

## EDUCATION CODE

### TITLE 3. HIGHER EDUCATION

#### SUBTITLE D. THE TEXAS A & M UNIVERSITY SYSTEM

### CHAPTER 85. ADMINISTRATION OF THE TEXAS A & M UNIVERSITY SYSTEM

#### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 85.01. DEFINITIONS. In this chapter:

- (1) "System" or "university system" means The Texas A & M University System.
- (2) "Board" means the board of regents of The Texas A & M University System.

Acts 1971, 62nd Leg., p. 3191, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971. Amended by Acts 1975, 64th Leg., p. 598, ch. 247, Sec. 1, eff. Sept. 1, 1975.

#### SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 85.11. BOARD OF REGENTS. The government of the university system is vested in a board of nine regents appointed by the governor with the advice and consent of the senate.

Acts 1971, 62nd Leg., p. 3192, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971. Amended by Acts 1975, 64th Leg., p. 598, ch. 247, Sec. 2, eff. Sept. 1, 1975.

Sec. 85.12. QUALIFICATIONS; TERMS. Each member of the board shall be a qualified voter; and the members shall be selected from different portions of the state. The members hold office for staggered terms of six years, with the terms of three expiring February 1 of odd-numbered years.

Acts 1971, 62nd Leg., p. 3192, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971. Amended by Acts 1983, 68th Leg., p. 2837, ch. 484, art. III, Sec. 2, eff. June 19, 1983.

**Sec. 85.13. CERTIFICATE OF APPOINTMENT.** The secretary of state shall forward a certificate to each regent within 10 days after his appointment, notifying him of the fact of his appointment. If any person so appointed and notified fails for 10 days to give notice to the governor of his acceptance, his appointment shall be deemed void and his place shall be filled as in the case of a vacancy.

Acts 1971, 62nd Leg., p. 3192, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971. Amended by Acts 1975, 64th Leg., p. 598, ch. 247, Sec. 3, eff. Sept. 1, 1975.

**Sec. 85.14. CHAIRMAN OF BOARD.** The board shall elect from its members a chairman of the board, who shall call the board together for the transaction of business whenever he deems it expedient.

Acts 1971, 62nd Leg., p. 3192, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971. Amended by Acts 1975, 64th Leg., p. 599, ch. 247, Sec. 4, eff. Sept. 1, 1975.

**Sec. 85.15. EXPENSES OF REGENTS.** The regents shall serve without compensation but are entitled to reimbursement for actual expenses incurred in attending board meetings and in transacting the official business of the board.

Acts 1971, 62nd Leg., p. 3192, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971. Amended by Acts 1975, 64th Leg., p. 599, ch. 247, Sec. 5, eff. Sept. 1, 1975.

**Sec. 85.16. SEAL.** The board may make and use a common seal.

Acts 1971, 62nd Leg., p. 3192, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

**Sec. 85.17. SYSTEM CENTRAL ADMINISTRATION OFFICE; EXECUTIVE OFFICER.** (a) The

central administration office of the university system shall provide oversight and coordination of the activities of each component institution within the system.

(b) The board shall appoint a chief executive officer of the university system and determine the chief executive officer's term of office, salary, and duties.

(c) The chief executive officer shall recommend a plan for the organization of the university system and the appointment of a chief administrative officer for each component institution, agency, and service, within the system.

(d) The chief executive officer is responsible to the board for the general management and success of the university system, and the board may delegate authority, establish guidelines, and cooperate with the executive officer to carry out that responsibility. The chief executive officer may delegate his authority if approved by the board.

(e) In addition to other powers and duties provided by this code or other law, the central administration office of the system shall recommend necessary policies and rules to the governing board of the system to ensure conformity with all laws and rules and to provide uniformity in data collection and financial reporting procedures.

Added by Acts 1989, 71st Leg., ch. 464, Sec. 2, eff. June 14, 1989.

Sec. 85.18. MANDATORY VENUE. (a) Venue for a suit filed against the board or a member of the board in the member's official capacity is in Brazos County.

(b) Venue for a suit filed against The Texas A&M University System, any component of The Texas A&M University System, or any officer or employee of The Texas A&M University System is in the county in which the primary office of the chief executive officer of the system or component, as applicable, is located.

(c) This section does not waive any defense to or immunity from suit or liability that may be asserted by an entity or individual described by this section.

(d) In case of a conflict between this section and any other law, this section controls.

(e) The changes in law made by the adoption of this section apply only to an action brought on or after September 1, 2003.

