

By: Hilderbran, Lucio III

H.B. No. 2146

Substitute the following for H.B. No. 2146:

By: Callegari

C.S.H.B. No. 2146

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to certain restrictions on the mining of marl, sand,  
3 gravel, shell, or mudshell in certain protected freshwater areas.

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

5 SECTION 1. (a) The Legislature finds that to help  
6 facilitate the statewide and regional goals of making efficient and  
7 responsible use of the state's water and other natural resources,  
8 the addition of Section 86.0021, Parks and Wildlife Code, under  
9 Section 2 of this Act, is needed to assist in protecting the  
10 integrity of navigable rivers and streams in protected freshwater  
11 areas within the Edwards Plateau, as described by that section,  
12 while also protecting private property rights and addressing the  
13 need for the mining of sand, gravel, and other sedimentary  
14 materials for commercial use in this state. The Legislature finds  
15 that the Edwards Plateau is of significant statewide importance  
16 because, among many other attributes and features:

17 (1) it is biologically diverse and contains the  
18 headwaters of many significant rivers and streams that form the  
19 basis for varied ecosystems and are therefore essential to fishing,  
20 hunting, swimming, boating, and other recreational and tourist  
21 activities enjoyed by Texans throughout the state and by visitors  
22 from around the nation and other countries;

23 (2) it is the only area that contains and sustains the  
24 official state fish of Texas, the Guadalupe bass, is an area in

1 which almost half of the Texas white-tailed deer population is  
2 found, and is important to the fishing, hunting, boating, and other  
3 recreational communities of Texas and of areas outside this state,  
4 and is therefore important to the state's economy;

5 (3) its ranching and agricultural industries, which  
6 are water intensive, are of both state and national renown and  
7 importance; and

8 (4) all of the attributes and features of the area  
9 listed in this subsection and in Subsection (b) of this section are  
10 important to the state's economic, social, ecological, and  
11 environmental well-being, and therefore make the preservation of  
12 the area's rivers and streams in the most pristine condition  
13 possible an essential state priority.

14 (b) The Legislature further finds that creating reasonable  
15 restrictions on the mining operations described by Subsection (a)  
16 of this section is of statewide importance and applicability and is  
17 necessary to facilitate the prevention of:

18 (1) further adverse effects on the overburdened  
19 freshwater resources of this state;

20 (2) adverse effects on the Texas tourist industry,  
21 recreational activities, and other economic assets in the affected  
22 areas, including long-standing traditional summer camps and  
23 hunting and fishing operations enjoyed by Texans throughout the  
24 state and by visitors from around the nation and other countries;

25 (3) adverse effects on the value of land along the  
26 rivers and streams in the affected areas;

27 (4) damage or degradation of water quality, fish and

1 wildlife resources and their habitat, vegetation, and other natural  
2 resources;

3 (5) adverse effects on navigation, currents affecting  
4 navigation, and the natural course of navigable rivers and streams;

5 (6) damage, degradation, or erosion of the bed,  
6 bottom, or banks of navigable rivers and streams; and

7 (7) the potential increase of downstream nonpoint  
8 source pollution and damage or degradation of related bays,  
9 estuaries, wetlands, and their ecosystems.

10 SECTION 2. Chapter 86, Parks and Wildlife Code, is amended  
11 by adding Section 86.0021 to read as follows:

12 Sec. 86.0021. COMMERCIAL MINING IN CERTAIN PROTECTED  
13 FRESHWATER AREAS RESTRICTED. Notwithstanding any other provision  
14 of this chapter or a rule adopted under this chapter, the commission  
15 may not grant a permit, or one or more contemporaneous permits  
16 covering adjacent locations, to take more than 1,000 cubic yards of  
17 marl, sand, gravel, shell, or mudshell from a protected freshwater  
18 area, as that term is defined by Section 90.001, unless:

19 (1) the area covered by the permit is located east of  
20 Interstate 35 or outside the Edwards Plateau, which for purposes of  
21 this section is composed of Bandera, Bexar, Blanco, Burnet, Comal,  
22 Crockett, Edwards, Gillespie, Hays, Irion, Kendall, Kerr, Kimble,  
23 Lampasas, Llano, Mason, McCulloch, Medina, Menard, Reagan, Real,  
24 San Saba, Schleicher, Sterling, Sutton, Travis, Uvalde, Val Verde,  
25 and Williamson Counties; or

26 (2) the marl, sand, gravel, shell, or mudshell will  
27 not be sold.

1           SECTION 3. The change in law made by this Act applies only  
2 to a permit granted by the Parks and Wildlife Commission under  
3 Chapter 86, Parks and Wildlife Code, on or after the effective date  
4 of this Act. A permit granted by the commission before that date is  
5 governed by the law in effect on the date the permit was granted,  
6 and that law is continued in effect for that purpose.

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