

SENATE AMENDMENTS

2nd Printing

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.

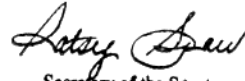
18 SECTION 10. The changes in law made by Section 83.051(b),
19 Parks and Wildlife Code, as added by this Act, apply only to a
20 federal permit issued, an application for a federal permit
21 submitted, or a conservation agreement entered into on or after the
22 effective date of this Act. A federal 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.

ADOPTED

MAY 22 2013

By: 


Secretary of the Senate H.B. No. 3509

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

By: 

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 board to oversee and guide the state's coordinated
4 response to federal actions regarding endangered species.

5

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
13 by 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
16 amending 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
20 species in the near future.

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

24 (13) "Governing Board" means the Coordinated State

1 Endangered Species Governing Board established under Subchapter
2 D.

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

5 Sec. 83.013. AUTHORITY OF [~~DEPARTMENT OR~~] POLITICAL
6 SUBDIVISION.

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

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

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

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

18 SUBCHAPTER C. HABITAT CONSERVATION BY THE DEPARTMENT

19 Sec. 83.050. DEFINITIONS. Notwithstanding the definitions
20 contained in Subchapter B, the following words and terms, when
21 used in this subchapter, shall have the following meanings:

22 (1) "Habitat conservation plan" means a plan or program to
23 protect endangered species by habitat preserves or other
24 protection strategies developed in order to obtain a federal
25 permit."

26 (2) "State agency" means state officer, board, commission,
27 or department with statewide jurisdiction, excluding an

1 institution of higher education.

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

3 The department may:

4 (1) apply for and hold a federal permit issued in
5 connection with a habitat conservation plan, candidate
6 conservation plan, or similar plan, authorized or required by
7 federal law in connection with a candidate species or endangered
8 species, that is developed or coordinated by the department; or

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

14 (b) A state agency may:

15 (1) apply for or hold a federal permit issued in
16 connection with a habitat conservation plan, candidate
17 conservation plan, or similar plan authorized or required by
18 federal law in connection with a candidate species or endangered
19 species; or

20 (c) An agency that takes an action described by Subsection
21 (b) must:

22 (1) cooperate with the department; and

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

27 (d) The Department shall provide the state's scientific

1 response to proposed listings as the state agency with authority
2 for fish and wildlife management.

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

6 (1) provide public notice; and

7 (2) solicit and consider comments from:

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

11 (B) affected landowners;

12 (C) conservation interests; and

13 (D) business interests affected by the activity.

14 (b) The public notice required by this section may be made
15 by:

16 (1) publication in the Texas Register;

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

18 (3) written correspondence;

19 (4) announcement at a public meeting; or

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

21 (c) The department or state agency shall create at least
22 one advisory committee to assist the department or state agency
23 in carrying out an activity authorized by Section 83.051(a) or
24 (b). The membership of an advisory committee created under this
25 subsection must be appointed so that one-third of the members
26 are representatives of affected landowners or property owners.

27 (c-1) The composition of an advisory committee created

1 under Subsection (c) must provide the balance necessary to
2 address economic, environmental, and policy issues related to
3 the specific issue or action under consideration.

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

7 Sec. 83.053. HABITAT PROTECTION RESEARCH FUND. (a) The
8 habitat protection research fund is held by the comptroller
9 outside the treasury and consists of money appropriated to the
10 fund, interest earned on the investment of money in the fund,
11 and gifts and grants made to the fund.

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

14 (1) provide grants to institutions for research into
15 candidate species and endangered species;

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

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

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

22 (d) Gifts to the fund can be used for other purposes
23 besides research.

24 Sec. 83.054 CONFIDENTIAL INFORMATION. Information
25 collected under this subchapter by an agency, or an entity
26 acting on the agency's behalf, from a private landowner or other
27 participant or potential participant in a habitat conservation

1 plan, proposed habitat conservation plan, candidate conservation
2 plan, or proposed candidate conservation plan is confidential
3 and exempt from disclosure under Chapter 552 if the information
4 relates to the specific location, species identification, or
5 quantity of any animal or plant life for which a plan is under
6 consideration or development or has been established under this
7 subchapter.

