs of removing that facility or structure.

(l) This section does not affect the authority of the board of regents under Section [66.41](#).

(m) The board of regents shall establish procedures by which a person seeking an easement or other interest under this section may seek relief from a rate or damage schedule that the person believes does not represent the fair market value of the interest being sought.

Acts 1977, 65th Leg., p. 2438, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1985, 69th Leg., ch. 624, Sec. 36, eff. Sept. 1, 1985.

Transferred from Natural Resources Code, Section 51.293 and amended by Acts 2007, 80th Leg., R.S., Ch. 387 (S.B. [654](#)), Sec. 6, eff. June 15, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 34 (S.B. [873](#)), Sec. 1, eff. May 9, 2011.

SUBCHAPTER D. BOARD FOR LEASE OF UNIVERSITY LANDS

Sec. 66.61. DEFINITIONS. In this subchapter:

(1) "Board" means the Board for Lease of University Lands.

(2) "Board of regents" means the board of regents of The University of Texas System, except where otherwise specified.

(3) "Commissioner" means the commissioner of the General Land Office.

(4) "Oil and gas" means crude oil, natural gas, and all substances, including other hydrocarbons, produced in association with crude oil and natural gas.

(5) "University lands" means land dedicated to the permanent university fund.

(6) "Well" means an oil or gas well that has been assigned a well number by the state agency having regulatory jurisdiction over the production of oil and gas. A single wellbore may contain more than one well.

Amended by Acts 1997, 75th Leg., ch. 1324, Sec. 1, eff. Jan. 1, 1998.

Sec. 66.62. BOARD FOR LEASE OF UNIVERSITY LANDS. (a) The board is composed of the commissioner, two members of the board of regents selected by that board, and one member of the board of regents of The Texas A&M University System selected by that board. If a regent member is unable to attend a meeting of the board, the presiding officer of the board of regents of the applicable system may appoint another member of that board of regents as a substitute member of the board to attend the meeting that the regular regent member is unable to attend. The substitute regent member shall exercise all the powers, duties, and responsibilities of the absent regent member during the conduct of the meeting for which he was appointed. A substitute regent member is subject to the provisions of this subchapter.

(b) Members of the board, other than the commissioner, serve two-year terms expiring February 1 of each odd-numbered year. Regent members continue to serve until a successor is appointed and qualified.

(c) The commissioner is chairman of the board.

(d) A person who is directly or indirectly employed by, or is an officer or employee of a person or entity actively engaged in the exploration for or production of oil and gas, other than as a landowner or royalty owner, may not be a regent member.

(e) An officer, employee, or paid consultant of a trade

association in the oil and gas industry may not be a regent member or employee of the board, nor may a person who cohabits with or is the spouse of an officer, managerial employee, or paid consultant of a trade association in the oil and gas industry be a regent member of the board or a non-classified employee of the board.

(f) A person who is required to register as a lobbyist under Chapter 305, Government Code, by virtue of his activities for compensation in or on behalf of a profession related to the operation of the board, may not serve as a regent member of the board or act as the general counsel to the board.

(g) The board of regents of the university system appointing a regent member may remove the regent member from the board if that member:

(1) does not have at the time of appointment the qualifications required by this section for appointment to the board;

(2) does not maintain during the service on the board the qualifications required by this section for appointment to the board;

(3) violates a prohibition established by Subsection (d), (e), or (f);

(4) is unable to discharge his duties for a substantial portion of the term for which he was appointed because of illness or disability; or

(5) is absent from more than one-half of the regularly scheduled board meetings which the member is eligible to attend during a calendar year, except when the absence is excused by majority vote of the board.

(h) The board is exempt from the provisions of Chapter 2001, Government Code.

Amended by Acts 1997, 75th Leg., ch. 1324, Sec. 1, eff. Jan. 1, 1998.

Sec. 66.63. CERTAIN BOARD ACTIONS. (a) A majority of the members of the board have the power to act for the board on a matter before the board. Two members of the board have the power to award leases issued on a form of lease previously approved by a majority

of the board.

(b) The validity of an action of the board is not affected because it was taken when a ground for removal of a regent member of the board existed. A regent member continues to serve until removed under Section 66.62(g).

Amended by Acts 1997, 75th Leg., ch. 1324, Sec. 1, eff. Jan. 1, 1998.

