

1-1 By: Guillen, Pacheco (Senate Sponsor - Zaffirini) H.B. No. 1544  
 1-2 (In the Senate - Received from the House April 13, 2021;  
 1-3 April 14, 2021, read first time and referred to Committee on  
 1-4 Finance; May 11, 2021, reported adversely, with favorable  
 1-5 Committee Substitute by the following vote: Yeas 10, Nays 2;  
 1-6 May 11, 2021, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11		X		
1-12	X			
1-13	X			
1-14			X	
1-15	X			
1-16	X			
1-17	X			
1-18			X	
1-19	X			
1-20		X		
1-21	X			
1-22	X			
1-23			X	

1-24 COMMITTEE SUBSTITUTE FOR H.B. No. 1544 By: West

1-25 A BILL TO BE ENTITLED  
 1-26 AN ACT

1-27 relating to the eligibility of land to continue to be appraised for  
 1-28 ad valorem tax purposes as qualified open-space land if the land is  
 1-29 temporarily used for sand mining operations; authorizing a fee.

1-30 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-31 SECTION 1. Subchapter D, Chapter 23, Tax Code, is amended by  
 1-32 adding Section 23.527 to read as follows:

1-33 Sec. 23.527. TEMPORARY CESSATION OF AGRICULTURAL USE FOR  
 1-34 SAND MINING OPERATION. (a) In this section:

1-35 (1) "Commission" means the Texas Commission on  
 1-36 Environmental Quality.

1-37 (2) "Executive director" means the executive director  
 1-38 of the commission.

1-39 (3) "Marketable material" means sand mined and  
 1-40 processed for sale.

1-41 (4) "Sand mining operation" means an aggregate  
 1-42 production operation registered under Chapter 28A, Water Code, at  
 1-43 which sand is removed or extracted.

1-44 (5) "Unmarketable material" means material excavated  
 1-45 or mined other than marketable material and includes surface soil,  
 1-46 unmarketable sand, and overburden and interburden encountered  
 1-47 during mining and processing operations.

1-48 (b) This section applies only to a sand mining operation  
 1-49 that overlies the Carrizo-Wilcox Aquifer and is located within:

1-50 (1) 30 miles of the boundary of a municipality with a  
 1-51 population of more than 500,000; or

1-52 (2) one mile of a building in use as a single-family or  
 1-53 multifamily residence.

1-54 (c) The measurement of distance for purposes of Subsection  
 1-55 (b) shall be taken from the point on the sand mining operation that  
 1-56 is nearest to the municipal boundary or residence toward the point  
 1-57 on the municipal boundary or residence that is nearest to the sand  
 1-58 mining operation.

1-59 (d) The eligibility of land for appraisal under this  
 1-60 subchapter does not end because the land ceases to be devoted

2-1 principally to agricultural use to the degree of intensity  
 2-2 generally accepted in the area if:

2-3 (1) the owner of the land intends that the use of the  
 2-4 land in that manner and to that degree of intensity be resumed;

2-5 (2) the land is used for a sand mining operation; and

2-6 (3) the land is reclaimed according to the standard  
 2-7 best practices adopted under this section not later than the first  
 2-8 anniversary of the date sand mining operations began on the land.

2-9 (e) The owner of land to which this section applies must  
 2-10 notify the appraisal office in writing not later than the 30th day  
 2-11 after the date sand mining operations begin on the land that the  
 2-12 owner intends to ensure that the requirements of Subsection (d) are  
 2-13 met.

2-14 (f) The commission by rule shall adopt standard best  
 2-15 practices for reclamation of land used for a sand mining operation  
 2-16 to be used for the purposes of this section. The standards must:

2-17 (1) provide for the protection of surface water,  
 2-18 groundwater, agricultural land, wildlife habitat, and wetlands;

2-19 (2) require reclamation to:

2-20 (A) occur concurrently with sand mining  
 2-21 operations by managing the movement of marketable and unmarketable  
 2-22 material encountered during the operations; and

2-23 (B) incorporate best practices adopted by the  
 2-24 Natural Resources Conservation Service of the United States  
 2-25 Department of Agriculture;

2-26 (3) include post-mining reclamation grade standards;

2-27 (4) establish slope stabilization requirements,  
 2-28 including by grading perpendicular to the gradient;

2-29 (5) require unmarketable material from the land to be  
 2-30 stockpiled on the land and used as backfill for site restoration;

2-31 (6) prohibit the inclusion of material not excavated  
 2-32 from the land in the backfill used for site restoration;

2-33 (7) prohibit the stockpiling of unmarketable material  
 2-34 at a horizontal to vertical slope greater than a 3 to 1 ratio;

2-35 (8) require surface soil removed during sand mining  
 2-36 operations to be used as the uppermost layer of the final  
 2-37 reclamation grade;

2-38 (9) require a reclaimed area to be left for successive  
 2-39 vegetation growth after final reclamation grade standard best  
 2-40 practices have been satisfied; and

2-41 (10) encourage the construction of ponds to catch  
 2-42 runoff in locations that are outside critical runoff zones for  
 2-43 rivers.