8 SUBCHAPTER D. COORDINATED STATE ENDANGERED SPECIES GOVERNING
9 BOARD

10 Sec. 83.101. BOARD COMPOSITION. The Governing Board is
11 composed of the following members or their designees:

12 (1) the commissioner of the Department of
13 Agriculture;

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

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

16 (4) the comptroller;

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

19 (6) the director of the Texas A&M AgriLife Extension
20 Service; and

21 (7) the executive director of the Texas Economic
22 Development and Tourism Office.

23 Sec. 83.102. PRESIDING OFFICER; SUPPORT STAFF. (a) The
24 position of chair of the Governing Board rotates among the
25 statewide elected members specified in Section 83.101 regardless
26 of who occupies the named office at the time of the rotation.
27 The position of chair rotates every two years in the order

1 listed in Section 83.101, beginning with the commissioner of the
2 Department of Agriculture.

3 (b) The chair, with the consent of other Governing Board
4 members, shall:

5 (1) select the location of meetings of the Governing
6 Board; and

7 (2) set the agenda for meetings of the Governing
8 Board.

9 (c) Agency staff of the chair of the Governing Board shall
10 provide support for the board.

11 Sec. 83.103. MEETINGS. (a) The Governing Board shall
12 meet at least quarterly. Notice of meetings must be posted, and
13 meetings must be open to the public.

14 (b) Information regarding the meetings of the Governing
15 Board shall be posted on a website maintained by the comptroller
16 that contains information about the economic impact of federal
17 action on endangered species.

18 (c) The Governing Board may not meet or make a decision
19 unless a quorum is present.

20 (d) Notwithstanding Section 402.045, Government Code, the
21 attorney general, at the request of the Governing Board, shall
22 provide legal advice to the Governing Board.

23 Sec. 83.104. DUTIES OF GOVERNING BOARD. The Governing
24 Board shall:

25 (a) select the holder of a federal permit issued in
26 connection with a habitat conservation plan, candidate
27 conservation plan, or similar plan, authorized or required by

1 federal law in connection with a candidate species or endangered
2 species; and

3 (b) coordinate the response to listings and potential
4 listings of endangered species in this state.

5 Sec. 83.105. RULES. The Governing Board may adopt rules
6 as necessary to implement administrative procedures of the
7 board.

8 Sec. 83.106. REPORT. Not later than December 1 of each
9 even-numbered year, the Governing Board shall submit to the
10 governor, lieutenant governor, and speaker of the house of
11 representatives and to the appropriate committees in each
12 chamber of the legislature a report containing:

13 (1) the board's findings and recommendations;

14 (2) proposed legislation necessary to implement the
15 purposes of the board;

16 (3) a summary of the board's activities; and

17 (4) any administrative recommendations proposed by
18 the board.

19 Sec. 83.107. SCIENCE AND BIOLOGY WORKGROUP. The Science and
20 Biology Workgroup will work under the direction of the Governing
21 Board and is composed of the following members:

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

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

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

1 (4) any other persons the Governing Board deems appropriate
2 who have science and biology expertise.

3 Sec. 803.108. SCIENCE AND BIOLOGY WORKGROUP PRESIDING
4 OFFICER. The position of chair of the Science and Biology
5 Workgroup rotates among the persons designated in Section 83.106
6 (1), (2), and (3) regardless of who occupies the named office at
7 the time of the rotation. The position of chair rotates every
8 two years in the order listed in Section 83.106, beginning with
9 the state geologist.

10 Sec. 83.109. PAYMENT TO UNIVERSITIES. The comptroller shall
11 identify funds to reimburse state institutions of higher
12 education for their science and biology research and work.

