

By: Bonnen of Brazoria

H.B. No. 3509

A BILL TO BE ENTITLED

AN ACT

relating to endangered species habitat conservation.

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

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

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

SECTION 2. Subdivision (4), Section 83.011, Parks and Wildlife Code, is amended to read as follows:

(4) "Federal permit" means a permit issued pursuant to the federal act, including a permit issued under Section 7 or 10(a) of the federal act.

SECTION 3. Subsections (a) and (b), Section 83.013, Parks and Wildlife Code, are amended to read as follows:

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

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

SECTION 4. Chapter 83, Parks and Wildlife Code, is amended

1 by adding Subchapter C to read as follows:

2 SUBCHAPTER C. HABITAT PROTECTION BY THE DEPARTMENT

3 Sec. 83.031. DEFINITIONS. In this subchapter:

4 (1) "Candidate conservation plan" means a plan to
5 implement actions necessary for the conservation of one or more
6 candidate species or species likely to become a candidate species
7 in the near future.

8 (2) "Candidate species" means a species identified by
9 the United States Department of the Interior as appropriate for
10 listing as threatened or endangered.

11 (3) "Endangered species" means a species listed by the
12 United States Department of the Interior as endangered or
13 threatened under the federal act.

14 (4) "Federal act" means the federal Endangered Species
15 Act of 1973 (16 U.S.C. Section 1531 et seq.), as amended.

16 (5) "Federal permit" means a permit issued under the
17 federal act, including Section 7 or 10(a) of the federal act.

18 Sec. 83.032. DEPARTMENT AUTHORITY. (a) Subject to the
19 requirements of this subchapter, the department may:

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

25 (2) enter into an agreement with the United States
26 Department of the Interior or other federal department in
27 connection with a habitat conservation plan, a candidate

1 conservation plan, or similar plan authorized or required by
2 federal law in connection with a candidate species or endangered
3 species.

4 (b) Unless authorized by the department, a state agency,
5 other than an institution of higher education, may not:

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

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

15 (c) An authorization described by Subsection (b) must be
16 documented by an interagency contract that may provide for the
17 payment of funds held by the department, or funds to which the
18 department has access, for the purpose of carrying out the activity
19 authorized by that subsection.

20 Sec. 83.033. PUBLIC NOTICE AND INPUT. (a) Before
21 undertaking an activity authorized by Section 83.032, the
22 department shall provide public notice to and shall solicit and
23 consider comments from:

24 (1) members of the task force on economic growth and
25 endangered species, as created by Section 490E.003, Government
26 Code;

27 (2) affected landowners;

1 (3) conservation interests; and

2 (4) business interests affected by the activity.

3 (b) The public notice required by this section can be made
4 by publication in the Texas Register, by posting on the
5 department's website, by written correspondence, by public
6 meeting, or by other means likely to ensure actual notice.

7 (c) The department may create advisory committees to assist
8 the department in carrying out the activities authorized by Section
9 83.032.

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

13 Sec. 83.034. HABITAT PROTECTION RESEARCH FUND. (a) The
14 habitat protection research fund is held by the comptroller outside
15 the treasury and consists of money appropriated to the fund,
16 interest earned on the investment of money in the fund, and gifts
17 and grants.

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

20 (1) provide grants to institutions for research into
21 candidate species and endangered species, as that term is defined
22 under Section 403.451;

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

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

27 (c) Research grants described by Subsection (b) shall be

1 awarded by the department.

2 SECTION 5. 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 6. Subsection (a), Section 403.453, Government
15 Code, is amended 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)(1), (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 7. Section 490E.004, Government Code, is amended to
27 read as follows:

1 Sec. 490E.004. FUNCTIONS AND DUTIES. ~~[(a)]~~ The task force
2 may:

3 (1) assess the economic impact on the state of
4 federal, state, or local regulations relating to endangered
5 species; and

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

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

13 ~~[(b) If requested by a local government or state official,
14 the task force may review state and local governmental efforts to
15 address endangered species issues and provide recommendations to
16 make those efforts more cost effective. The task force shall
17 consider all available options as part of its recommendations. The
18 options considered must include:~~

19 ~~[(1) fee simple acquisition of land,~~

20 ~~[(2) conservation easements,~~

21 ~~[(3) use of land owned by local governments or this
22 state,~~

23 ~~[(4) recovery crediting, and~~

24 ~~[(5) all relevant federal programs.]~~

25 SECTION 8. Section 490E.005, Government Code, is repealed.

26 SECTION 9. (a) The change in law made by Subsection (b),
27 Section 83.032, Parks and Wildlife Code, as added by this Act,

1 applies to a federal permit issued, an application for a federal
2 permit submitted, or a conservation agreement entered into on or
3 after the effective date of this Act.

4 (b) A federal permit issued, an application for a federal
5 permit submitted, or a conservation agreement entered into before
6 the effective date of this Act is governed by the law in effect at
7 the time the action was taken, and that law is continued in effect
8 for that purpose.

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