

By: Bonnen of Brazoria, Villalba

H.B. No. 3509

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to endangered species habitat conservation and to the  
3 creation of a committee to oversee and guide the state's  
4 coordinated response to federal actions regarding endangered  
5 species.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Section 83.005(b), Parks and Wildlife Code, is  
8 amended to read as follows:

9 (b) In this section, "conservation agreement" includes an  
10 agreement between [~~the state or~~] a political subdivision of the  
11 state and the United States Department of the Interior under the  
12 federal act that does not relate to a federal permit as defined by  
13 Section 83.011.

14 SECTION 2. Section 83.011, Parks and Wildlife Code, is  
15 amended by adding Subdivisions (1-a), (1-b), and (13) and amending  
16 Subdivision (4) to read as follows:

17 (1-a) "Candidate conservation plan" means a plan to  
18 implement actions necessary for the conservation of one or more  
19 candidate species or species likely to become a candidate species  
20 in the near future.

21 (1-b) "Candidate species" means a species identified by  
22 the United States Department of the Interior as appropriate for  
23 listing as threatened or endangered.

24 (4) "Federal permit" means a permit issued under

1 ~~[Section 7 or 10(a) of]~~ the federal act, including Section 7 or  
2 10(a) of the federal act.

3 (13) "Response committee" means the Coordinated State  
4 Endangered Species Response Committee established under Subchapter  
5 D.

6 SECTION 3. The heading to Section 83.013, Parks and  
7 Wildlife Code, is amended to read as follows:

8 Sec. 83.013. AUTHORITY OF ~~[DEPARTMENT OR]~~ POLITICAL  
9 SUBDIVISION.

10 SECTION 4. Sections 83.013(a) and (b), Parks and Wildlife  
11 Code, are amended to read as follows:

12 (a) A ~~[The department or a]~~ political subdivision may  
13 participate in the study and preparation for and creation of a  
14 habitat conservation plan.

15 (b) Subject to this subchapter, ~~[the department or]~~ a  
16 political subdivision may participate in the study and preparation  
17 for and creation of a regional habitat conservation plan.

18 SECTION 5. Chapter 83, Parks and Wildlife Code, is amended  
19 by adding Subchapters C and D to read as follows:

20 SUBCHAPTER C. HABITAT CONSERVATION BY THE DEPARTMENT

21 Sec. 83.051. DEPARTMENT AND STATE AGENCY AUTHORITY. (a)

22 The department may:

23 (1) apply for and hold a federal permit issued in  
24 connection with a habitat conservation plan, candidate  
25 conservation plan, or similar plan, authorized or required by  
26 federal law in connection with a candidate species or endangered  
27 species, that is developed or coordinated by the department; or

1           (2) enter into an agreement with the United States  
2 Department of the Interior or other federal agency in connection  
3 with a habitat conservation plan, candidate conservation plan, or  
4 similar plan authorized or required by federal law in connection  
5 with a candidate species or endangered species.

6           (b) A state agency may:

7           (1) apply for or hold a federal permit issued in  
8 connection with a habitat conservation plan, candidate  
9 conservation plan, or similar plan authorized or required by  
10 federal law in connection with a candidate species or endangered  
11 species; or

12           (2) enter into an agreement with the United States  
13 Department of the Interior or other federal agency in connection  
14 with a habitat conservation plan, candidate conservation plan, or  
15 similar plan authorized or required by federal law in connection  
16 with a candidate species or endangered species.

17           (c) An agency that takes an action described by Subsection  
18 (b) must:

19           (1) cooperate with the department; and

20           (2) enter into an interagency contract that may  
21 provide for the payment of funds held by the department, or funds to  
22 which the department has access, for purposes of carrying out the  
23 action.

24           Sec. 83.052. PUBLIC NOTICE AND INPUT. (a) Before engaging  
25 in an activity authorized by Section 83.051, the department or  
26 state agency shall:

27           (1) provide public notice; and

1           (2) solicit and consider comments from:

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

5                   (B) affected landowners;

6                   (C) conservation interests; and

7                   (D) business interests affected by the activity.

8           (b) The public notice required by this section may be made  
9 by:

10                   (1) publication in the Texas Register;

11                   (2) posting on the department's Internet website;

12                   (3) written correspondence;

13                   (4) announcement at a public meeting; or

14                   (5) any means likely to ensure actual notice.