13 SECTION 6. Section 403.452, Government Code, is amended by
14 adding Subsection (e) to read as follows:

15 (e) Funds to pay for the mitigation costs shall be held
16 only by the comptroller.

17 SECTION 7. Section 403.454, Government Code, is amended as
18 follows:

19 CONFIDENTIAL INFORMATION. Information collected under this
20 subchapter by an agency, or an entity acting on the agency's
21 behalf, from a private landowner or other participant or
22 potential participant in a habitat conservation plan, proposed
23 habitat conservation plan, candidate conservation plan, or
24 proposed candidate conservation plan is confidential ~~not~~ subject
25 to Chapter 552 and ~~may not be disclosed to any person, including~~
26 ~~a state or federal agency,~~ if the information relates to the
27 specific location, species identification, or quantity of any

1 animal or plant life for which a plan is under consideration or
2 development or has been established under this subchapter. The
3 agency may disclose information described by this section only
4 to the person who provided the information unless the person
5 consents in writing to full or specified partial disclosure of
6 the information.

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

9 (a) The task force may[+]

10 [(1)] assess the economic impact on the state of
11 federal, state, or local regulations relating to endangered
12 species[+]

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

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

21 SECTION 9. (a) Section 490E.001, Government Code, is
22 repealed;

23 (b) Section 490E.004(b), Government Code, is
24 repealed;

25 (c) Section 490E.005, Government Code, is repealed;

26 (d) Section 490E.006, Government Code, is repealed;

27 and

1 (e) Subchapter Q, Chapter 403, Government Code,
2 expires September 1, 2015.

3 SECTION 10. Any mitigation lands will be identified by the
4 Governing Board. Mitigation costs will be based on the
5 reimbursement by affected parties at the lowest cost of the
6 acquisition of the mitigation land.

7 SECTION 11. The Governing Board, in collaboration with
8 three members of the House State Affairs Committee appointed by
9 the Speaker of the House and three members of the Senate Natural
10 Resources Committee appointed by the Lieutenant Governor, one
11 stakeholder representing landowner interests appointed by the
12 Speaker of the House and one stakeholder representing landowner
13 interests appointed by the Lieutenant Governor, shall conduct a
14 study to determine state policies to defend against the
15 overreaching inclusion of species on the Endangered Species List
16 by the United States Fish and Wildlife Service. The Governing
17 Board shall submit a report regarding the study to the governor,
18 lieutenant governor, speaker, and members of the legislature not
19 later than December 1, 2014.

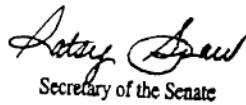
20 SECTION 12. The changes in law made by Section
21 83.051(b), Parks and Wildlife Code, as added by this Act, apply
22 only to a federal permit issued, an application for a federal
23 permit submitted, or a conservation agreement entered into on or
24 after the effective date of this Act. A federal permit issued,
25 an application for a federal permit submitted, or a conservation
26 agreement entered into before the effective date of this Act is
27 governed by the law in effect at the time the action was taken,

1 and the former law is continued in effect for that purpose.

2 SECTION 13. This Act takes effect immediately if it
3 receives a vote of two-thirds of all the members elected to each
4 house, as provided by Section 39, Article III, Texas
5 Constitution. If this Act does not receive the vote necessary
6 for immediate effect, this Act takes effect September 1, 2013.

ADOPTED

MAY 22 2013


Secretary of the Senate

Floor Amendment No. 1

By: 

1 Amend C.S.H.B. 3509 (senate committee printing) by striking
2 all below the enacting clause and substituting the following:

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

5 CHAPTER 490F. HABITAT CONSERVATION BY A STATE AGENCY

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

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

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

18 (3) "Federal permit" means a permit issued under Section
19 10(a) of the federal act.

