

By: Murr

H.B. No. 4209

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the valuation of appraised value of qualified
3 open-space land.

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

5 SECTION 1. Section 23.51, Subchapter D, Chapter 23, Texas
6 Tax Code, is amended to read as follows:

7 Sec. 23.51. DEFINITIONS. In this subchapter:

8 (1) "Qualified open-space land" means land that is
9 currently devoted principally to agricultural use to the degree of
10 intensity generally accepted in the area and that has been devoted
11 principally to agricultural use or to production of timber or
12 forest products for five of the preceding seven years or land that
13 is used principally as an ecological laboratory by a public or
14 private college or university and that has been used principally in
15 that manner by a college or university for five of the preceding
16 seven years. Qualified open-space land includes all appurtenances
17 to the land. For the purposes of this subdivision, appurtenances to
18 the land means private roads, dams, reservoirs, water wells,
19 canals, ditches, terraces, and other reshaping of the soil,
20 fences, and riparian water rights. Notwithstanding the other
21 provisions of this subdivision, land that is currently devoted
22 principally to wildlife management as defined by Subdivision (7)(B)
23 or (C) to the degree of intensity generally accepted in the area
24 qualifies for appraisal as qualified open-space land under this

1 subchapter regardless of the manner in which the land was used in
2 any preceding year.

3 (2) "Agricultural use" includes but is not limited to
4 the following activities: cultivating the soil, producing crops for
5 human food, animal feed, or planting seed or for the production of
6 fibers; floriculture, viticulture, and horticulture; raising or
7 keeping livestock; raising or keeping exotic animals for the
8 production of human food or of fiber, leather, pelts, or other
9 tangible products having a commercial value; planting cover crops
10 or leaving land idle for the purpose of participating in a
11 governmental program, provided the land is not used for residential
12 purposes or a purpose inconsistent with agricultural use; and
13 planting cover crops or leaving land idle in conjunction with
14 normal crop or livestock rotation procedure. The term also
15 includes the use of land to produce or harvest logs and posts for
16 the use in constructing or repairing fences, pens, barns, or other
17 agricultural improvements on adjacent qualified open-space land
18 having the same owner and devoted to a different agricultural use.
19 The term also includes the use of land for wildlife management. The
20 term also includes the use of land to raise or keep bees for
21 pollination or for the production of human food or other tangible
22 products having a commercial value, provided that the land used is
23 not less than 5 or more than 20 acres.

24 (3) "Category" means the value classification of land
25 considering the agricultural use to which the land is principally
26 devoted. The chief appraiser shall determine the categories into
27 which land in the appraisal district is classified. In classifying

1 land according to categories, the chief appraiser shall distinguish
2 between irrigated cropland, dry cropland, improved pasture, native
3 pasture, orchard, and waste. The chief appraiser may establish
4 additional categories. The chief appraiser shall further divide
5 each category according to soil type, soil capability, irrigation,
6 general topography, geographical factors, and other factors that
7 influence the productive capacity of the category. The chief
8 appraiser shall obtain information from the Texas Agricultural
9 Extension Service, the Natural Resources Conservation Service of
10 the United States Department of Agriculture, and other recognized
11 agricultural sources for the purposes of determining the categories
12 of land existing in the appraisal district.

13 (4) "Net to land" means the average annual net income
14 derived from the use of open-space land that would have been earned
15 from the land during the five-year period preceding the year before
16 the appraisal by an owner using ordinary prudence in the management
17 of the land and the farm crops or livestock produced or supported on
18 the land. ~~[and, in addition, any income received from hunting or~~
19 ~~recreational leases]~~. The chief appraiser shall calculate net to
20 land by considering the income that would be due to the owner of the
21 land under cash lease, share lease, or whatever lease arrangement
22 is typical in that area for that category of land, and all expenses
23 directly attributable to the agricultural use of the land by the
24 owner shall be subtracted from this owner income and the results
25 shall be used in income capitalization. In calculating net to land,
26 a reasonable deduction shall be made for any depletion that occurs
27 of underground water used in the agricultural operation. For land

1 that qualifies under Subdivision (7) for appraisal under this
2 subchapter, the chief appraiser may not consider in the calculation
3 of net to land the income that would be due to the owner under a
4 hunting or recreational lease of the land.

5 (5) "Income capitalization" means the process of
6 dividing net to land by the capitalization rate to determine the
7 appraised value.

8 (6) "Exotic animal" means a species of game not
9 indigenous to this state, including axis deer, nilga antelope, red
10 sheep, other cloven-hoofed ruminant mammals, or exotic fowl as
11 defined by Section [142.001](#), Agriculture Code.

12 (7) "Wildlife management" means:

13 (A) actively using land that at the time the
14 wildlife-management use began was appraised as qualified
15 open-space land under this subchapter or as qualified timber land
16 under Subchapter E in at least three of the following ways to
17 propagate a sustaining breeding, migrating, or wintering
18 population of indigenous wild animals for human use, including
19 food, medicine, or recreation:

- 20 (i) habitat control;
- 21 (ii) erosion control;
- 22 (iii) predator control;
- 23 (iv) providing supplemental supplies of
24 water;
- 25 (v) providing supplemental supplies of
26 food;
- 27 (vi) providing shelters; and

1 (vii) making of census counts to determine
2 population;

3 (B) actively using land to protect federally
4 listed endangered species under a federal permit if the land is:

5 (i) included in a habitat preserve and is
6 subject to a conservation easement created under Chapter 183,
7 Natural Resources Code; or

8 (ii) part of a conservation development
9 under a federally approved habitat conservation plan that restricts
10 the use of the land to protect federally listed endangered species;
11 or

12 (C) actively using land for a conservation or
13 restoration project to provide compensation for natural resource
14 damages pursuant to the Comprehensive Environmental Response,
15 Compensation, and Liability Act of 1980 (42 U.S.C. Section 9601 et
16 seq.), the Oil Pollution Act of 1990 (33 U.S.C. Section 2701 et
17 seq.), the Federal Water Pollution Control Act (33 U.S.C. Section
18 1251 et seq.), or Chapter 40, Natural Resources Code.

19 (8) "Endangered species," "federal permit," and
20 "habitat preserve" have the meanings assigned by Section 83.011,
21 Parks and Wildlife

22 SECTION 3. This Act takes effect September 1, 2021.