

Amend **CSHB 3509** (senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Subtitle F, Title 4, Government Code, is amended by adding Chapter 490F to read as follows:

CHAPTER 490F. HABITAT CONSERVATION BY A STATE AGENCY

Sec. 490F.001. DEFINITIONS. Notwithstanding the definitions contained in Subchapter B, Chapter 83, Parks and Wildlife Code, the following words and terms, when used in this subchapter, shall have the following meanings:

(1) "Habitat conservation plan" means a plan or program to protect a candidate species or endangered species by habitat preserves or other protection strategies developed in order to prevent listing a species or if necessary to obtain a federal permit."

(2) "State agency" means state officer, board, commission, or department with statewide jurisdiction, excluding an institution of higher education.

(3) "Federal permit" means a permit issued under Section 10(a) of the federal act.

Sec. 490F.002. STATE AGENCY AUTHORITY. (a) Under the provisions of 490E.004(c), Government Code, a state agency may apply for or hold a federal permit issued in connection with a habitat conservation plan, candidate conservation plan, or similar plan authorized or required by federal law in connection with a candidate, threatened, or endangered species. A state agency that takes an action under this section must notify other members of the task force described in section 490E.003(a).

(b) An agency that takes an action described by Subsection (a) must:

(1) cooperate with all appropriate member agencies of the task force; and

(2) enter into an interagency contract that may provide for the payment of funds held by the comptroller inside the treasury, at the direction of the task force established in section 490E, Government Code, for the purposes of carrying out this chapter.

Sec. 490F.003. PUBLIC NOTICE AND INPUT. (a) Before

engaging in an activity authorized by Section 490F.002(a), a state agency shall:

(1) provide public notice; and

(2) solicit and consider comments from:

(A) the task force on economic growth and endangered species created under Section 490E.003, Government Code;

(B) affected landowners;

(C) conservation interests; and

(D) business interests affected by the activity;

and

(E) mineral owners.

Sec. 490F.004. HABITAT PROTECTION AND RESEARCH FUND. (a) The habitat protection and research fund is held by the comptroller inside the treasury and consists of money appropriated to the fund, interest earned on the investment of money in the fund, and gifts and grants made to the fund. This fund does not apply to activities related to species proposed for listing under the Endangered Species Act prior to September 1, 2013.

(b) Money in the habitat protection and research fund may be used only to:

(1) provide grants to institutions for research into candidate, threatened, and endangered species;

(2) employ research personnel dedicated to research described by Subdivision (1); and

(3) fund capital expenditures necessary to conduct research described by Subdivision (1).

(c) Private money contributed to the habitat protection fund under Government Code Section 403.452 is held by the comptroller outside the treasury.

(d) Private funds collected pursuant to a mitigation plan shall be held only by the comptroller outside the treasury for the use prescribed by the plan.

(e) The comptroller may identify funds to reimburse state institutions of higher education from the habitat protection and research fund for science and biology research and work related to threatened or endangered species.

Sec. 490F.005. CONFIDENTIAL INFORMATION. Information collected under this subchapter by an agency, or an entity acting on the agency's behalf, from a private landowner or other participant or potential participant in a habitat conservation plan, proposed habitat conservation plan, candidate conservation plan, or proposed candidate conservation plan is confidential and exempt from disclosure under Chapter 552, if the information relates to the specific location, property owner identification, species identification, or quantity of any animal or plant life at a specific location for which a plan is under consideration or development or has been established under this subchapter. Information may be disclosed to a state agency or state officer upon signature of a confidentiality agreement, but may not be disclosed to a federal agency.

SECTION 2. Section 490E.000, Government Code, is added as follows:

490E.000. DUTIES. The task force on economic growth and endangered species:

(a) shall select the holder of a federal permit issued in connection with a habitat conservation plan, candidate conservation plan, or similar plan, authorized or required by federal law in connection with a candidate species or endangered species that is to be held by a state agency; and

(b) may coordinate the comments, positions and response to listings and potential listings of endangered species for state agencies.

SECTION 3. Sections 490E.003(a) and (b), Government Code, are amended to read as follows:

(a) The task force on economic growth and endangered species is created and composed of the following or their designee:

- (1) the comptroller;
- (2) the commissioner of agriculture;
- (3) the commissioner of the General Land Office;
- (4) the chair of the Railroad Commission;
- (5) the executive director of the State Soil and Water Conservation Board;

~~(3)~~ (6) the executive director of the Parks and

Wildlife Department;

~~(4)~~ (7) the executive director of the Texas Department of Transportation;

(8) the director of the Texas A&M AgriLife Extension Service; and

(9) the executive director of the Texas Commission on Environmental Quality.