15           (c) The department or state agency may create advisory  
16 committees to assist the department or state agency in carrying out  
17 an activity authorized by Section 83.051. The membership of an  
18 advisory committee created under this subsection must be appointed  
19 so that one-third of the members are representatives of affected  
20 landowners or property owners.

21           (c-1) The composition of an advisory committee created  
22 under Subsection (c) must provide the balance necessary to address  
23 economic, environmental, and policy issues related to the specific  
24 issue or action under consideration.

25           (d) Chapter 2110, Government Code, does not apply to the  
26 size, composition, or duration of an advisory committee created  
27 under this section.

1       Sec. 83.053. HABITAT PROTECTION RESEARCH FUND. (a) The  
2 habitat protection research fund is held by the comptroller outside  
3 the treasury and consists of money appropriated to the fund,  
4 interest earned on the investment of money in the fund, and gifts  
5 and grants made to the fund.

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

8           (1) provide grants to institutions for research into  
9 candidate species and endangered species;

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

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

14       (c) Research grants described by Subsection (b) shall be  
15 awarded by the state agency.

16       SUBCHAPTER D. COORDINATED STATE ENDANGERED SPECIES RESPONSE

17                   COMMITTEE

18       Sec. 83.101. COMMITTEE COMPOSITION. The Coordinated State  
19 Endangered Species Response Committee is composed of the following  
20 members or their designees:

21           (1) the commissioner of the Department of Agriculture;

22           (2) the commissioner of the General Land Office;

23           (3) the chair of the Railroad Commission of Texas;

24           (4) the comptroller;

25           (5) the executive director of the Parks and Wildlife  
26 Department; and

27           (6) the executive director of the Texas Economic

1 Development and Tourism Office.

2 Sec. 83.102. PRESIDING OFFICER; SUPPORT STAFF. (a) The  
3 position of chair of the response committee rotates among the  
4 members specified in Section 83.101 regardless of who occupies the  
5 named office at the time of the rotation. The position of chair  
6 rotates every two years in the order listed in Section 83.101,  
7 beginning with the commissioner of the Department of Agriculture.

8 (b) The chair, with the consent of other committee members,  
9 shall:

10 (1) select the location of meetings of the response  
11 committee; and

12 (2) set the agenda for meetings of the response  
13 committee.

14 (c) Agency staff of the chair of the response committee  
15 shall provide support for the committee.

16 Sec. 83.103. MEETINGS. (a) The response committee shall  
17 meet at least monthly. Notice of meetings must be posted, and  
18 meetings must be open to the public.

19 (b) Information regarding the meetings of the response  
20 committee shall be posted on a website maintained by the  
21 comptroller that contains information about the economic impact of  
22 federal action on endangered species.

23 (c) The response committee may not meet or make a decision  
24 unless a quorum is present.

25 (d) Notwithstanding Section 402.045, Government Code, the  
26 attorney general, at the request of the response committee, shall  
27 provide legal advice to the response committee.

1       Sec. 83.104. DUTIES OF RESPONSE COMMITTEE. The response  
2 committee shall:

3           (1) oversee and guide the state's:

4                   (A) coordinated response to listings and  
5 potential listings of endangered species in this state; and

6                   (B) comments and positions in response to actions  
7 of the United States Fish and Wildlife Service; and

8           (2) select the holder of a federal permit issued in  
9 connection with a habitat conservation plan, candidate  
10 conservation plan, or similar plan, authorized or required by  
11 federal law in connection with a candidate species or endangered  
12 species.

13       Sec. 83.105. RULES. The response committee may adopt rules  
14 as necessary to implement administrative procedures of the response  
15 committee.

16       Sec. 83.106. REPORT. Not later than December 1 of each  
17 even-numbered year, the response committee shall submit to the  
18 governor, lieutenant governor, and speaker of the house of  
19 representatives and to the appropriate committees in each chamber  
20 of the legislature a report containing:

21           (1) the response committee's findings and  
22 recommendations;

23           (2) proposed legislation necessary to implement the  
24 purposes of the response committee;

25           (3) a summary of the response committee's activities;  
26 and

27           (4) any administrative recommendations proposed by

1 the response committee.