Added by Acts 2003, 78th Leg., ch. 1266, Sec. 4.10, eff. June 20, 2003.

## SUBCHAPTER C. POWERS AND DUTIES OF BOARD

**Sec. 85.21. GENERAL POWERS AND DUTIES.** (a) The board shall make bylaws, rules, and regulations it deems necessary and proper for the government of the university system and its institutions, agencies, and services. The board shall regulate the course of study and prescribe the course of discipline necessary to enforce the faithful discharge of the duties of the officers, faculty, and students.

(b) The board is specifically authorized, upon terms and conditions acceptable to it, to accept and administer gifts, donations, grants, and endowments, from any source, for use by the system or any of the components of the system. The board may retain such funds in local fund accounts.

Acts 1971, 62nd Leg., p. 3191, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971. Amended by Acts 1983, 68th Leg., p. 2053, ch. 377, Sec. 1, eff. June 17, 1983.

**Sec. 85.22. EXPENDITURES.** All expenditures may be made by order of the board and shall be paid on warrants from the comptroller based on vouchers approved by the president of the board or by some officer or officers designated by him in writing to the comptroller.

Acts 1971, 62nd Leg., p. 3192, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

**Sec. 85.23. PERMANENT IMPROVEMENTS; CONTRACTS; LAND TRANSACTIONS.** The board may enter into an agreement with any person for the purchase, sale, lease, lease-purchase, acquisition, or construction of permanent improvements and may purchase, sell, lease, lease-purchase, encumber, or contract with reference to the divesting or encumbering title to lands and other appurtenances for the construction of the permanent improvements. However, no debt or liability shall be incurred by the State of Texas under this section.

Acts 1971, 62nd Leg., p. 3193, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971. Amended by Acts 2001, 77th Leg., ch. 774, Sec. 1, eff. Sept. 1, 2001.

Sec. 85.24. UTILITIES. (a) The board from time to time may improve and equip existing central power plants and may construct, acquire, improve, and equip steam plants and additions to them, and the board may acquire land for these purposes for the institutions under its control, when the total cost, type of construction, capacity, and plans and specifications have been approved by the board. As used in this subsection, "steam plants" does not include electrical generating facilities, but "central power plants" does include electrical generating facilities.

(b) The board from time to time may construct, extend, and improve the water systems, sewer systems, or both, for any or all institutions under its control, when the total cost, type of construction, capacity, and plans and specifications have been approved by the board.

(c) The board may furnish water, sewer, steam, power, electricity, or any or all of those services from the power and steam plant or plants and other facilities located at each institution to any or all dormitories, kitchens and dining halls, hospitals, student activity buildings, gymnasiums, athletic buildings and stadiums, the dormitory for help, laundry, and other buildings or facilities that may have been or may be constructed at each institution, and may determine the amount to be charged as a part of the maintenance and operation expense of those buildings or facilities for the service or services. The board may allocate the cost of furnishing the services to revenue-producing buildings and facilities and to other buildings and facilities at the institutions. The board may pledge the net revenues from the amounts thus received for the services to pay the principal of and interest on, and to create and maintain the reserve for, the negotiable revenue bonds issued for the purpose of constructing, acquiring, improving, extending, or equipping the power and steam plants, or additions thereto, or other facilities, and may secure the bonds additionally by pledging rentals, rates, charges, and fees for the use or availability of all or any property, buildings, structures, activities, operations, or facilities, of any nature, which may be fixed and collected from all or any designated part of the students enrolled in the institution or institutions or from others in the amounts and in the manner determined and provided by the board in the resolution authorizing the issuance of the bonds.

Acts 1971, 62nd Leg., p. 3193, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

Sec. 85.25. LANDS AND MINERAL INTERESTS. (a) The board is vested with the sole and exclusive management and control of lands and mineral interests under its jurisdiction and that may be acquired by it.

(b) The board may grant, sell, lease, or otherwise dispose of the lands and mineral interests under its jurisdiction that do not comprise any portion of the original main campus of Texas A&M University to other units or agencies of government, or to any individual, group of individuals, corporation, or other entity under terms and conditions it deems best in the public interest.

(c)(1) Except as authorized by existing law, any grant, sale, or lease of the surface estate of the original

main campus property must be approved by Act of the legislature.

(2) The board is hereby authorized to grant The Former Students Association of Texas A&M University a lease of surface area not to exceed eight acres on the original main campus for use by the association to construct and occupy a building for use consistent with the association's stated purposes.

(3) The board is further authorized to grant to the Texas A&M Foundation a lease of surface area not to exceed five acres on the original main campus for use by the foundation to construct and occupy a building for use consistent with the foundation's stated purposes.