2-44 (g) The commission shall establish a process to allow an  
 2-45 owner of land who submits a notice under Subsection (e) to obtain  
 2-46 from the executive director a letter determining whether the land  
 2-47 that is the subject of the notice was reclaimed according to the  
 2-48 standard best practices adopted under this section in the time  
 2-49 frame required under Subsection (d). The owner must apply to the  
 2-50 executive director for the determination not later than the 90th  
 2-51 day after the first anniversary of the date sand mining operations  
 2-52 began on the land.

2-53 (h) The executive director shall:

2-54 (1) send notice by regular mail or by electronic means  
 2-55 to the chief appraiser of the appraisal district for the county in  
 2-56 which the land is located that the owner has applied for a  
 2-57 determination letter for the land;

2-58 (2) issue a letter to the owner stating the executive  
 2-59 director's determination of whether the land has been reclaimed  
 2-60 according to the standard best practices adopted under this section  
 2-61 in the time frame required under Subsection (d); and

2-62 (3) send a copy of the determination letter by regular  
 2-63 mail or by electronic means to the chief appraiser of the appraisal  
 2-64 district for the county in which the land is located.

2-65 (i) Not later than the 20th day after the date of receipt of  
 2-66 the letter issued by the executive director, the owner seeking the  
 2-67 determination or the chief appraiser may appeal the executive  
 2-68 director's determination to the commission. The commission shall  
 2-69 consider the appeal at the next regularly scheduled meeting of the

3-1 commission for which adequate notice may be given. The owner  
3-2 seeking the determination and the chief appraiser may testify at  
3-3 the meeting. The commission may remand the matter to the executive  
3-4 director for a new determination or deny the appeal and affirm the  
3-5 executive director's determination. On issuance of a new  
3-6 determination, the executive director shall issue a letter to the  
3-7 owner seeking the determination and provide a copy to the chief  
3-8 appraiser as provided by Subsection (h). A new determination of the  
3-9 executive director may be appealed to the commission in the manner  
3-10 provided by this subsection. A proceeding under this subsection is  
3-11 not a contested case for purposes of Chapter 2001, Government Code.

3-12 (j) The executive director shall issue a determination  
3-13 letter required by Subsection (h) to the owner seeking the  
3-14 determination, and the commission shall take final action on the  
3-15 initial appeal under Subsection (i) if an appeal is made, not later  
3-16 than the first anniversary of the date the executive director  
3-17 receives the request from the owner for the determination.

3-18 (k) The commission may charge an owner seeking a  
3-19 determination letter under this section a fee not to exceed its  
3-20 administrative costs for making the determination and issuing the  
3-21 letter required by this section.

3-22 (l) The chief appraiser shall accept a final determination  
3-23 by the executive director as conclusive evidence that land was  
3-24 reclaimed according to the standard best practices adopted under  
3-25 this section in the time frame required under Subsection (d).

3-26 SECTION 2. (a) This section applies only to land on which a  
3-27 sand mining operation began before the effective date of this Act.

3-28 (b) Notwithstanding Section 23.527(e), Tax Code, as added  
3-29 by this Act, the eligibility of the land for appraisal under  
3-30 Subchapter D, Chapter 23, Tax Code, does not end because the land  
3-31 ceases to be devoted principally to agricultural use to the degree  
3-32 of intensity generally accepted in the area if:

3-33 (1) the owner of the land provides the notice required  
3-34 by Section 23.527(e), Tax Code, as added by this Act, not later than  
3-35 the 90th day after the effective date of this Act; and

3-36 (2) the chief appraiser of the appraisal district in  
3-37 which the land is located has not, as of the effective date of this  
3-38 Act, made a determination under Section 23.55, Tax Code, that a  
3-39 change in use of the land has occurred.

3-40 SECTION 3. This Act takes effect immediately if it receives  
3-41 a vote of two-thirds of all the members elected to each house, as  
3-42 provided by Section 39, Article III, Texas Constitution. If this  
3-43 Act does not receive the vote necessary for immediate effect, this  
3-44 Act takes effect September 1, 2021.

3-45 \* \* \* \* \*