Sec. 66.64. POWERS AND DUTIES OF THE BOARD. (a) The board shall in a manner consistent with this subchapter:

(1) lease university lands for oil and gas exploration and development on terms, at times, and in the manner it may determine;

(2) contract for the sale or other disposition of oil and gas royalties taken in kind;

(3) adopt rules and policies for the administration and enforcement of this subchapter and leases issued under this subchapter;

(4) set fees and penalties for the administration and enforcement of this subchapter;

(5) set the terms of a contract for the development of university lands for oil and gas;

(6) approve agreements that commit the royalty interest in university lands on terms acceptable to the board; and

(7) exercise other powers and authority and perform other duties as may be reasonably necessary to administer and enforce the provisions of this subchapter.

(b) The board shall hold meetings and keep records of its proceedings in a manner consistent with the requirements of Chapter 551, Government Code. The board shall develop and implement policies which provide the public with a reasonable opportunity to appear before the board, to speak on an issue under the board's jurisdiction, or be heard with respect to a declaration of forfeiture. The board shall give written notice to each lessee whose leasehold interest may be forfeited. Such notice shall be given at least 21 days before the meeting at which the board will consider forfeiture of the lease. The notice shall state the time,

date, and place of the meeting of the board and include a statement of the board's policy concerning the public's opportunity to be heard with respect to a declaration of forfeiture. Notice shall be properly given when mailed to the last known address of the lessee based on the records of the board of regents or, if the records do not contain an address, to any address that may reasonably be determined to be an address for the lessee.

(c) Except as otherwise provided in this subchapter, the records of the board are subject to the requirements of Chapter 552, Government Code.

(d) The financial transactions of the board are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

(e) The board may delegate to the staff provided to it by the board of regents any duty except as prohibited by law.

(f) The board shall appoint a secretary.
Amended by Acts 1997, 75th Leg., ch. 1324, Sec. 1, eff. Jan. 1, 1998.

Sec. 66.65. BOARD STAFF; EXCHANGE OF INFORMATION WITH STATE AGENCIES. (a) The board of regents shall employ and compensate personnel to assist the board in the performance of its powers and duties under this subchapter or may assign employees of The University of Texas System to those duties.

(b) The members of the board, personnel and counsel employed or assigned to assist the board, the board of regents, staff of The University of Texas System, the commissioner and staff of the General Land Office, the board of regents and staff of The Texas A&M University System, the office of the comptroller, the office of the attorney general, and any other agency or official of the state with a reasonable business interest in state or university lands, minerals, or resources may consult with each other and exchange information related to the administration of leases, collection and disposition of royalties, whether in cash or in kind, and any other matter related to the lease, sale, or production of, or the exploration for, oil, gas, or any other mineral or resource, including geothermal, wind, and solar energy on state or university

lands. The information so exchanged and consultations and related communications shall be or shall remain confidential and shall be privileged from discovery in the same manner and to the same extent as if the persons consulted, which includes counsel, were members of the same agency. Sections 52.134 and 52.140, Natural Resources Code, shall not prohibit the consultations or exchange of information provided for by this section; however, each agency receiving such confidential information is required to keep the information confidential under Sections 52.134 and 52.140, Natural Resources Code, as appropriate, and to take all reasonable actions necessary to protect the confidential and privileged nature of the information.

Amended by Acts 1997, 75th Leg., ch. 1324, Sec. 1, eff. Jan. 1, 1998.

Sec. 66.66. LEASE SALES. (a) Oil and gas leases shall be offered at public auction or by sealed bid, or through a combination of public auction and sealed bid, as the board elects. Contracts for development may be awarded in the same manner.

(b) The board shall publish notice that the board will receive bids for oil and gas leases or contracts for development of oil and gas in two or more daily newspapers in this state and in other publications as the board may choose.

(c) The notice shall be published at least 30 days before the date the bids will be opened.

(d) The notice shall state that land is to be offered for lease or a contract for development and that a person may obtain a publication from The University of Texas System offices that describes the land offered and the minimum terms.

(e) The board of regents may solicit and include advertising in the publication describing a lease sale. Fees paid for advertising shall be deposited into the special fee account established by Subsection (g) and are available for the same purposes as described in that subsection.

(f) The board may withdraw any lands advertised for lease before the hour set for receiving bids.