(4) The board is authorized to enter into an agreement, including a ground lease, for construction of an office, laboratory, and classroom building to be funded by a donor, on a site not to exceed five acres on the original main campus. The agreement shall provide that title to the building shall be transferred to the board upon completion.

(d) For the purposes of this section, the original main campus of Texas A&M University comprises that certain 748 acres, more or less, bounded by Texas Avenue, George Bush Drive, Wellborn Road, and University Drive in College Station, Texas.

(e) Proceeds received from the grant, sale, lease, or other disposition of surface interests covered by this section may be retained in local funds subject to disposition by the board for any lawful purpose.

(f) This section is cumulative of existing statutes relating to the authority of the board to lease for oil, gas, sulphur, mineral ore, and other mineral developments, and otherwise to buy, sell, and lease certain lands under its jurisdiction and supervision.

(g) This section does not cover any lands or minerals held by the general land office.

Acts 1971, 62nd Leg., p. 3194, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971. Amended by Acts 1983, 68th Leg., p. 851, ch. 198, Sec. 1, eff. Aug. 29, 1983; Acts 1991, 72nd Leg., ch. 338, Sec. 1, eff. Aug. 26, 1991.

Amended by:

Acts 2005, 79th Leg., Ch. [462](#), Sec. 1, eff. June 17, 2005.

Acts 2007, 80th Leg., R.S., Ch. [739](#), Sec. 1, eff. June 15, 2007.

Sec. 85.26. LEASES AND EASEMENTS; RIGHTS-OF-WAY FOR ELECTRIC LINES, PIPELINES,

**IRRIGATION CANALS, ETC.** (a) The board may execute leases and grant easements for rights-of-way for telephone, telegraph, electric transmission, and power lines, for oil pipelines, gas pipelines, sulphur pipelines, water pipelines and other electric lines and pipelines of any nature whatsoever, and for irrigation canals, and laterals, and may execute easements or leases for the erection and maintenance of electric substations, pumping stations, loading racks, tank farms, and other structures, and may execute easements for rights-of-way to the Texas Department of Transportation, to any county in the state, or to any corporation, group, organization, firm, or individual for highway or roadway purposes, on or across any lands belonging to the state and under the control of the board, if the board in its discretion deems it apparent that the interest of the state can best be served by the granting of the easements and leases.

(b) Each easement granted under this section shall be on forms approved by the attorney general and shall include a complete description of the land on which the easement is to be granted, the period of time covered by the easement, the amount of money to be paid by the grantee to the grantor, or other consideration for the granting of such easement. It shall also specify the terms and conditions, penalties for failure to comply with its provisions, and other pertinent information necessary and desirable to effect a complete understanding of the transaction.

(c) The grant of an easement for right-of-way, except an easement for right-of-way for highway or roadway purposes which may be for an indefinite term shall be limited to a term of not longer than 10 years, but any such easement may be renewed by the board.

(d) All income received by the board under the provisions of this section shall be accounted for and used in the same manner as other money available to the part of the system to which the land from which the easement is granted is assigned.

(e) No person, firm, group, organization, agency, or corporation shall hereafter construct any telephone, telegraph, transmission, or electric line, pipeline, electric substation, tank farm, loading rack, pumping station, irrigation canal or lateral, highway, or roadway of the kind and character enumerated in Subsection (a) of this section, across or on any section or part of a section of land of the character described in Subsection (a) of this section, who has not obtained a proper easement as provided by this section; or continue in possession of any such land without obtaining from the board a grant of a right-of-way easement or other easement across or on such land where the telephone, telegraph, transmission, or electric lines, pipelines, or any other transmission or pipelines, electric substation, tank farm, loading rack, or pumping station, irrigation canal or lateral, highway, or roadway is to be constructed. Any person, firm, group, organization, agency, or corporation violating this subsection shall be liable for a penalty of \$100 for each day of the violation, to be recovered by the attorney general.

Acts 1971, 62nd Leg., p. 3194, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971. Amended by Acts 1995, 74th Leg., ch. 165, Sec. 22(31), eff. Sept. 1, 1995.

Sec. 85.27. FLOOD CONTROL EASEMENTS. The board may convey flood control easements over land under its jurisdiction and control to water control and improvement districts of this state. No flood control easement shall be conveyed unless the board receives from the district reasonable consideration for the conveyance. The conveyance shall be under the terms and conditions that the board deems in the best interest of the university system.

