

BILL ANALYSIS

C.S.H.B. 1925
By: Geren
Culture, Recreation & Tourism
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas farm and ranch lands conservation program is currently administered by the General Land Office. Interested parties contend that the Texas farm and ranch lands conservation program could benefit from being administered by an agency that is more closely aligned with the mission of the program. C.S.H.B. 1925 seeks to address this issue.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1925 transfers and redesignates provisions in the Natural Resources Code to the Parks and Wildlife Code and amends those provisions to transfer the Texas farm and ranch lands conservation program from the General Land Office (GLO) to the Parks and Wildlife Department (TPWD) and to make related changes. The bill removes as considerations in the Texas Farm and Ranch Lands Conservation Council's scoring process used in evaluating applications under the program the protection of highly productive agricultural lands and susceptibility of the subject property to subdivision, fragmentation, or other development. The bill instead requires the council to give priority to applications that protect highly productive agricultural lands that are susceptible to development, including subdivision and fragmentation.

C.S.H.B. 1925 increases from 10 to 12 the number of council members and changes the composition of the council to include an additional governor-appointed member who operates a family farm or ranch in Texas; to remove the governor-appointed member who is from a state institution of higher education and has significant experience with natural resources issues; to remove the commissioner of the GLO as an ex officio member; to add the executive director of the State Soil and Water Conservation Board, the chair of the Texas Water Development Board, or the chair's designee, and the executive director of the Texas A&M Institute of Renewable Natural Resources as ex officio members; and to require the designee of the presiding officer of the Parks and Wildlife Commission acting as an ex officio member in place of the presiding officer to be a member of the commission. The bill requires the governor to make the applicable council appointments not later than January 1, 2016. The bill requires the presiding officer of the commission or the presiding officer's designee to serve as the presiding officer of the council but requires the executive director of TPWD to serve as the presiding officer of the council at the presiding officer of the commission's discretion. The bill specifies that the members from which the council may choose other officers are the appointed members.

C.S.H.B. 1925 requires the GLO and TPWD, not later than January 1, 2016, to enter into a memorandum of understanding relating to the transfer of the administration of the program from the GLO to TPWD and sets out the required contents of the memorandum. The bill transfers to the Department of Parks and Wildlife on September 1, 2016, all powers, duties, obligations, and liabilities of the GLO relating to the administration of the program; all unobligated and unexpended funds appropriated to the GLO designated for the purpose of the administration of the program; all equipment and property of the GLO used for the administration of the program; all applicable personnel; and all files and other records of the GLO kept by the GLO regarding the program. The bill authorizes the GLO, before September 1, 2016, to agree with TPWD to transfer any GLO property to TPWD to implement the program transfer. The bill requires the GLO, in the period beginning on the bill's effective date and ending on September 1, 2016, to continue to perform program functions and activities as if provisions governing the program had not been transferred, redesignated, and amended by the bill and specifies that the former law is continued in effect for that purpose.

C.S.H.B. 1925 amends the Natural Resources Code to make conforming changes.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1925 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter B, Chapter 183, Natural Resources Code, is transferred to Subtitle E, Title 5, Parks and Wildlife Code, redesignated as Chapter 84, Parks and Wildlife Code, and amended to read as follows:

CHAPTER 84 [~~SUBCHAPTER B~~]. TEXAS FARM AND RANCH LANDS CONSERVATION PROGRAM

Sec. 84.001 [~~183.051~~]. PURPOSE

Sec. 84.002 [~~183.052~~]. DEFINITIONS.

Sec. 84.003 [~~183.053~~]. PROGRAM.

Sec. 84.004 [~~183.054~~]. TERMS OF AGRICULTURAL CONSERVATION EASEMENT.

Sec. 84.005 [~~183.055~~]. TERMINATION OF EASEMENT.

Sec. 84.006 [~~183.056~~]. REPURCHASE BY LANDOWNER.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter B, Chapter 183, Natural Resources Code, is transferred to Subtitle E, Title 5, Parks and Wildlife Code, redesignated as Chapter 84, Parks and Wildlife Code, and amended to read as follows:

CHAPTER 84 [~~SUBCHAPTER B~~]. TEXAS FARM AND RANCH LANDS CONSERVATION PROGRAM

Sec. 84.001 [~~183.051~~]. PURPOSE.

Sec. 84.002 [~~183.052~~]. DEFINITIONS

Sec. 84.003 [~~183.053~~]. PROGRAM.

Sec. 84.004 [~~183.054~~]. TERMS OF AGRICULTURAL CONSERVATION EASEMENT.

Sec. 84.005 [~~183.055~~]. TERMINATION OF EASEMENT.

Sec. 84.006 [~~183.056~~]. REPURCHASE BY LANDOWNER.

