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FISCAL IMPACT REPORT

SPONSOR B. Sanchez DATE TYPED 1/24/05 HB _____

SHORT TITLE Land Grant Board of Trustees Authority SB 51

ANALYST Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			NFI		

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

Senate Bill 51 clarifies the rights of private property owners whose properties are located within the boundaries of Community land grants.

This bill also contains statutory changes clarifying the jurisdiction of the District courts in ejectment proceedings.

Significant Issues

Private land ownership within the boundaries of community land grants could lead to conflicts regarding access and use of common and private lands.

ADMINISTRATIVE IMPLICATIONS

This bill attempts to clarify issues and may assist the land grant boards of trustees to perform their duties.

TECHNICAL ISSUES

The Attorney General provided the following:

The last sentence of Paragraph B uses the terms “easements”, “rights of access” and “use rights” in an attempt to clarify private landowners’ rights to use portions of common lands for access only. However, the term “easement” is, in a very simplistic legal definition, the right to use land of another. Thus, without strictly distinguishing, which types of easements are permissible uses of common lands, by non-member landowners, the term easement may actually include use rights to common lands for non-access easement use rights. For example it is conceivable that a “use easement” other than for basic access could exist which would allow a private landowner to claim rights to use water located on common lands for private livestock pursuant to a claimed “implied easement”.

The term easement is too broad and could include a variety of types of legally recognized easements in potential claims of rights to use common lands.

DW/lg