Acts 1971, 62nd Leg., p. 3195, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

Sec. 85.28. AIRPORTS. (a) The board may construct or otherwise acquire an airport for any institution within the system. It may maintain and operate the airports in connection with the teaching of courses in aeronautical engineering and for purposes in cooperation with the national defense program and for other purposes which will not interfere with those uses.

(b) The board may acquire by purchase, lease, gift, condemnation, or otherwise, and may use, operate, and maintain any kind of property or property interest necessary or convenient to the exercise of powers under this section. The power of eminent domain shall be exercised in the manner provided by general law, including Title 52, Revised Civil Statutes of Texas, 1925, as amended, except that the board shall not be required to give bond for appeal or bond for costs.

Acts 1971, 62nd Leg., p. 3195, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

Sec. 85.29. RESEARCH AND EXPERIMENTATION FOR TEXAS DEPARTMENT OF TRANSPORTATION. (a) The department may contract with the university system or a component or agency of the university system to conduct research relating to transportation, including the economics, planning, design, construction, maintenance, or operation of transportation facilities.

(b) An agreement entered into under this section is not subject to Chapter 771, Government Code.

(c) The comptroller may draw proper warrants in favor of any part of the university system based on vouchers or claims submitted by the system through the department covering reasonable fees and charges for services rendered by members of the staff of the system to the department and for equipment and materials necessary for research and experimentation under a contract entered into under this section.

(d) The comptroller shall pay warrants issued under this section against any funds appropriated by the legislature to the department. The payments made to the system shall be credited and deposited to local institutional funds under its control.



(e) In this section:

(1) "Department" means the Texas Department of Transportation.

(2) "Transportation facilities" means highways, turnpikes, airports, railroads, including high-speed railroads, bicycle and pedestrian facilities, waterways, pipelines, electric utility facilities, communication lines and facilities, public transportation facilities, port facilities, and facilities appurtenant to other transportation facilities.

Acts 1971, 62nd Leg., p. 3195, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971. Amended by Acts 1995, 74th Leg., ch. 165, Sec. 22(32), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 382, Sec. 1, eff. May 28, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 5.21, eff. Sept. 1, 1997.

Sec. 85.30. DONATIONS AND TRUSTS. (a) Donations of property may be made and accepted by the board for the purpose of establishing or assisting in the establishment of a professorship, chair, or scholarship in the university system or any of its component institutions or for creating in the university system or any of its component institutions any trust for any lawful, educational, or charitable purpose, either temporarily or permanently, and the donations or trusts thereby created will be governed by the rules prescribed by this section.

(b) The legal title to the property shall be vested in the board acting as an entity, or the State of Texas, to be held in trust for the purpose under any directions, limitations, and provisions that may be declared in the donation or trust agreement, not inconsistent with the objectives and proper management of the system or its component institutions.

(c) The donor may declare and direct the manner in which the title to the property shall thereafter be transmitted from the trustee in continued succession, to be held for and appropriated to the declared purposes.

(d) The donor may declare and direct the person or class of persons who shall receive the benefit of the donation and the manner of their selection.

(e) The declarations, directions, and limitations shall not be inconsistent with the objects and proper management of the system or its institutions.

(f) The title to the property donated shall be received, and the trust conferred in the donation shall be assumed, subject to laws that may be passed and carried into effect from time to time which may be necessary to prevent the loss of or damage to the property donated or an abuse or neglect of the trust so as to defeat, materially change, or prevent the objects of the donation.

(g) Copies of the donation shall be filed with the board.

Added by Acts 1983, 68th Leg., p. 2053, ch. 377, Sec. 2, eff. June 17, 1983.

**Sec. 85.31. FUNDS RECEIVED FOR TRUST SERVICES.** (a) The board may at its discretion charge administrative fees for services rendered in the management and administration of any trust estate under the control of the system or any component of the system.

(b) Funds received pursuant to such charges may be deposited in an appropriate system or university account and may be expended by the board for any purpose of the system.

Added by Acts 1983, 68th Leg., p. 2053, ch. 377, Sec. 2, eff. June 17, 1983.

**Sec. 85.32. EMINENT DOMAIN.** (a) The board may exercise the power of eminent domain to acquire any real property that the board considers necessary and proper to carry out its powers and duties.

(b) The board shall exercise the power of eminent domain in the manner prescribed by Chapter 21, Property Code, except that the board is not required to deposit a bond or the amount equal to the award of damages by the special commissioners under Sections 21.021(a)(2) and (3), Property Code.

Added by Acts 2001, 77th Leg., ch. 774, Sec. 2, eff. Sept. 1, 2001.