Sec. 84.007 [~~183.057~~]. PROTECTED LAND; NOTICE OF TAKING.

Sec. 84.008 [~~183.058~~]. TEXAS FARM AND RANCH LANDS CONSERVATION FUND.

Sec. 84.009 [~~183.059~~]. ADMINISTRATION OF FUND.

Sec. 84.010 [~~183.060~~]. CRITERIA FOR AWARDING GRANTS. The council shall

adopt a scoring process to be used in evaluating applications that considers the following:

- (1) maintenance of landscape and watershed integrity to conserve water and natural resources;
- (2) protection of highly productive agricultural lands;
- (3) protection of habitats for native plant and animal species, including habitats for endangered, threatened, rare, or sensitive species;
- (4) susceptibility of the subject property to subdivision, fragmentation, or other development;
- (5) potential for leveraging state money allocated to the program with additional public or private money;
- (6) proximity of the subject property to other protected lands;
- (7) the term of the proposed easement, whether perpetual or for a term of 30 years; and
- (8) a resource management plan agreed to by both parties and approved by the council.

Sec. 84.011 [~~183.061~~]. TEXAS FARM AND RANCH LANDS CONSERVATION COUNCIL. (a) The Texas Farm and Ranch Lands Conservation Council is established to advise and assist the director [~~commissioner~~] with administration of the program and to select applicants to receive grants under this chapter [~~subchapter~~] using the criteria adopted by the council under Section 84.010 [~~183.060~~]. The council consists of eleven members as follows:

Sec. 84.007 [~~183.057~~]. PROTECTED LAND; NOTICE OF TAKING.

Sec. 84.008 [~~183.058~~]. TEXAS FARM AND RANCH LANDS CONSERVATION FUND.

Sec. 84.009 [~~183.059~~]. ADMINISTRATION OF FUND.

Sec. 84.010 [~~183.060~~]. CRITERIA FOR AWARDING GRANTS. The council shall:

(1) give priority to applications that protect highly productive agricultural lands that are susceptible to development, including subdivision and fragmentation; and

(2) adopt a scoring process to be used in evaluating applications that considers the following:

- (A) [(4)] maintenance of landscape and watershed integrity to conserve water and natural resources;
- (B) [(2)] protection of highly productive agricultural lands;
- [(3)] protection of habitats for native plant and animal species, including habitats for endangered, threatened, rare, or sensitive species;
- (C) [(4)] susceptibility of the subject property to subdivision, fragmentation, or other development;
- [(5)] potential for leveraging state money allocated to the program with additional public or private money;
- (D) [(6)] proximity of the subject property to other protected lands;
- (E) [(7)] the term of the proposed easement, whether perpetual or for a term of 30 years; and
- (F) [(8)] a resource management plan agreed to by both parties and approved by the council.

Sec. 84.011 [~~183.061~~]. TEXAS FARM AND RANCH LANDS CONSERVATION COUNCIL. (a) The Texas Farm and Ranch Lands Conservation Council is established to advise and assist the director [~~commissioner~~] with administration of the program and to select applicants to receive grants under this chapter [~~subchapter~~] using the criteria adopted by the council under Section 84.010 [~~183.060~~]. The council consists of 12 members as follows:

(1) six members appointed by the governor as follows:

(A) two members [~~one member~~] who each operate [~~operates~~] a family farm or ranch in this state;

(B) one member who is the designated representative of an agricultural banking or lending organization and who has significant experience lending for farms and ranches or lands encumbered by conservation easements;

(C) two members who are the designated representatives of a statewide agricultural organization in existence in this state for not less than 10 years; and

(D) one member who is a designated representative of a statewide nonprofit organization that represents land trusts operating in this state; and

~~[(E) one member from a state institution of higher education who has significant experience with natural resources issues; and]~~

(2) five [~~four~~] ex officio members as follows:

(A) a [~~the~~] commissioner of the Texas Commission on Environmental Quality, or the commissioner's designee;

(B) the commissioner of agriculture or the commissioner's designee;

(C) the chair of the Texas Water Development Board, or the chair's designee [~~presiding officer of the Parks and Wildlife Commission or the presiding officer's designee~~]; [~~and~~]

(D) the state conservationist of the Natural Resources Conservation Service of the United States Department of Agriculture or a designee of that person, who serves as a nonvoting member; and

(E) the presiding officer of the commission or the presiding officer's designee, who must be a member of the commission.

(b) Appointed members of the council serve staggered terms of six years, with two of the members' terms expiring February 1 of each odd-numbered year.