2 SECTION 6. Section 403.452, Government Code, is amended by  
3 amending Subsections (a) and (c) and adding Subsection (e) to read  
4 as follows:

5 (a) To promote compliance with federal law protecting  
6 endangered species and candidate species in a manner consistent  
7 with this state's economic development and fiscal stability, the  
8 comptroller may:

9 (1) [~~develop or coordinate the development of a~~  
10 ~~habitat conservation plan or candidate conservation plan,~~

11 [~~(2) apply for and~~] hold a federal permit issued in  
12 connection with a [~~habitat conservation plan or~~] candidate  
13 conservation plan developed by the comptroller or the development  
14 of which is coordinated by the comptroller;

15 (2) [~~(3) enter into an agreement for the~~  
16 ~~implementation of a candidate conservation plan with the United~~  
17 ~~States Department of the Interior or assist another entity in~~  
18 ~~entering into such an agreement,~~

19 [~~(4)~~] establish the habitat protection fund, to be  
20 held by the comptroller outside the treasury, to be used to [~~support~~  
21 ~~the development or coordination of the development of a habitat~~  
22 ~~conservation plan or a candidate conservation plan, or to~~] pay the  
23 costs of monitoring or administering the implementation of [~~such~~] a  
24 candidate conservation plan;

25 (3) [~~(5)~~] impose or provide for the imposition of [~~a~~  
26 ~~mitigation fee in connection with a habitat conservation plan or~~]  
27 such fees as are necessary or advisable for a candidate



1 conservation plan developed by the comptroller or the development  
2 of which is coordinated by the comptroller; and

3 (4) [~~(6)~~] implement, monitor, or support the  
4 implementation of a [~~habitat conservation plan or~~] candidate  
5 conservation plan developed by the comptroller or the development  
6 of which is coordinated by the comptroller.

7 (c) The legislature finds that expenditures described by  
8 Subsection (a)(2) [~~(a)(4)~~] serve public purposes, including  
9 economic development in this state.

10 (e) The authority of the comptroller to enter into an  
11 agreement with the United States Department of the Interior for the  
12 implementation of a candidate conservation plan expires September  
13 1, 2013.

14 SECTION 7. Section 403.453(a), Government Code, is amended  
15 to read as follows:

16 (a) Upon consideration of the factors identified in  
17 Subsection (b), the comptroller may designate one of the following  
18 agencies to undertake the functions identified in Section  
19 403.452(a)(3) or (4) [~~403.452(a)(1), (2), (3), (5), or (6)~~]:

- 20 (1) the Department of Agriculture;
- 21 (2) the Parks and Wildlife Department;
- 22 (3) the Texas Department of Transportation;
- 23 (4) the State Soil and Water Conservation Board; or
- 24 (5) any agency receiving funds through Article VI  
25 (Natural Resources) of the 2012-2013 appropriations bill.

26 SECTION 8. Section 490E.004(a), Government Code, is amended  
27 to read as follows:

1 (a) The task force may~~+~~  
2 [~~(1)~~] assess the economic impact on the state of  
3 federal, state, or local regulations relating to endangered  
4 species~~+~~

5 [~~(2)~~ ~~assist landowners and other persons in this state~~  
6 ~~to identify, evaluate, and implement cost-efficient strategies for~~  
7 ~~mitigation of impacts to and recovery of endangered species that~~  
8 ~~will promote economic growth and development in this state; and~~

9 [~~(3)~~ ~~facilitate state and local governmental efforts~~  
10 ~~to effectively implement endangered species regulations in a~~  
11 ~~cost-efficient manner~~].

12 SECTION 9. The following provisions of the Government Code  
13 are repealed:

- 14 (1) Section 490E.001;  
15 (2) Section 490E.004(b);  
16 (3) Section 490E.005; and  
17 (4) Section 490E.006.

18 SECTION 10. The changes in law made by Section 83.051(b),  
19 Parks and Wildlife Code, as added by this Act, apply only to a  
20 federal permit issued, an application for a federal permit  
21 submitted, or a conservation agreement entered into on or after the  
22 effective date of this Act. A federal permit issued, an application  
23 for a federal permit submitted, or a conservation agreement entered  
24 into before the effective date of this Act is governed by the law in  
25 effect at the time the action was taken, and the former law is  
26 continued in effect for that purpose.

27 SECTION 11. This Act takes effect September 1, 2013.