#### SUBCHAPTER D. LEASE OF LANDS FOR OIL, GAS, AND OTHER MINERAL DEVELOPMENT

**Sec. 85.51. AUTHORITY TO LEASE.** (a) The board may lease for oil, gas, sulphur, mineral ore, and other mineral developments all lands and mineral interests under its control, owned or in the future acquired by the state for the use of the university system.

(b) The board shall offer oil and gas leases at public auction, by sealed bid, by negotiated agreement, or through any other means that the board considers to be in the best interest of the university system.

Acts 1971, 62nd Leg., p. 3196, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971. Amended by Acts 2003, 78th

Leg., ch. 1266, Sec. 4.09, eff. June 20, 2003.

**Sec. 85.52. SALE OF MINERAL ORE IN PLACE.** Mineral ore located in and on the land may also be sold in place by the board at not less than the fair market value as determined by the same methods as are provided for leasing of lands under this subchapter for development of the minerals in the lands.

Acts 1971, 62nd Leg., p. 3196, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

**Sec. 85.53. TRACTS, LOTS, BLOCKS.** The board may cause the lands to be surveyed or subdivided into tracts, lots, or blocks that will, in its judgment, be most conducive and convenient to facilitate the advantageous sale of lease for oil, gas, sulphur, mineral ore, and other minerals, and may make maps and plats that may be thought necessary to carry out the purposes of this subchapter. The board may obtain authentic abstracts of title to all the lands as it deems necessary from time to time, and may take any steps necessary to perfect a merchantable title to the lands in the State of Texas.

Acts 1971, 62nd Leg., p. 3196, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

**Sec. 85.54. PLACING LEASES ON MARKET; ADVERTISING.** (a) Whenever, in the opinion of the board, there is a demand for the purchase of oil, gas, sulphur, mineral ore, or other mineral leases on any tract or part of any tract of land that will reasonably insure an advantageous sale, the board shall place the oil, gas, sulphur, mineral ore, or other mineral leases on the land on the market in any tract or tracts, or any part thereof, that the board may designate.

(b) The board shall cause to be advertised a brief description of the land from which the oil, gas, sulphur, mineral ore, or other minerals is proposed to be leased. The advertisement shall be made by inserting in two or more papers of general circulation in this state; and in addition the board may, in its discretion, cause the advertisement to be placed in an oil and gas journal published in and out of the state, mail copies of the proposals to the county judge of the county where the lands are located, and mail copies of the proposals to other persons the board thinks would be interested.

Acts 1971, 62nd Leg., p. 3196, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

**Sec. 85.55. PUBLIC AUCTION; BIDS; ACCEPTANCE; REJECTION; PAYMENTS.** (a) The board

may sell the lease or leases to the highest bidder at public auction, at Texas A & M University, in College Station, at any hour between 10 a.m. and 5 p.m.

(b) The board may reject all bids. However, the highest bidder shall pay to the board on the day of the sale 25 percent of the bonus bid, and the balance of the bid shall be paid to the board within 24 hours after notification that the bid has been accepted. Payments shall be in cash, certified check, or cashier's check, as the board may direct. Failure to pay the balance of the amount bid will forfeit to the board the 25 percent paid.

(c) A separate bid shall be made for each tract or subdivision thereof. No bids shall be accepted which offer less than the fair market price per ton for the mineral ore or a royalty of less than one-eighth of the gross production of oil, gas, sulphur, and other minerals in the land bid upon, and this minimum royalty may be increased at the discretion of the board. Every bid shall carry the obligation to pay an amount not less than \$1 per acre for delay in drilling or development. The amount shall be fixed by the board in advance of the advertisement and shall be paid every year for five years unless in the meantime production in paying quantities is had upon the land or the land is re-leased by the lessee.

Acts 1971, 62nd Leg., p. 3197, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

Sec. 85.56. SUBSEQUENT PROCEDURE IF NO BIDS ACCEPTED. If no bid is accepted by the board at the public auction, any subsequent procedure for the sale of oil, gas, sulphur, mineral ore, and other mineral leases shall be in the manner prescribed by this subchapter.

Acts 1971, 62nd Leg., p. 3197, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

Sec. 85.57. WITHDRAWAL OF LAND ADVERTISED. The board may withdraw any lands advertised for lease or for the sale of mineral ore in place.