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

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

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

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

10 Sec. 490F.003. PUBLIC NOTICE AND INPUT. (a) Before
11 engaging in an activity authorized by Section 490F.002 (a), a
12 state agency shall:

13 (1) provide public notice; and

14 (2) solicit and consider comments from:

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

18 (B) affected landowners;

19 (C) conservation interests; and

20 (D) business interests affected by the activity;

21 and

22 (E) mineral owners.

23 Sec. 490F.004. HABITAT PROTECTION AND RESEARCH FUND. (a)
24 The habitat protection and research fund is held by the
25 comptroller inside the treasury and consists of money
26 appropriated to the fund, interest earned on the investment of
27 money in the fund, and gifts and grants made to the fund. This

1 fund does not apply to activities related to species proposed
2 for listing under the Endangered Species Act prior to September
3 1, 2013.

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

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

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

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

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

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

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

22 Sec. 490F.005. CONFIDENTIAL INFORMATION. Information
23 collected under this subchapter by an agency, or an entity
24 acting on the agency's behalf, from a private landowner or other
25 participant or potential participant in a habitat conservation
26 plan, proposed habitat conservation plan, candidate conservation
27 plan, or proposed candidate conservation plan is confidential

1 and exempt from disclosure under Chapter 552, if the information
2 relates to the specific location, property owner identification,
3 species identification, or quantity of any animal or plant life
4 at a specific location for which a plan is under consideration
5 or development or has been established under this subchapter.
6 Information may be disclosed to a state agency or state officer
7 upon signature of a confidentiality agreement, but may not be
8 disclosed to a federal agency.

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

11 490E.000. DUTIES. The task force on economic growth and
12 endangered species:

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

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

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

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

26 (1) the comptroller;

27 (2) the commissioner of agriculture;

- 1 (3) the commissioner of the General Land Office;
2 (4) the chair of the Railroad Commission;
3 (5) the executive director of the State Soil and Water
4 Conservation Board;
5 ~~(3)~~ (6) the executive director of the Parks and
6 Wildlife Department;
7 ~~(4)~~ (7) the executive director of the Texas Department
8 of Transportation;
9 (8) the director of the Texas A&M AgriLife Extension
10 Service; and
11 (9) the executive director of the Texas Commission on
12 Environmental Quality.

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

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

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

27 (c) If determined by the task force, a state agency that

1 is represented on the task force may hold a permit issued under
2 the federal Endangered Species Act.

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

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

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

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

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

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

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

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

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

1 following members:

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

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

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

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

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

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

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

17 490E.009. ATTORNEY GENERAL. Notwithstanding Section
18 402.045, Government Code, the attorney general, at the request
19 of the task force, shall provide legal advice to the task force.

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

22 (e) Except as provided under Section 490E.004 (c), the
23 authority of the comptroller to enter into an agreement for any
24 species other than the dunes sagebrush lizard, under this
25 section, with the United States Fish and Wildlife Service for
26 the implementation of a candidate conservation plan or a habitat
27 conservation plan, expires September 1, 2013.

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

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

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

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

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 23, 2013

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3509 by Bonnen, Dennis (Relating to endangered species habitat conservation and to the creation of a board to oversee and guide the state's coordinated response to federal actions regarding endangered species.), **As Passed 2nd House**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would amend the Government Code regarding endangered species habitat conservation. State agencies would be given authority to hold a federal permit for a habitat conservation plan, candidate conservation plan, or similar plan. Certain public notice activities would be required.

A new habitat protection research fund would be created and held by the Comptroller inside of the treasury to fund research personnel, capital expenditures, and research grants related to habitat protection. The bill would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Private money contributed to the existing habitat protection fund under Government Code, Chapter 403.452 would be held by the Comptroller outside of the treasury as well as funds collected pursuant to a mitigation plan.

The Comptroller could identify funds from the habitat protection and research fund to reimburse state institutions of higher education for their science and biology research work.