(c) Appointments to and removal from the council shall be made by the governor without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(1) six members appointed by the governor as follows:

(A) two members [~~one member~~] who each operate [~~operates~~] a family farm or ranch in this state;

(B) one member who is the designated representative of an agricultural banking or lending organization and who has significant experience lending for farms and ranches or lands encumbered by conservation easements;

(C) two members who are the designated representatives of a statewide agricultural organization in existence in this state for not less than 10 years; and

(D) one member who is a designated representative of a statewide nonprofit organization that represents land trusts operating in this state; and

~~[(E) one member from a state institution of higher education who has significant experience with natural resources issues; and]~~

(2) six [~~four~~] ex officio members as follows:

(A) the executive director of the State Soil and Water Conservation Board [~~the commissioner~~];

(B) the commissioner of agriculture or the commissioner's designee;

(C) the chair of the Texas Water Development Board, or the chair's designee [~~presiding officer of the Parks and Wildlife Commission or the presiding officer's designee~~]; [~~and~~]

(D) the state conservationist of the Natural Resources Conservation Service of the United States Department of Agriculture or a designee of that person, who serves as a nonvoting member;

(E) the presiding officer of the commission or the presiding officer's designee, who must be a member of the commission; and

(F) the executive director of the Texas A&M Institute of Renewable Natural Resources.

(b) Appointed members of the council serve staggered terms of six years, with two of the members' terms expiring February 1 of each odd-numbered year.

(c) Appointments to and removal from the council shall be made by the governor without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(d) The presiding officer of the commission or the presiding officer's [commissioner or the commissioner's] designee shall serve as the presiding officer of the council and shall designate from among the members of the council an assistant presiding officer of the council to serve in that capacity at the will of the presiding officer of the commission [commissioner]. The council may choose from its members other officers as the council considers necessary.

(e) A member of the council is not entitled to compensation for service on the council but is entitled to reimbursement of the necessary and reasonable travel expenses incurred by the member while conducting the business of the council, as provided for state employees by the General Appropriations Act.

(f) The council shall meet not less than once each year.

(g) A person may not be appointed as a council member if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving money under the program;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving money under the program; or

(3) uses or receives a substantial amount of tangible goods, services, or money under the program other than reimbursement authorized by law for travel expenses as described by Subsection (e).

(h) In this subsection, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest. A person may not be an appointed member of the council if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association for an occupation or profession with an

(d) The presiding officer of the commission or the presiding officer's [commissioner or the commissioner's] designee shall serve as the presiding officer of the council unless, at the presiding officer of the commission's discretion, the executive director of the department shall serve as the presiding officer of the council. The presiding officer of the council [and] shall designate from among the members of the council an assistant presiding officer of the council to serve in that capacity at the will of the presiding officer of the council [commissioner]. The council may choose from its appointed members other officers as the council considers necessary.

(e) A member of the council is not entitled to compensation for service on the council but is entitled to reimbursement of the necessary and reasonable travel expenses incurred by the member while conducting the business of the council, as provided for state employees by the General Appropriations Act.

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(3) uses or receives a substantial amount of tangible goods, services, or money under the program other than reimbursement authorized by law for travel expenses as described by Subsection (e).

(h) In this subsection, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest. A person may not be an appointed member of the council if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association for an occupation or profession with an

interest in land conservation that is related to the occupation or profession; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association for an occupation or profession with an interest in land conservation that is related to that occupation or profession.

(i) A person may not be an appointed member of the council or act as the general counsel to the council if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of an occupation or profession with an interest in land conservation that is related to that occupation or profession.

(j) It is a ground for removal from the council if a member:

(1) is ineligible for membership under this section;

(2) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(3) is absent from more than half of the regularly scheduled council meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the council.

(k) The validity of an action of the council is not affected by the fact that it is taken when a ground for removal of a participating council member exists.

(l) If the presiding officer of the council has knowledge that a potential ground for removal exists, the presiding officer of the council shall notify the director [~~commissioner~~] and the governor that a potential ground for removal exists.

(m) The presiding officer of the council or that person's [~~the presiding officer's~~] designee, with the assistance of staff of the department [~~land office~~], shall provide to members of the council information regarding a member's responsibilities under applicable laws relating to standards of conduct for state officers.

(n) A person who is appointed to and qualifies for office as a member of the council may not vote, deliberate, or be counted as a member in attendance at a meeting of the council until the person completes a training program that complies with this section. The training program must provide the person with information regarding:

interest in land conservation that is related to the occupation or profession; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association for an occupation or profession with an interest in land conservation that is related to that occupation or profession.

(i) A person may not be an appointed member of the council or act as the general counsel to the council if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of an occupation or profession with an interest in land conservation that is related to that occupation or profession.

(j) It is a ground for removal from the council if a member:

(1) is ineligible for membership under this section;

(2) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(3) is absent from more than half of the regularly scheduled council meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the council.