(g) Each bid is subject to the payment of a special fee equal

to one and one-half percent of the total bonus whether stipulated or bid, which special payment shall constitute a special fund from which the board of regents shall defray the expenses of the sale, including the payment of the general operating expenses for geology, engineering, field inspection, and auditing oil and gas production of university lands and including salaries and traveling expenses of persons employed by the board of regents for those purposes.

(h) The board of regents may direct the comptroller of The University of Texas System to transmit to the state comptroller for deposit to the credit of the permanent university fund unexpended balances remaining in the special fee account after reserving a sufficient amount in it for the payment of current expenses as set out in Subsection (g).

Amended by Acts 1997, 75th Leg., ch. 1324, Sec. 1, eff. Jan. 1, 1998.

Sec. 66.67. LEASE TERMS. (a) The oil and gas lease for each tract shall be offered for a bonus to be determined by high bid in addition to the stipulated royalty or for a stipulated bonus and a royalty to be determined by high bid. Each tract shall be offered separately and the minimum bonus or royalty, depending on the basis for the bid, and the length of the primary term for each tract shall be set out in the official publication describing the tracts and terms.

(b) Except as otherwise provided by law, the minimum royalty rate shall be one-eighth of the oil or gas produced or the value thereof.

(c) The primary term of a lease shall not exceed 10 years.

(d) Each lease shall be subject to the provisions of this subchapter and rules promulgated by the board.

(e) The successful bidder shall pay to the board of regents on the day the bid is accepted the full amount of bonus, whether stipulated or bid, and the special fee in the form of payment specified by the board.

Amended by Acts 1997, 75th Leg., ch. 1324, Sec. 1, eff. Jan. 1, 1998.

Sec. 66.68. MARGINAL PROPERTY ROYALTY RATES. (a) In this section:

(1) "Barrel of oil equivalent" means 6,000 cubic feet of natural gas per 42-gallon barrel of crude oil or a volume of gas with a minimum heating value of 6,000,000 British thermal units (6,000 Mbtu), whichever is greater.

(2) "Lease" or "leases" means an oil and gas lease issued or approved by the board that is valid and in force on or after the effective date of this section.

(3) "Qualifying property" means land subject to a lease issued under this subchapter.

(4) "Qualifying reservoir" means a reservoir having an average daily per well production equal to or less than 15 barrels of oil equivalent during a period established by the board by rule and underlying either:

(A) a qualifying property; or

(B) a pooled unit including a qualifying property.

(5) "Reservoir" has the same meaning as "common reservoir" as defined by Section 86.002, Natural Resources Code.

(b) The board may provide by rule that the royalty rate for qualifying reservoirs may be reduced to not less than one-sixteenth (6.25 percent). In determining whether to grant a reduction in the royalty rate, the board may consider whether the qualifying property is being operated efficiently, including whether the property is pooled or has reasonable potential for the application of secondary or tertiary recovery techniques.

(c) If a qualifying reservoir for which royalty rate reduction is sought under this section is included in a unit subject to the authority of the board, the board may modify the terms and conditions of the unit as a condition of approving a reduction in the royalty rate.

Amended by Acts 1997, 75th Leg., ch. 1324, Sec. 1, eff. Jan. 1, 1998.

Sec. 66.69. AWARD OF LEASE. (a) Except as otherwise

provided in this subchapter, the board shall award a lease for each tract to the person offering the highest bid that includes the terms adopted by the board and consistent with this subchapter.

(b) The board may reject all bids for one or more tracts.

(c) The commissioner shall execute a lease awarded by the board in conformance with this subchapter.

Amended by Acts 1997, 75th Leg., ch. 1324, Sec. 1, eff. Jan. 1, 1998.

Sec. 66.70. ADDITIONAL LEASE PROVISIONS. An oil and gas lease issued under this subchapter shall include the provisions required by this subchapter and additional provisions not inconsistent herewith that the board may adopt to preserve the interests of the state. On submission of an application by all lessees under the lease in the form required by the board and payment of any applicable fee set by the board, the board may amend a lease that does not include provisions required by Sections 66.71, 66.72, and 66.73 to include those provisions in the form adopted by the board at the time the lease is amended.

Amended by Acts 1997, 75th Leg., ch. 1324, Sec. 1, eff. Jan. 1, 1998.