The bill would amend the Government Code regarding the authority of the Comptroller for habitat conservation plans. Except as provided by bill provisions, the Comptroller would no longer have the authority to apply for and hold a federal permit issued in connection with a habitat conservation plan or candidate conservation plan for any species except the dunes sagebrush lizard after September 1, 2013.

The bill would amend provisions relating to the Task Force on Economic Growth and Endangered Species to authorize the task force to select the holder of a federal permit issued in connection with a habitat conservation plan, candidate conservation plan, or similar plan.

Five existing task force members comprised of the Comptroller, Commissioner of Agriculture, Executive Director of the Soil and Water Conservation Board, Executive Director of the Parks and Wildlife Department, and Executive Director of the Texas Department of Transportation would be joined by four new members: the Commissioner of the General Land Office, the Chair of the

Railroad Commission, the Director of the Texas A&M AgriLife Extension Service, and the Executive Director of the Texas Commission on Environmental Quality. Bill provisions would direct the Attorney General, upon request, to provide legal advice to the task force.

The position of presiding officer would rotate among the statewide elected members of the task force instead of the Comptroller filling the position. The presiding officer's agency would maintain a public website for the task force.

This analysis assumes any additional duties as a result of bill provisions could reasonably be absorbed within the existing resources of agencies with members on the task force.

The composition of certain advisory committees to the task force would be amended to include affected business interests. The task force would be authorized to create a science and biology advisory committee, as described, for a specific species.

The task force also would be required to conduct a study no later than December 1, 2014 regarding the state's policies to defend against the overreaching inclusion of species on the Endangered Species List. The study would be prepared in collaboration with members of the House and Senate, and one member representing landowner interests, and would be submitted to the Governor, Lieutenant Governor, Speaker of the House, and members of the Legislature.

This bill would take effect September 1, 2013.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 301 Office of the Governor, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 305 General Land Office and Veterans' Land Board, 455 Railroad Commission, 551 Department of Agriculture, 710 Texas A&M University System Administrative and General Offices, 802 Parks and Wildlife Department, 592 Soil and Water Conservation Board, 601 Department of Transportation

LBB Staff: UP, SZ, ZS, TB, AG, LCO, KKR

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 18, 2013

TO: Honorable Troy Fraser, Chair, Senate Committee on Natural Resources

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3509 by Bonnen, Dennis (Relating to endangered species habitat conservation and to the creation of a board to oversee and guide the state's coordinated response to federal actions regarding endangered species.), **Committee Report 2nd House, Substituted**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would amend Chapter 83 of the Parks and Wildlife Code regarding endangered species habitat conservation. The bill would establish the Coordinated State Endangered Species Governing Board (CSESGB), which would be composed of seven members or their designees: the commissioner of the Department of Agriculture, the commissioner of the General Land Office, the chair of the Railroad Commission, the Comptroller of Public Accounts, the executive director of the Texas Parks and Wildlife Department (TPWD), the director of the Texas A&M AgriLife Extension Service, and the executive director of the Texas Economic Development and Tourism Office in the Office of the Governor. Bill provisions would direct the attorney general, upon request, to provide legal advice to the CSESGB. Agency staff of the chair of the CSESGB, which would rotate every two years between the statewide elected members, would provide administrative support to the CSESGB. The CSESGB would guide a response to listings of endangered species and the State's official position in response to actions from the US Fish and Wildlife Service and select the state agency that would hold any federal permit issued for each candidate or endangered species plan. The CSESGB would submit a report to the Governor, Lt Governor and Speaker of the House no later than December 1st of each even-numbered year.

The CSESGB in collaboration with three members from House State Affairs, three members of Senate Natural Resources, and two stakeholders representing landowner interest would conduct a study to determine state policy regarding certain actions of the US Fish and Wildlife Service. This portion of bill provisions is not anticipated to have a significant fiscal implication.