(b) ~~The comptroller is the presiding officer of the task force.~~ The position of presiding officer rotates among the statewide elected members specified in Subsection (a) regardless of who occupies the named office at the time of the rotation. The position of chair rotates every two years in the order listed in Subsection (a), beginning with the comptroller.

SECTION 4. Section 490E.004, Government Code, is amended by amending subsection (b) and adding subsections (c) and (d) as follows:

(b) If requested by a landowner, other person in this state, or a local government or state official, the task force may review state and local governmental efforts to address endangered species issues and provide recommendations to make those efforts more cost effective.

(c) If determined by the task force, a state agency that is represented on the task force may hold a permit issued under the federal Endangered Species Act.

(d) The permit holder shall inform members of the task force of any mitigation plan, including costs, at least 10 days prior to the plan being submitted to the U.S. Fish and Wildlife Service for approval.

SECTION 5. Section 490E.005, Government Code, is amended by amending subsections (a) and (c) and adding subsections (f) and (g) to read as follows:

(a) With the advice of the task force, the presiding officer shall ~~comptroller may~~ create at least one advisory committees for each species to assist the task force with its work. Of the members of an advisory committee:

(1) one-fourth ~~one-third~~ must be representatives of affected landowners;

(2) one-fourth ~~one-third~~ must be representatives of conservation interests; ~~and~~

(3) one-fourth ~~one-third~~ must be representatives of municipalities or other affected jurisdictions; and

(4) one-fourth must be representatives of affected business interests.

(c) The presiding officer ~~comptroller~~ shall designate one member of an advisory committee as interim presiding officer for the purpose of calling and conducting the initial meeting of the committee.

(f) The task force may create a Science and Biology Advisory Committee for a specific species composed of the following members:

(1) the State Geologist of Texas, director of the Bureau of Economic Geology at the University of Texas at Austin;

(2) a designee of the director of the Texas A&M AgriLife Extension Service with species expertise;

(3) a designee from the Parks & Wildlife Department with science and biology expertise; and

(4) any other persons the task force deems appropriate who have science and biology expertise.

SECTION 6. Section 490E.008, Government Code, is amended to read as follows:

ADMINISTRATIVE SUPPORT. The presiding officer's ~~comptroller's~~ office shall provide administrative support and maintain a public website for ~~to~~ the task force.

SECTION 7. Section 490E.009, Government Code, is added as follows:

490E.009. ATTORNEY GENERAL. Notwithstanding Section 402.045, Government Code, the attorney general, at the request of the task force, shall provide legal advice to the task force.

SECTION 8. Section 403.452, Chapter 403, Government Code, is amended by adding Subsection (e) to read:

(e) Except as provided under Section 490E.004(c), the authority of the comptroller to enter into an agreement for any species other than the dunes sagebrush lizard, under this section, with the United States Fish and Wildlife Service for the implementation of a candidate conservation plan or a habitat

conservation plan, expires September 1, 2013.

SECTION 9. Section 490E.006, Government Code, is repealed.

SECTION 10. The Task Force on Economic Growth and Endangered Species, in collaboration with three members of the House State Affairs Committee appointed by the Speaker and three members of the Senate Natural Resources Committee appointed by the Lieutenant Governor, and one stakeholder representing landowner interests appointed by the Governor, shall conduct a study to determine state policies to defend against the overreaching inclusion of species on the Endangered Species List by the United States Fish and Wildlife Service. The study shall be submitted to the Governor, Lieutenant Governor, Speaker, and members of the legislature not later than December 1, 2014.

SECTION 11. Nothing in this Act precludes a person or group of persons from working together and with the United States Fish and Wildlife Service to address threatened or endangered species issues.

SECTION 12. An approved conservation plan, federal permit issued, an application for a federal permit submitted, or a conservation agreement entered into prior to the effective date of this bill is governed by the law in effect at the time the permit was acquired or the plan was approved and the former law continues in effect for the purpose of full implementation of the conservation plan, including the authority to apply for a federal permit in the event of a listing decision for the species covered by the conservation plan.

SECTION 13. This Act takes effect September 1, 2013.