Sec. 66.71. LEASE PROVISIONS. (a) An oil and gas lease issued by the board shall provide for payment of a delay rental. During the primary term of the lease, the lease shall terminate on the anniversary date of the lease unless:

(1) oil or gas is being produced in paying quantities from the leased premises;

(2) drilling operations are being conducted on the leased premises; or

(3) the lessee pays timely in the manner provided in the lease the amount of delay rental stated in the lease.

(b) If oil or gas is discovered in paying quantities on any tract covered by a lease, the lease as to that tract shall remain in force as long as oil and gas is produced in paying quantities from the tract, provided that the other provisions of this subchapter are complied with by the lessee.

(c) An oil and gas lease issued by the board shall provide that royalty may be taken in kind at any time and from time to time at the discretion of the board in the manner provided in this subchapter.

Amended by Acts 1997, 75th Leg., ch. 1324, Sec. 1, eff. Jan. 1, 1998.

Sec. 66.72. CESSATION OF PRODUCTION; DRILLING AND REWORKING. Each lease shall provide that in the event production of oil or gas on the leased premises, once obtained, shall cease for any cause within 60 days before the expiration of the primary term of the lease or at any time or times thereafter, the lease shall not terminate if the lessee commences additional drilling or reworking operations within 60 days thereafter, and the lease shall remain in full force and effect so long as such operations continue in good faith and in workmanlike manner, without interruptions, totalling more than 60 days during any one such operation; and if such drilling or reworking operations result in the production of oil and/or gas, the lease shall remain in full force and effect so long as oil or gas is produced therefrom in paying quantities or payment of shut-in gas well royalty or compensatory royalties is made as provided in this subchapter.

Amended by Acts 1997, 75th Leg., ch. 1324, Sec. 1, eff. Jan. 1, 1998.

Sec. 66.73. SHUT-IN ROYALTY. An oil and gas lease issued under this subchapter shall provide for the extension of the lease by the payment of shut-in royalties on terms as the board may adopt. Amended by Acts 1997, 75th Leg., ch. 1324, Sec. 1, eff. Jan. 1, 1998.

Sec. 66.74. LEASE EXTENSION OR SUSPENSION. (a) At the expiration of the primary term of a lease, if production of oil or gas has not been obtained on the leased premises, but drilling operations are being conducted in good faith and in a good and workmanlike manner, the lessee may apply in writing to extend the lease for a period of 30 days. The application shall be filed with

the board of regents on or before the expiration of the primary term.

(b) The applicant shall submit with the application a fee in an amount set by the board of not less than \$7.50 for each acre in the lease requested to be extended.

(c) If the commissioner determines that the conditions of this section have been met, the commissioner, or a designee appointed by the commissioner, shall execute a written extension as provided by this section.

(d) As long as drilling operations are being conducted in good faith and in a good and workmanlike manner, additional extensions of 30 days each may be granted up to an aggregate of 360 days. The lessee must submit a written application and payment on or before the last day of the extended primary term. The payment for each additional 30-day extension shall be in an amount set by the board of not less than \$7.50 for each acre in the lease.

(e) The board may elect to suspend a lease and all of the conditions and covenants contained in the lease if there is a legitimate dispute regarding the validity of the lease. The board may rescind the suspension at any time, in which event the lease shall resume as of the date the suspension is rescinded and shall continue for the remainder of the period specified in the lease as the primary term, or, if the primary term ended prior to the suspension, the lessee shall have 60 days to commence production or drilling and reworking operations.

Amended by Acts 1997, 75th Leg., ch. 1324, Sec. 1, eff. Jan. 1, 1998.

Sec. 66.75. PROTECTION FROM DRAINAGE; COMPENSATORY ROYALTIES. (a) The lessee shall protect the leased premises from drainage. The lease may contain express terms regarding drainage as the board may adopt.

(b) Subject to the provisions of this section, the commissioner may execute agreements that provide for the payment of compensatory royalty in lieu of drilling offset wells that may be required to protect the leased premises from drainage from a well or wells located on non-university lands, or university lands leased

at a lesser royalty, situated within 1,000 feet of or draining the leased premises.

(c) Agreements providing for the payment of compensatory royalty must be approved by the board.

(d) Agreements providing for the payment of compensatory royalty must be found by the commissioner and the board to be in the best interest of the state.