(k) The validity of an action of the council is not affected by the fact that it is taken when a ground for removal of a participating council member exists.

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(m) The presiding officer of the council or that person's [~~the presiding officer's~~] designee, with the assistance of staff of the department [~~land office~~], shall provide to members of the council information regarding a member's responsibilities under applicable laws relating to standards of conduct for state officers.

(n) A person who is appointed to and qualifies for office as a member of the council may not vote, deliberate, or be counted as a member in attendance at a meeting of the council until the person completes a training program that complies with this section. The training program must provide the person with information regarding:

- (1) the legislation that created the council;
- (2) the program to be administered under this chapter [~~subchapter~~];
- (3) the role and functions of the council;
- (4) the rules of the council, with an emphasis on the rules that relate to disciplinary and investigatory authority;
- (5) the current budget for the council;
- (6) the results of the most recent formal audit of the council;
- (7) the requirements of:
 - (A) the open meetings law, Chapter 551, Government Code;
 - (B) the public information law, Chapter 552, Government Code;
 - (C) the administrative procedure law, Chapter 2001, Government Code; and
 - (D) other laws relating to public officials, including conflict-of-interest laws; and
- (8) any applicable policies adopted by the council or the Texas Ethics Commission.
- (o) A person appointed to the council is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the training program occurs before or after the person qualifies for office.

Sec. 84.012 [~~183.062~~]. EFFECT ON TAX APPRAISAL.

Sec. 84.013 [~~183.063~~]. REPORT TO TEXAS DEPARTMENT OF TRANSPORTATION.

SECTION 2. Section 31.065(d), Natural Resources Code, is amended.

SECTION 3. Section 31.066(d), Natural Resources Code, is amended.

SECTION 4. (a) Not later than January 1, 2016, the governor shall make the appointments described by Section 84.011, Parks and Wildlife Code, as amended by this Act.

(b) Not later than January 1, 2016, the General Land Office and the Parks and Wildlife Department shall enter into a memorandum of understanding relating to the transfer of the administration of the

- (1) the legislation that created the council;
- (2) the program to be administered under this chapter [~~subchapter~~];
- (3) the role and functions of the council;
- (4) the rules of the council, with an emphasis on the rules that relate to disciplinary and investigatory authority;
- (5) the current budget for the council;
- (6) the results of the most recent formal audit of the council;
- (7) the requirements of:
 - (A) the open meetings law, Chapter 551, Government Code;
 - (B) the public information law, Chapter 552, Government Code;
 - (C) the administrative procedure law, Chapter 2001, Government Code; and
 - (D) other laws relating to public officials, including conflict-of-interest laws; and
- (8) any applicable policies adopted by the council or the Texas Ethics Commission.
- (o) A person appointed to the council is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the training program occurs before or after the person qualifies for office.

Sec. 84.012 [~~183.062~~]. EFFECT ON TAX APPRAISAL.

Sec. 84.013 [~~183.063~~]. REPORT TO TEXAS DEPARTMENT OF TRANSPORTATION.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.

Texas Farm and Ranch Lands Conservation Program from the General Land Office to the Parks and Wildlife Department. The memorandum of understanding must include a timetable and specific steps and methods for the transfer on September 1, 2016, of all powers, duties, obligations, rights, contracts, leases, records, real or personal property, personnel, and unspent and unobligated appropriations and other funds relating to the administration of the Texas Farm and Ranch Lands Conservation Program from the General Land Office to the Parks and Wildlife Department.

(c) On September 1, 2016, the following are transferred to the Department of Parks and Wildlife:

(1) all powers, duties, obligations, and liabilities of the General Land Office relating to the administration of the Texas Farm and Ranch Lands Conservation Program;

(2) all unobligated and unexpended funds appropriated to the General Land Office designated for the purpose of the administration of the Texas Farm and Ranch Lands Conservation Program;

(3) all equipment and property of the General Land Office used for the administration of the Texas Farm and Ranch Lands Conservation Program;

(4) all personnel, as described by the memorandum of understanding entered into under Subsection (b) of this section; and

(5) all files and other records of the General Land Office kept by the office regarding the Texas Farm and Ranch Lands Conservation Program.

(d) Before September 1, 2016, the General Land Office may agree with the Parks and Wildlife Department to transfer any property of the General Land Office to the Parks and Wildlife Department to implement the transfer required by this Act.

(e) In the period beginning on the effective date of this Act and ending on September 1, 2016, the General Land Office shall continue to perform functions and activities under Subchapter B, Chapter 183, Natural Resources Code, as if that subchapter had not been transferred, redesignated, and amended by this Act, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

SECTION 5. Same as introduced version.