

By: Bonnen of Brazoria

H.B. No. 3509

Substitute the following for H.B. No. 3509:

By: Cook

C.S.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) Unless authorized by the department, a state agency,
7 other than an institution of higher education, may not:

8 (1) apply for or hold 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; or

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

18 (c) An authorization described by Subsection (b) must be
19 documented by an interagency contract that may provide for the
20 payment of funds held by the department, or funds to which the
21 department has access, for purposes of carrying out the activity
22 described in the authorization.

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

25 (1) provide public notice; and

26 (2) solicit and consider comments from:

27 (A) members of the task force on economic growth

1 and endangered species created under Section 490E.003, Government
2 Code;

3 (B) affected landowners;

4 (C) conservation interests; and

5 (D) business interests affected by the activity.

6 (b) The public notice required by this section may be made
7 by:

8 (1) publication in the Texas Register;

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

10 (3) written correspondence;

11 (4) announcement at a public meeting; or

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

13 (c) The department may create advisory committees to assist
14 the department in carrying out an activity authorized by Section
15 83.051.

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

19 Sec. 83.053. HABITAT PROTECTION RESEARCH FUND. (a) The
20 habitat protection research fund is held by the comptroller outside
21 the treasury and consists of money appropriated to the fund,
22 interest earned on the investment of money in the fund, and gifts
23 and grants made to the fund.

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

26 (1) provide grants to institutions for research into
27 candidate species and endangered species;

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

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

5 (c) Research grants described by Subsection (b) shall be
6 awarded by the department.

7 SUBCHAPTER D. COORDINATED STATE ENDANGERED SPECIES RESPONSE

8 COMMITTEE

9 Sec. 83.101. COMMITTEE COMPOSITION. The Coordinated State
10 Endangered Species Response Committee is composed of the following
11 members:

12 (1) the attorney general;

13 (2) the commissioner of the Department of Agriculture;

14 (3) the commissioner of the General Land Office;

15 (4) the chair of the Railroad Commission of Texas;

16 (5) the comptroller;

17 (6) the executive director of the Parks and Wildlife
18 Department; and

19 (7) the executive director of the Texas Economic
20 Development and Tourism Office.

21 Sec. 83.102. PRESIDING OFFICER; SUPPORT STAFF. (a) The
22 position of chair of the response committee rotates among the
23 members specified in Section 83.101 regardless of who occupies the
24 named office at the time of the rotation. The position of chair
25 rotates every two years in the order listed in Section 83.101,
26 beginning with the attorney general.

27 (b) The chair, with the consent of other committee members,

1 shall:

2 (1) select the location of meetings of the response
3 committee; and

4 (2) set the agenda for meetings of the response
5 committee.

6 (c) Agency staff of the chair of the response committee
7 shall provide support for the committee.

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

11 (b) Information regarding the meetings of the response
12 committee shall be posted on a website maintained by the
13 comptroller that contains information about the economic impact of
14 federal action on endangered species.

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

17 Sec. 83.104. DUTIES OF RESPONSE COMMITTEE. The response
18 committee shall oversee and guide the state's coordinated response
19 to listings and potential listings of endangered species in this
20 state, including overseeing and guiding the state's official
21 comments and positions in response to actions of the United States
22 Fish and Wildlife Service.

23 Sec. 83.105. RULES. The response committee may adopt rules
24 as necessary to implement administrative procedures of the response
25 committee.

26 Sec. 83.106. REPORT. Not later than December 1 of each
27 even-numbered year, the response committee shall submit to the

1 governor, lieutenant governor, and speaker of the house of
2 representatives and to the appropriate committees in each chamber
3 of the legislature a report containing:

4 (1) the response committee's findings and
5 recommendations;

6 (2) proposed legislation necessary to implement the
7 purposes of the response committee;

8 (3) a summary of the response committee's activities;
9 and

10 (4) any administrative recommendations proposed by
11 the response committee.

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

15 (a) To promote compliance with federal law protecting
16 endangered species and candidate species in a manner consistent
17 with this state's economic development and fiscal stability, the
18 comptroller may:

19 (1) ~~[develop or coordinate the development of a~~
20 ~~habitat conservation plan or candidate conservation plan;~~

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

25 (2) ~~[(3) enter into an agreement for the~~
26 ~~implementation of a candidate conservation plan with the United~~
27 ~~States Department of the Interior or assist another entity in~~

1 ~~entering into such an agreement,~~

2 ~~[(4)]~~ establish the habitat protection fund, to be
3 held by the comptroller outside the treasury, to be used to ~~[support~~
4 ~~the development or coordination of the development of a habitat~~
5 ~~conservation plan or a candidate conservation plan, or to]~~ pay the
6 costs of monitoring or administering the implementation of ~~[such]~~ a
7 candidate conservation plan;

8 (3) ~~[(5)]~~ impose or provide for the imposition of ~~[a~~
9 ~~mitigation fee in connection with a habitat conservation plan or]~~
10 such fees as are necessary or advisable for a candidate
11 conservation plan developed by the comptroller or the development
12 of which is coordinated by the comptroller; and

13 (4) ~~[(6)]~~ implement, monitor, or support the
14 implementation of a ~~[habitat conservation plan or]~~ candidate
15 conservation plan developed by the comptroller or the development
16 of which is coordinated by the comptroller.

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

20 (e) The authority of the comptroller to enter into an
21 agreement with the United States Department of the Interior for the
22 implementation of a candidate conservation plan expires September
23 1, 2013.

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

26 (a) Upon consideration of the factors identified in
27 Subsection (b), the comptroller may designate one of the following

1 agencies to undertake the functions identified in Section
2 403.452(a)(1), [~~(2)~~], (3), or (4) [~~(5)~~, or ~~(6)~~]:

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

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

- 11 (a) The task force may~~+~~
- 12 [~~(1)~~] assess the economic impact on the state of
13 federal, state, or local regulations relating to endangered
14 species~~+~~
- 15 [~~(2)~~ ~~assist landowners and other persons in this state~~
16 ~~to identify, evaluate, and implement cost-efficient strategies for~~
17 ~~mitigation of impacts to and recovery of endangered species that~~
18 ~~will promote economic growth and development in this state, and~~
- 19 [~~(3)~~ ~~facilitate state and local governmental efforts~~
20 ~~to effectively implement endangered species regulations in a~~
21 ~~cost-efficient manner~~].

22 SECTION 9. The following provisions of the Government Code
23 are repealed:

- 24 (1) Section 490E.001;
- 25 (2) Section 490E.004(b);
- 26 (3) Section 490E.005; and
- 27 (4) Section 490E.006.

1 SECTION 10. The changes in law made by Section 83.051(b),
2 Parks and Wildlife Code, as added by this Act, apply only to a
3 federal permit issued, an application for a federal permit
4 submitted, or a conservation agreement entered into on or after the
5 effective date of this Act. A federal permit issued, an application
6 for a federal permit submitted, or a conservation agreement entered
7 into before the effective date of this Act is governed by the law in
8 effect at the time the action was taken, and the former law is
9 continued in effect for that purpose.

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