(e) Nothing in an agreement for the payment of compensatory royalty shall relieve the lessee of the obligation of reasonable development or of the obligation to drill offset wells, obtain suitable regulatory relief, propose appropriate pooling or unitization arrangements, or conduct other activities to protect the leased premises from drainage as to other producing horizons.

(f) An agreement for the payment of compensatory royalty shall provide that compensatory royalty be paid at the royalty rate provided in the lease and shall provide that compensatory royalty be paid on the market value of production from the well located on non-university lands or university lands leased at a lesser royalty situated within 1,000 feet of or draining the leased premises.

Amended by Acts 1997, 75th Leg., ch. 1324, Sec. 1, eff. Jan. 1, 1998.

Sec. 66.76. ASSIGNMENT; RELINQUISHMENT. (a) Rights acquired in a lease or contract for development issued under this subchapter may be assigned; provided, however, for an assignment to be valid and effective, the assignment must be filed in the county or counties in which the leased premises are situated and a legible copy of the recorded assignment must be filed with the board of regents within the time set by the board, accompanied by a filing fee and any applicable penalty for late filing set by the board for each lease assigned and a summary in the form adopted by the board of regents.

(b) Rights to a lease or to an assigned portion thereof may be relinquished at any time by having an instrument of relinquishment or release recorded in the county or counties in which the area relinquished is situated and a legible copy of the recorded instrument filed with the board of regents, accompanied by

a filing fee set by the board.

(c) An assignment or relinquishment of a lease or a portion thereof or an interest in a lease shall not relieve the lessee of accrued obligations, including the payment of royalty, penalty, or interest, and the lessee shall remain liable therefor.

(d) In the enforcement of lease obligations, the board and the board of regents shall be entitled to rely on the state of title reflected by the records of the board of regents.

Amended by Acts 1997, 75th Leg., ch. 1324, Sec. 1, eff. Jan. 1, 1998.

Sec. 66.77. ROYALTY PAYMENTS AND REPORTS. (a) Royalty as stipulated in the lease and all other amounts due under this subchapter shall be paid to the board of regents at Austin, Travis County, Texas. The lessee of record in the records of the board of regents shall be responsible for making or causing to be made all payments required by this subchapter at the required times and in the form and manner determined by the board of regents or otherwise required by law.

(b) The board shall set by rule the date for making royalty payments and for filing any reports, documents, or other records required to be filed by this section. The date set by the board must be on or after the fifth day of the second month succeeding the month of production of oil and on or after the 15th day of the second month succeeding the month of production of gas.

(c) A royalty payment is timely made if the payment is deposited in a postpaid, properly addressed wrapper, with a post office or official depository under the care and custody of, and postmarked by, the United States Postal Service before the applicable due date.

(d) The lessee shall provide to the board of regents with each royalty payment:

(1) an affidavit of the owner, manager, or other authorized agent completed in the form and manner required by the board of regents and showing the gross amount and disposition of all oil and gas produced and the market value of the oil and gas, the number assigned by the Railroad Commission of Texas, and university

lease numbers;

(2) a purchase statement or other document showing the price at which the oil and gas was sold;

(3) a check stub, schedule, summary, or other remittance advice showing by the assigned lease number the amount of royalty being paid on each lease; and

(4) other reports or records that the board of regents may require to identify the well and lease and verify the gross production, disposition, and market value.

(e) The board of regents may implement such practices and procedures with regard to accounting for royalty payments as it may determine to be in the best interest of the state.

Amended by Acts 1997, 75th Leg., ch. 1324, Sec. 1, eff. Jan. 1, 1998.

Sec. 66.78. INTEREST AND PENALTIES. (a) If royalty is not paid when due, a penalty of one percent shall be added to the unpaid amount due. If the royalty is not paid within seven days after the due date, a penalty of an additional four percent of the royalty due is imposed. If the royalty is not paid within 30 days after the due date, a penalty of an additional five percent is imposed. The minimum penalty under this subsection is \$25 or the minimum penalty in excess thereof set by the board. The board shall not add a penalty under this subsection in cases of title dispute as to the state's portion of the royalty or to that portion of the royalty in dispute as to fair market value.

(b) Interest shall accrue on delinquent royalties beginning on the 61st day after the due date. The annual interest rate on delinquent royalties is 12 percent. Interest accrued under this subsection shall be in addition to any delinquency penalty due under this section.

