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H.B. No. 3165

A BILL TO BE ENTITLED

AN ACT

relating to the establishment, administration, and use of the Texas
land and water conservation fund.

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

SECTION 1. Chapter 31, Natural Resources Code, is amended
by adding Subchapter F to read as follows:

SUBCHAPTER F. TEXAS LAND AND WATER CONSERVATION FUND

Sec. 31.201. DEFINITIONS. In this subchapter:

(1) "Advisory committee" means the Texas land and
water technical advisory committee.

(2) "Agricultural conservation easement" has the
meaning assigned by Section 84.002, Parks and Wildlife Code.

(3) "Conservation board" means the Texas land and
water conservation board.

(4) "Conservation easement" has the meaning assigned
by Section 183.001, Natural Resources Code.

(5) "Fund" means the Texas land and water conservation
fund.

(6) "Nature-based project" means a project or practice
that uses protected, restored, or constructed natural features or
an engineered project or practice that mimics natural processes.

(7) "Private park" means an open space area that is
privately owned and open to the general public for recreation. The
term does not include an amusement park or similar facility the

1 primary uses of which are rides, games of chance, or the sale of
2 food, beverages, toys, or souvenirs.

3 (8) "Public access" means a land or water area for
4 human use and enjoyment that is relatively free of man-made
5 structures and includes land and water parks owned or operated by
6 the state or a political subdivision.

7 Sec. 31.202. TEXAS LAND AND WATER CONSERVATION BOARD. (a)
8 The Texas land and water conservation board is composed of five
9 voting members as follows:

10 (1) the commissioner or the commissioner's designee;

11 (2) the executive director of the Texas Commission on
12 Environmental Quality or the executive director's designee;

13 (3) the executive director of the Parks and Wildlife
14 Department or the executive director's designee;

15 (4) the executive administrator of the Texas Water
16 Development Board or the executive administrator's designee; and

17 (5) the executive director of the State Soil and Water
18 Conservation Board.

19 (b) The commissioner or the commissioner's designee is the
20 chair of the conservation board.

21 (c) The chair of the advisory committee established by
22 Section 31.209 or the chair's designee shall serve as a nonvoting ex
23 officio member. The conservation board may appoint to the
24 conservation board not more than two nonvoting members with
25 professional or academic experience in a field related to the
26 conservation board's duties. A member appointed under this section
27 may serve for a term of not more than two years.

1 Sec. 31.203. TEXAS LAND AND WATER CONSERVATION FUND. (a)

2 The Texas land and water conservation fund is created as a fund
3 outside the state treasury.

4 (b) The fund may be used:

5 (1) without further legislative appropriation; and

6 (2) only as provided by this subchapter.

7 (c) The fund consists of:

8 (1) money appropriated to the fund by law;

9 (2) the proceeds of fees or other sources of revenue
10 dedicated by law for deposit to the fund;

11 (3) interest and other earnings on the investment of
12 money in the fund;

13 (4) gifts, grants, or donations to the fund; and

14 (5) money from other sources designated by the
15 conservation board for deposit to the fund as authorized by law.

16 (d) The conservation board may use the fund only to:

17 (1) award a grant to an entity for a public parks or
18 natural areas project or a natural resource conservation project as
19 provided by Section 31.204;

20 (2) award a grant to provide matching funds to an
21 entity to participate in a federal program for a public parks or
22 natural areas project or a natural resource conservation project as
23 provided by Section 31.204; and

24 (3) pay the necessary and reasonable expenses to
25 administer the fund, not to exceed three percent of money disbursed
26 from the fund in any given year.

27 (e) The conservation board shall allocate from money in the

1 fund described by Subsection (c)(3) amounts necessary to pay the
2 expenses of administering the fund.

3 (f) The fund may not be used:

4 (1) to facilitate the use of eminent domain for the
5 acquisition of real property; or

6 (2) for the acquisition or transfer of real property
7 to be managed by the federal government.