Under bill provisions, the Texas Parks and Wildlife Department (TPWD) or another state agency designated by the CSESGB could apply for a permit from or enter into an agreement with the US Department of Interior (USDOI) or another federal agency in connection with plans for habitat conservation or endangered species. State agency permit applicants would cooperate with TPWD and would receive an interagency contract from TPWD for permitting activities. The bill would set requirements for the composition of any advisory committees created by TPWD or a state agency relating to habitat conservation or endangered species permit.

The bill would establish a science and biology workgroup to work under the direction of the CSESGB. The bill would direct the Comptroller to identify funds to reimburse state institutions of higher education for certain research related to bill provisions. The bill would provide that only

the Comptroller would hold certain funds related to mitigation.

The bill would repeal certain statutory provisions relating to the purpose and duties of the Task Force on Economic Growth and Endangered Species, with other provisions to expire on September 1, 2015.

The bill would establish a new Habitat Protection Research Fund to be held by the Comptroller, outside the treasury, and funded by appropriations, interest earnings, and gifts and grants. A state agency could use the fund or could award grants from the fund for candidate or endangered species research.

The bill would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

The Department of Agriculture, the General Land Office, the Railroad Commission, the Comptroller of Public Accounts, the Texas A&M AgriLife Extension Service, and Texas Economic Development and Tourism Office in the Office of the Governor indicate that duties under bill provisions could be implemented using each agency's existing resources. The Texas Parks and Wildlife Department anticipates costs related to public notices and meetings associated with the state response to the federal notices regarding species status changes. This analysis assumes such costs could reasonably be absorbed within the department's existing resources. The bill would take effect September 1, 2013.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 301 Office of the Governor, 710 Texas A&M University System Administrative and General Offices, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 305 General Land Office and Veterans' Land Board, 455 Railroad Commission, 551 Department of Agriculture, 802 Parks and Wildlife Department

LBB Staff: UP, SZ, TB, AG, LCO, KKR

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 16, 2013

TO: Honorable Troy Fraser, Chair, Senate Committee on Natural Resources

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3509 by Bonnen, Dennis (Relating to endangered species habitat conservation and to the creation of a committee to oversee and guide the state's coordinated response to federal actions regarding endangered species.), **As Engrossed**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would establish the Coordinated State Endangered Species Response Committee (CSESRC), which would be composed of six members or their designees: the commissioner of the Department of Agriculture, the commissioner of the General Land Office, the chair of the Railroad Commission, the Comptroller of Public Accounts, the executive director of the Texas Parks and Wildlife Department (TPWD), and the executive director of the Texas Economic Development and Tourism Office in the Office of the Governor. Bill provisions would direct the attorney general, upon request, to provide legal advice to the CSESRC. Agency staff of the chair of the CSESRC, which would rotate every two years, would provide administrative support to the CSESRC. The CSESRC would guide a response to listings of endangered species and the State's official position in response to actions from the US Fish and Wildlife Service and select the state agency that would hold any federal permit issued for each candidate or endangered species plan. The CSESRC would submit a report to the Governor, Lt Governor and Speaker of the House no later than December 1st of each even-numbered year.

Under bill provisions, the Texas Parks and Wildlife Department (TPWD) or another state agency designated by the CSESRC could apply for a permit from or enter into an agreement with the US Department of Interior (USDOI) or another federal agency in connection with plans for habitat conservation or endangered species. State agency permit applicants would cooperate with TPWD and would receive an interagency contract from TPWD for permitting activities. The bill would set requirements for the composition of any advisory committees created by TPWD or a state agency relating to habitat conservation or endangered species permit. The bill would repeal statutory provisions relating to the purpose and duties of the Task Force on Economic Growth and Endangered Species.

The bill would establish a new Habitat Protection Research Fund to be held by the Comptroller, outside the treasury, and funded by appropriations, interest earnings, and gifts and grants. A state agency could use the fund or could award grants from the fund for candidate or endangered species research.