(c) The board of regents shall add a penalty of 25 percent to delinquent sums due under this subchapter if the board determines that the delinquency is due to fraud or an intent to evade the provisions of this subchapter on the part of the lessee or the lessee's agents, employees, or assignees.

(d) If a report, affidavit, supporting document, or other

instrument required to be filed under Section 66.77 or Section 66.80 is not filed when due, a penalty accrues in the amount set by the board but not less than \$10 per document for each 30-day period of delinquency or fractional part thereof.

(e) Collection of penalty and interest charges under this section are in addition to any rights, including forfeiture, that the board or the board of regents may exercise for failure to pay a royalty or to submit a report or other instrument when due.

(f) The board may provide by rule procedures and standards for reduction of interest charged or penalties assessed under this subchapter or other interest or penalties assessed relating to unpaid or delinquent royalties or other amounts due.

Amended by Acts 1997, 75th Leg., ch. 1324, Sec. 1, eff. Jan. 1, 1998.

Sec. 66.79. PAYMENT OF ROYALTY IN KIND. (a) An oil or gas royalty due under a lease on university lands shall be paid in kind at the discretion of the board.

(b) The option to take royalty in kind or to take cash royalties may be exercised by the board at any time or from time to time on not less than 60 days' notice to the lessee.

(c) The board shall enter into contracts or other instruments or agreements to dispose of the portion of the royalty taken in kind, which may include contracts for sale, transportation, or storage of the oil or gas. The commissioner shall execute contracts approved by the board under this section that are consistent with applicable law.

(d) The board of regents may enter into insurance contracts or other agreements to secure or guarantee payment of contracts or other instruments or agreements to dispose of the portion of the royalty taken in kind, including contracts for sale, transportation, and storage.

(e) If the board has elected to take royalty in kind, the board may elect that delivery of the correct amount of oil or gas shall be at the wellhead, at the oil and gas separator, into a pipeline connected at the well, or at such other location as may be specified in a royalty in kind provision in the lease or other

agreement. Such delivery by the lessee shall satisfy the lessee's obligation for payment of the royalty due under the lease. This section shall not be construed to surrender or in any way affect the right of the board of regents under existing or future leases to receive royalty on the basis of market value of production not taken in kind.

Amended by Acts 1997, 75th Leg., ch. 1324, Sec. 1, eff. Jan. 1, 1998.

Sec. 66.80. RECORDS. (a) The lessee shall provide to the board of regents a copy of every contract for the sale or processing of oil or gas and any subsequent agreement and amendment thereto, together with a summary in the form adopted by the board of regents, within 30 days after the contract, agreement, or amendment is made.

(b) The books and accounts, receipts, and discharges of all wells, tanks, pools, meters, and pipelines, and all contracts and other records pertaining to the production, transportation, sale, and marketing of the oil and gas, shall at all times be subject to inspection, examination, and copying by the commissioner of the General Land Office, the attorney general, the governor, the board of regents, or the board, or the representative of any of them.

Amended by Acts 1997, 75th Leg., ch. 1324, Sec. 1, eff. Jan. 1, 1998.

Sec. 66.81. AUDIT INFORMATION CONFIDENTIAL. (a) All documents and information secured, derived, or obtained during the course of an inspection or examination of books, accounts, reports, or other records of the lessee or a third party, as provided by this subchapter, and contracts, agreements, or amendments provided to the board of regents under Section 66.80(a) are confidential and may not be used publicly, opened for public inspection, or disclosed, except for information set forth in a lien filed under this chapter and except as permitted under Subsections (c) and (d). This section shall not apply to records or information provided by the lessee under Section 66.77.

(b) Documents and information made confidential in this section shall not be subject to subpoena directed to the board, the

board of regents, the commissioner, the attorney general, or the governor except in a judicial or administrative proceeding in which the state and a person with an equitable or legal interest in the lease or land to which the information relates are parties.

(c) The board, the board of regents, or the attorney general may use documents and information made confidential by the provisions of this section and contracts made confidential by this subchapter to enforce the provisions of this subchapter or may authorize their use in judicial or administrative proceedings in which this state is a party or may authorize their examination by employees, agents, or contractors of the board of regents or the state auditor for audit purposes.