Acts 1971, 62nd Leg., p. 3197, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

Sec. 85.58. ACCEPTANCE OF BIDS; AWARD OF LEASE. (a) If in the opinion of the board any one of the bidders has offered a reasonable and proper price for any tract and not less than the price fixed by the board, the lands advertised may be leased for oil, gas, sulphur, mineral ore, and other mineral purposes under the provisions of this subchapter and any regulations the board may prescribe which are not inconsistent with the provisions of this subchapter.

(b) On acceptance of a bid, the board shall prepare a lease contract. The bid and a copy of the lease contract shall be filed in the general land office.

Acts 1971, 62nd Leg., p. 3197, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

**Sec. 85.59. EXPLORATORY TERM; EXTENSION; OTHER PROVISIONS OF LEASE.** (a) The exploratory term of the lease as determined by the board prior to the promulgation of the advertisement shall in no case exceed five years, and each lease shall provide that the lease will terminate at the expiration of its exploratory term unless by unanimous vote of members of the board the lease may be extended for a period of three years. The lease may be extended if the board finds that there is likelihood of oil, gas, sulphur, mineral ore, and other minerals being discovered by lessees, and that the lessees have proceeded with diligence to protect the interest of the state. However, if oil, gas, sulphur, mineral ore, and other minerals are being produced in paying quantities from the premises, the lease shall continue in force and effect as long as the oil, gas, sulphur, mineral ore, and other minerals are being so produced. No extension under this subsection may be made by the board until the last 30 days of the original term of the lease.

(b) 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, the board by unanimous vote may extend the lease for a period not to exceed three years, on the condition that the lessee shall continue to pay yearly rental as provided in the lease and any additional terms the board may see fit and proper to demand. The board may extend the lease and execute an extension agreement.

(c) The lease shall include any additional provisions and regulations the board may prescribe to preserve the interest of the state, not inconsistent with the provisions of this subchapter.

Acts 1971, 62nd Leg., p. 3197, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

**Sec. 85.60. DISCONTINUANCE OF YEARLY PAYMENTS; TERMINATION FOR NONPRODUCTION.** When the royalties amount to as much as the yearly payments as fixed by the board, the yearly payments may be discontinued. If before the expiration of five years oil, gas, sulphur, mineral ore, and other minerals have not been produced in paying quantities, the lease shall terminate unless extended as provided by this subchapter.

Acts 1971, 62nd Leg., p. 3198, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

**Sec. 85.61. OPERATIONS UNDER LEASE: EFFECT ON RENTAL PAYMENTS, TERM OF LEASE.** If, during the term of any lease issued under the provisions of this subchapter, the lessee is engaged in actual drilling and mining operations for the discovery of oil, gas, sulphur, mineral ore, and other minerals on land covered by any such lease, no rentals shall be payable as to the tract on which the operations are being conducted as long as the operations are proceeding in good faith; and if oil, gas, sulphur, mineral ore, and other minerals are discovered in paying quantities on any tract of land covered by any lease, then the lease as to that tract shall remain in force as long as oil, gas, sulphur, mineral ore, and other minerals are produced in paying quantities from the tract.

Acts 1971, 62nd Leg., p. 3198, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

**Sec. 85.62. PRORATION OR REDUCTION OF PRODUCTION.** When, in the discretion of the board, it is for the best interest of the state to prorate or reduce production of any land, the board may execute the necessary contract to carry out that purpose.

Acts 1971, 62nd Leg., p. 3198, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

**Sec. 85.63. INTERFERENCE WITH SURFACE USES.** No lease for oil, gas, sulphur, mineral ore, and other minerals shall be made by the board which will permit the drilling or mining for oil, gas, sulphur, mineral ore, and other minerals within 300 feet of any building on the land without the consent of the board. A lease on any experimental station or farm shall provide that the operations for oil, gas, sulphur, mineral ore, and other minerals shall not in any way interfere with use of the land as an experimental station and shall not cause the abandonment of the property or its use for experimental farm purposes; and the lessee shall drill, mine, and carry on his operations in such a way as not to cause the abandonment of the property for experimental farm purposes, and any such leased property shall be subject to the use by the State of Texas for all experimental purposes and the board shall continue to operate the experimental station.

Acts 1971, 62nd Leg., p. 3198, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

**Sec. 85.64. PROTECTION FROM DRAINAGE.** In every case where the area in which oil, gas, sulphur, mineral ore, and other minerals sold shall be contiguous or adjacent to lands which are not lands belonging to and held by the university system, the acceptance of the bid and the sale made thereby shall

constitute an obligation on the owner to adequately protect the land leased from drainage from the adjacent lands to the extent that a reasonably prudent operator would do under the same and similar circumstances. In cases where the area in which the oil, gas, sulphur, mineral ore, and other minerals are sold is contiguous to other lands belonging to and held by the university system which have been leased or sold at a lesser royalty, the owner shall likewise protect the land from drainage from the lands so leased or sold for a lesser royalty. On failure to protect the land from drainage as herein provided, the sale and all rights thereunder may be forfeited by the board in the manner provided in this subchapter for forfeitures.

