

BILL ANALYSIS

Senate Research Center

S.B. 1455
By: Wentworth
Natural Resources
3/30/2005
As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, private landowners, corporations, state or local governments, or other non-federal landowners who wish to conduct activities on their land that might incidentally harm endangered or threatened wildlife, must first obtain an incidental take permit from the United States Fish and Wildlife Service. To obtain a permit, the applicant must develop a regional habitat conservation plan which is designed to offset any harmful effect the proposed activity might have on the species, and often provide for setting aside species habitat preserve land as an integral component of the plan.

Chapter 83 (Federal-State Agreements), Parks and Wildlife Code, establishes important procedural and substantive requirements for governmental entities that wish to establish conservation plans under the federal Endangered Species Act.

As proposed, S.B. 1455 lengthens certain timelines to allow greater flexibility in developing and implementing important conservation measures relative to potential preserve areas. The bill also clarifies that mechanisms identifying habitat preserve on a phased, rolling basis delay triggering Chapter 83 timeframes until each preserve is identified.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 83.013(d), Parks and Wildlife Code, to authorize a plan participant to accept, rather than apply for, a federal permit described in this subsection. Provides that a plan participant must demonstrate that adequate sources of funding will exist, rather than that adequate sources of funding exist, to acquire land for habitat preserves.

SECTION 2. Amends Sections 83.015(a) and (b), Parks and Wildlife Code, as follows:

(a) Authorizes, rather than requires, a regional habitat conservation plan, including any mitigation fee, to be based on the amount of harm to, and, after notice and public hearing by the plan participants, any recovery criteria applicable to, each endangered species to be protected under the regional habitat conservation plan.

(b) Makes conforming changes.

SECTION 3. Amends Section 83.017(c), Parks and Wildlife Code, to make a nonsubstantive change.

SECTION 4. Amends Section 83.018, Parks and Wildlife Code, by amending Subsection (c) and adding Subsection (d), as follows:

(c) Requires the plan participants, except as otherwise provided by Subsection (d), to make offers based on fair market value to the landowners for the acquisition of fee simple or other interest in land designated in the regional habitat conservation plan as habitat preserve not later than four, rather than two, years after the issuance of the federal permit or six, rather than three, years after the initial application for the federal permit,

whichever is later, rather than earlier. Requires acquisition of all habitat preserves designated in the regional habitat conservation plan as habitat preserve to be completed not later than the fifth, rather than fourth, anniversary of the date on which the federal permit was issued, except as otherwise provided by Subsection (d). Makes conforming changes.

(d) Requires plan participants, with respect to land that is not designated as habitat preserve in a regional habitat conservation plan at the time of issuance of the federal permit but that is designated as habitat preserve under a regional habitat conservation plan after issuance of the federal permit, to make offers based on fair market value to landowners for the acquisition of fee simple or other interest in land with respect to the tract of land proposed as habitat preserve not later than four years after the tract is identified or designated by the plan participants as proposed habitat preserve. Requires acquisition of habitat preserves for plan participants subject to this subsection to be completed not later than the fifth anniversary of the date on which the tract is identified or designated by the plan participants as proposed habitat preserve.

SECTION 5. Amends Sections 83.020(d), (e), and (f), Parks and Wildlife Code, as follows:

(d) Deletes existing text prohibiting the plan participant from submitting an application for a federal permit until a certain time.

(e) Redesignated from existing Subsection (f). Deletes existing text prohibiting a plan participant from submitting an application for a federal permit if the participant is involved in a plan that is the subject of a grievance.

(f) Redesignates text relating to filing a grievance as Subsection (e).

SECTION 6. Effective date: upon passage or September 1, 2005.