(d) This section does not prohibit:

(1) the delivery of documents and information made confidential by this section to the lessee or its successor, receiver, executor, guarantor, administrator, assignee, or representative;

(2) the publication of statistics classified to prevent the identification of a particular audit or items in a particular audit;

(3) the release of documents or information otherwise available to the public;

(4) the release of documents or information concerning the amount of royalty assessed as a result of an examination conducted under this subchapter or the release of other information which would have been properly included in reports required under Section 66.77;

(5) sharing of documents or information among state agencies pursuant to Section 66.65. Shared documents or information will remain confidential under this section; or

(6) the release of documents or information authorized by the lessee.

Amended by Acts 1997, 75th Leg., ch. 1324, Sec. 1, eff. Jan. 1, 1998.

Sec. 66.82. FORFEITURE; OTHER REMEDIES. (a) If a lessee fails or refuses to perform a material requirement of this

subchapter or the lease, the board may, after notice to the lessee and an opportunity to be heard, declare a forfeiture of the lease or an interest in the lease. Material requirements include but are not limited to:

(1) failure or refusal to pay a sum due, including penalty and interest, within 30 days after the sum becomes due;

(2) failure or refusal to tender oil or gas for delivery as in-kind royalty;

(3) making a false report concerning exploration, production, or royalty;

(4) failure or refusal to file an assignment as required by this subchapter;

(5) failure or refusal, after demand, to file or make available for inspection and copying a record or document required to be filed or made available for inspection or copying under this subchapter or rules promulgated thereunder;

(6) failure or refusal, after demand, to protect the leased premises from drainage; or

(7) the breach of an obligation under the lease or this subchapter.

(b) Forfeiture is not the exclusive remedy. The attorney general, at the request of the board of regents, may bring suit for damages or specific performance, or both, or other remedy, at law or in equity.

(c) The board, in its sole discretion, may authorize reinstatement of a forfeited lease on terms the board may determine at the time of the declaration of forfeiture.

Amended by Acts 1997, 75th Leg., ch. 1324, Sec. 1, eff. Jan. 1, 1998.

Sec. 66.83. LIEN; ABANDONED PERSONAL PROPERTY. (a) The board of regents shall have a statutory first lien on oil and gas produced from the area covered by the lease to secure payment of all unpaid royalty and other sums of money that may become due under the lease or this subchapter.

(b) By acceptance of the lease, the lessee grants to the board of regents an express contractual lien on and security

interest in all oil and gas in and extracted from the area covered by the lease, all proceeds which may accrue to the lessee from the sale of the oil and gas, whether the proceeds are held by the lessee or another person, and all fixtures on and improvements to the area covered by the lease used in connection with the production or processing of the oil and gas to secure the payment of royalties and other amounts due or to become due under the lease or this subchapter and to secure payment of damages or loss that the state may suffer by reason of the lessee's breach of a covenant or condition of the lease, whether express or implied.

(c) The statutory and contractual liens and security interest described in this section may be foreclosed with or without court proceedings in the manner provided under Chapter 9, Business & Commerce Code. The board of regents may require the lessee to execute and record instruments reasonably necessary to acknowledge, attach, or perfect the liens.

(d) Personal property, including casing, equipment, and fixtures remaining on lands covered by the lease more than one year after the expiration or other termination of the lease shall be considered to be abandoned. The board of regents may take title to abandoned personal property in any manner and keep or use the proceeds for any purpose allowed by law. The lessee shall pay to the board of regents on demand the positive difference between the cost of disposing of abandoned personal property and the proceeds, if any, from the disposition.

Amended by Acts 1997, 75th Leg., ch. 1324, Sec. 1, eff. Jan. 1, 1998.

Sec. 66.84. PAYMENTS; DISPOSITION. Payments under this subchapter shall be made to the board of regents, which shall:

(1) transmit to the state comptroller for deposit to the credit of the permanent university fund all bonus, rental, and royalty payments;

(2) transmit to the state comptroller for deposit to the credit of the available university fund all filing, assignment, and relinquishment fees and all other payments except those described in Subdivision (3); and

(3) retain the one and one-half percent special fee provided for by this subchapter for disbursement by the comptroller of The University of Texas System for the purposes authorized by this subchapter.

Amended by Acts 1997, 75th Leg., ch. 1324, Sec. 1, eff. Jan. 1, 1998.