Acts 1971, 62nd Leg., p. 3199, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

**Sec. 85.65. RIGHTS OF PURCHASER; ASSIGNMENT; RELINQUISHMENT.** (a) Title to all rights purchased may be held by the owners as long as the area produces oil, gas, sulphur, mineral ore, and other minerals in paying quantities.

(b) All rights purchased may be assigned. All assignments shall be filed in the general land office as prescribed by rule, accompanied by 10 cents per acre for each acre assigned and the filing fee as prescribed by rule. An assignment shall not be effective unless filed as required by rule. An assignment shall not relieve the assignor of any liabilities or obligations incurred prior to the assignment.

(c) All rights to all or any part of a leased tract may be released to the state at any time by recording a release instrument in the county or counties in which the tract is located. Releases must also be filed with the chairman of the board and the general land office, accompanied by the filing fee prescribed by rule. A release shall not relieve the owner of any obligations or liabilities incurred prior to the release.

(d) The board shall authorize the laying of pipeline, telephone line, and the opening of roads as deemed reasonably necessary for and incident to the purpose of this subchapter.

Acts 1971, 62nd Leg., p. 3199, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971. Amended by Acts 1987, 70th Leg., ch. 948, Sec. 35, eff. Sept. 1, 1987.

**Sec. 85.66. ROYALTY PAYMENTS; INSPECTION OF RECORDS; REPORT OF LAND COMMISSIONER.** (a) If oil or other minerals are developed on any of the lands leased by the board, the royalty or money as stipulated in the sale shall be paid to the general land office at Austin on or before the last day of each month for the preceding month during the life of the rights purchased, and shall be set aside in the state treasury as specified in Section 85.70 of this code. The royalty or money paid to the general land office shall be accompanied by the sworn statement of the owner, manager, or

other authorized agent showing the gross amount of oil, gas, sulphur, mineral ore, and other minerals produced and saved since the last report, the amount of oil, gas, sulphur, mineral ore, and other minerals produced and sold off the premises, and the market value of the oil, gas, sulphur, mineral ore, and other minerals, together with a copy of all daily gauges, or vats, tanks, gas meter readings, pipeline receipts, gas line receipts and other checks and memoranda of the amounts produced and put into pipelines, tanks, vats, or pool and gas lines, gas storage, other places of storage, and other means of transportation.

(b) The books and accounts, receipts and discharges of all wells, tanks, vats, pools, meters, pipelines, and all contracts and other records pertaining to the production, transportation, sale, and marketing of oil, gas, sulphur, mineral ore, and other minerals shall at all times be subject to inspection and examination of any member of the board or any duly authorized representative of the board.

(c) The commissioner of the general land office shall tender to the board on or before the 10th day of each month a report of all receipts from the lease or sale of oil, gas, sulphur, mineral ore, and other minerals turned into the state treasury, as provided by Section 85.70 of this code, of the preceding month.

(d) Each lease shall contain a provision enabling the Board, at its discretion, to require that payment of royalty, as stipulated in the lease, be in kind. The Board shall have all powers necessary to negotiate and execute sales contracts or any other instruments necessary for the disposition of any royalty taken in kind. Such other reasonable provisions, not inconsistent with this subchapter, that will facilitate the efficient and equitable payment of royalty in kind may be included in the lease by the Board.

Acts 1971, 62nd Leg., p. 3199, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971. Amended by Acts 1973, 63rd Leg., p. 846, ch. 382, Sec. 1, eff. Aug. 27, 1973; Acts 1989, 71st Leg., ch. 105, Sec. 8, eff. Sept. 1, 1989.

**Sec. 85.67. FORFEITURE; OTHER REMEDIES; LIEN.** (a) If the owner of the rights acquired under this subchapter fails or refuses to make the payment of any sum due thereon, either as rental, royalty on production, or other payment, within 30 days after same becomes due, or if the owner or his authorized agent makes any false return or false report concerning production, royalty, drilling, or mining, or if the owner fails or refuses to drill any offset well or wells in good faith, as required by his lease, or if the owner or his agent refuses the proper authority access to the records and other data pertaining to the operations under this subchapter, or if the owner or his authorized agent fails or refuses to give correct information to the proper authorities, or fails or refuses to furnish the log of any well within 30 days after production is found in paying quantities, or if any of the material terms of the lease are violated, the lease is subject to forfeiture by the board by an order entered upon the minutes of the board reciting the facts constituting the default and declaring the forfeiture.