The bill would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

All agencies with members composing the CSERSC indicate that duties under bill provisions could be implemented using each agency's existing resources. The bill would take effect September 1, 2013.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 301 Office of the Governor, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 305 General Land Office and Veterans' Land Board, 455 Railroad Commission, 551 Department of Agriculture, 802 Parks and Wildlife Department

LBB Staff: UP, SZ, TB, AG, LCO, KKR

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 29, 2013

TO: Honorable Byron Cook, Chair, House Committee on State Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3509 by Bonnen, Dennis (Relating to endangered species habitat conservation and to the creation of a committee to oversee and guide the state's coordinated response to federal actions regarding endangered species.), **Committee Report 1st House, Substituted**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would establish the Coordinated State Endangered Species Response Committee (CSESRC), which would be composed of seven members: the attorney general, the commissioner of the Department of Agriculture, the commissioner of the General Land Office, the chair of the Railroad Commission, the Comptroller of Public Accounts, the executive director of the Texas Parks and Wildlife Department (TPWD), and the executive director of the Texas Economic Development and Tourism Office in the Office of the Governor. Agency staff of the chair of the CSESRC, which would rotate every two years, would provide administrative support to the CSESRC. The CSESRC would guide a response to listings of endangered species and the State's official position in response to actions from the US Fish and Wildlife Service. The CSESRC would submit a report to the Governor, Lt Governor and Speaker of the House no later than December 1st of each even-numbered year.

Under bill provisions, the Texas Parks and Wildlife Department (TPWD) could apply for a permit from or enter into an agreement with the US Department of Interior (USDOI) or another federal agency in connection with plans for habitat conservation or endangered species. The bill would repeal statutory provisions relating to the purpose and duties of the Task Force on Economic Growth and Endangered Species.

The bill would establish a new Habitat Protection Research Fund to be held by the Comptroller, outside the treasury, and funded by appropriations, interest earnings, and gifts and grants. TPWD could use the fund or could award grants from the fund for endangered species research. The bill would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

All agencies with members composing the CSESRC indicate that duties under bill provisions could be implemented using each agency's existing resources. The bill would take effect September 1, 2013.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 301 Office of the Governor, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 305 General Land Office and Veterans' Land Board, 455 Railroad Commission, 551 Department of Agriculture, 802 Parks and Wildlife Department

LBB Staff: UP, TB, AG, LCO, KKR

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 10, 2013

TO: Honorable Byron Cook, Chair, House Committee on State Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3509 by Bonnen, Dennis (Relating to endangered species habitat conservation.), **As Introduced**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would amend the Parks and Wildlife Code and the Government Code relating to habitat protection and research. Under bill provisions, after a period for public comment, including comment from the Task Force on Economic Growth and Endangered Species (TFOEGES), the Texas Parks and Wildlife Department (TPWD) could apply for a permit from or enter into an agreement with the US Department of Interior (USDOI) or another federal agency in connection with plans for habitat conservation or endangered species. Unless authorized by TPWD, no other state agency outside of higher education could apply for such federal permits, or enter into agreements with the USDOI, as described. If TPWD does grant such authority under bill provisions, such authority must be through an interagency contract.

The bill would establish a new Habitat Protection Research Fund to be held by the Comptroller, outside the treasury, and funded by appropriations, interest earnings, and gifts and grants. TPWD could use the fund or could award grants from the fund for endangered species research.

The bill would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

The bill would remove duties and powers of the Comptroller associated with the development of habitat or candidate conservation plans, or entering into related agreements with the USDOI, effective September 1, 2013. The bill would provide that the TFOEGES would no longer be required to assist in efforts related to endangered species, including mitigation and recovery, and provisions related to advisory committees of the TFOEGES would be repealed.

TPWD indicates any additional work resulting from the passage of the bill could be reasonably absorbed within the department's existing resources. The bill would take effect September 1, 2013.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 802 Parks and Wildlife Department

LBB Staff: UP, AG, TB, LCO, KKR