(b) The board may have suit instituted for forfeiture through the attorney general.

(c) On proper showing by the forfeiting owner, within 30 days after the declaration of forfeiture, the



lease may, at the discretion of the board and on such terms as it may prescribe, be reinstated.

(d) In case of violation by the owner of the lease contract, the remedy of the state by forfeiture is not the exclusive remedy, but suit for damages or specific performance, or both, may be instituted.

(e) The state shall have a first lien upon all oil, gas, sulphur, mineral ore, and other minerals produced upon the leased area and upon all rigs, tanks, vats, pipeline, telephone lines, and machinery and appliances used in the production and handling of oil, gas, sulphur, mineral ore, and other minerals produced thereon, to secure any amount due from the owner of the lease.

Acts 1971, 62nd Leg., p. 3200, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

**Sec. 85.68. FILING OF RECORDS.** All surveys, files, records, copies of sale and lease contracts, and all other records pertaining to the sales and leases hereby authorized, shall be filed in the general land office and constitute archives thereof.

Acts 1971, 62nd Leg., p. 3201, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

**Sec. 85.69. PAYMENTS; DISPOSITION.** Payments under this subchapter shall be made to the commissioner of the general land office at Austin, who shall transmit to the comptroller all royalties, lease fees, rentals for delay in drilling or mining, and all other payments, including all filing assignments and relinquishment fees, to be deposited in the state treasury as provided by Section 85.70 of this code.

Acts 1971, 62nd Leg., p. 3201, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971. Amended by Acts 1989, 71st Leg., ch. 105, Sec. 9, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 5.22, eff. Sept. 1, 1997.

**Sec. 85.70. CERTAIN MINERAL LEASES; DISPOSITION OF MONEY; SPECIAL FUNDS; INVESTMENT.** (a) Except as provided by Subsection (c) of this section, all money received under and by virtue of this subchapter shall be deposited in the state treasury to the credit of a special fund to be known as The Texas A&M University System Special Mineral Investment Fund. With the approval of the comptroller, the board of regents of The Texas A&M University System may appoint one or more commercial banks, depository trust companies, or other entities to serve as custodian or custodians of the Special Mineral Investment 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. In the judgment of the board, this special fund may be invested so as to produce an income which may be expended under the direction of the board for the general use of any component of The Texas A&M University System, including erecting permanent improvements and in payment of expenses incurred in connection with the administration of this subchapter. The unexpended income likewise may be invested as herein provided.

(b) The income from the investment of the special mineral investment fund under Subsection (a) of this section shall be deposited to the credit of a fund to be known as The Texas A&M University System Special Mineral Income Fund, and shall be appropriated by the legislature exclusively for the university system for the purposes herein provided.

(c) The board shall lease for oil, gas, sulphur, or other mineral development, as prescribed by this subchapter, all or part of the land under the exclusive control of the board owned by the State of Texas and acquired for the use of Texas A&M University--Kingsville and its divisions. Any money received by the board concerning such land under this subchapter shall be deposited in the state treasury to the credit of a special fund to be known as the Texas A&M University--Kingsville special mineral fund, to be used exclusively for Texas A&M University--Kingsville and its branches and divisions. Money may not be expended from this fund except as authorized by the general appropriations act.

Acts 1971, 62nd Leg., p. 3201, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971. Amended by Acts 1989, 71st Leg., ch. 105, Sec. 9, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 227, Sec. 5, eff. May 23, 1997; Acts 1997, 75th Leg., ch. 1311, Sec. 3, eff. Sept. 1, 1997.

**Sec. 85.71. FORMS; CONTRACTS; REGULATIONS.** The board shall adopt forms and contracts and shall promulgate rules and regulations that in its best judgment will protect the income from lands leased under this subchapter. A majority of the board may act in all cases, except where otherwise provided by this subchapter.

Acts 1971, 62nd Leg., p. 3201, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

**Sec. 85.72. EXPENSES OF EXECUTING THIS SUBCHAPTER.** The expenses of executing the provisions of this subchapter shall be paid by warrants drawn by the comptroller on the state treasury against the income from the special fund accumulated from leases, rentals, royalties, and other payments.

Acts 1971, 62nd Leg., p. 3201, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