8 Sec. 31.204. ELIGIBLE PROJECTS AND PERSONS ELIGIBLE FOR
9 GRANT; PRIORITY. (a) Projects eligible for a grant awarded from
10 the fund include:

11 (1) a public parks or natural areas project that
12 benefits, protects, or enhances:

13 (A) public access in general;

14 (B) the local park grant program administered by
15 the Parks and Wildlife Department;

16 (C) a public or private local park; or

17 (D) a recreation trail or trail easement; and

18 (2) a natural resource conservation project that
19 benefits, protects, or enhances:

20 (A) farm, ranch, or forest land through a project
21 related to the Texas Farm and Ranch Lands Conservation Program
22 under Chapter 84, Parks and Wildlife Code, or by other means,
23 including by:

24 (i) creating a conservation easement or an
25 agricultural conservation easement; and

26 (ii) conserving forest lands;

27 (B) wildlife or a wildlife habitat, including

1 acquisition of a land or conservation easement for protection of a
2 wetland or wildlife habitat;

3 (C) a nature-based project that uses water
4 resources for water quality and quantity, including:

5 (i) aquifer recharge area protection;

6 (ii) acquisition of land or conservation
7 easements for protection and enhancement of a water resource; and

8 (iii) dedication for 10 years or more of a
9 water right or permit allocation to maintain or improve instream
10 flows, spring flows, and bay and estuary inflows; and

11 (D) a restoration project that:

12 (i) prevents soil erosion, reduces loss of
13 wildlife habitat, or restores native grassland on agricultural
14 land;

15 (ii) restores critical wildlife habitat,
16 maintains or enhances fish or wildlife habitat, or restores a
17 wetland; or

18 (iii) enhances spring flow, restores a
19 stream, river, or riparian area, or improves water quality.

20 (b) The conservation board may award a grant under this
21 chapter only to a district or authority created under Section 52,
22 Article III, or Section 59, Article XVI, Texas Constitution, a
23 municipality, a county, a state agency, or a nongovernmental
24 entity.

25 (c) The conservation board by rule shall establish criteria
26 for setting priorities for the projects eligible to receive grants
27 under this subchapter. The criteria must include:

- 1 (1) the project's use of matching funds;
- 2 (2) the potential to maximize benefits in multiple
3 eligible project areas;
- 4 (3) the long-term sustainability and benefits of the
5 project;
- 6 (4) coordination and integration with other relevant
7 projects necessary for the success of the project;
- 8 (5) regional and eco-regional diversity of the
9 project; and
- 10 (6) the overall ecological benefit of the project.

11 Sec. 31.205. APPLICATION PREPARATION ASSISTANCE. (a) The
12 conservation board shall establish a grant program to provide
13 financial assistance to eligible entities for conservation
14 planning, application preparation, and administrative costs
15 associated with eligible projects described by Section 31.204.

16 (b) The conservation board shall provide guidance to
17 applicants for projects that are eligible under more than one
18 funding category.

19 Sec. 31.206. FUNDING DETERMINATIONS; APPLICATION PROCESS.

20 (a) The conservation board shall implement an application process
21 to select eligible projects in accordance with the priority
22 criteria established under Section 31.204(c).

23 (b) If the conservation board receives a sufficient number
24 of applications for eligible projects, the conservation board shall
25 allocate:

26 (1) 50 percent of the funding in any cycle to public
27 parks or natural areas projects as described by Section

1 31.204(a)(1); and

2 (2) 50 percent of the funding in any cycle to natural
3 resource conservation projects as described by Section
4 31.204(a)(2).

5 Sec. 31.207. APPROVAL OF APPLICATIONS. The conservation
6 board may approve an application only if the conservation board
7 finds that:

8 (1) the application and the assistance applied for
9 meet the requirements of this subchapter and rules adopted under
10 this subchapter; and

11 (2) the applicant demonstrates the ability to complete
12 the project.

13 Sec. 31.208. RULES. (a) The conservation board shall adopt
14 rules necessary to implement this subchapter, including rules that
15 establish procedures for:

16 (1) the administration of the fund; and

17 (2) an application for a project grant from the fund.

18 (b) The conservation board may adopt rules to ensure that a
19 policy or practice of the conservation board under this subchapter
20 does not prevent qualification for or the use of federal matching
21 funds.

22 Sec. 31.209. TEXAS LAND AND WATER CONSERVATION TECHNICAL
23 ADVISORY COMMITTEE. (a) The Texas land and water conservation
24 technical advisory committee is composed of the following nine
25 members:

26 (1) one representative from each state agency
27 specified by Sections 31.202(a)(1)-(4);

1 (2) three representatives appointed by the
2 conservation board from nongovernmental entities who have relevant
3 experience; and

4 (3) two representatives appointed by the conservation
5 board from institutions of higher education who have relevant
6 professional experience.

7 (b) The advisory committee shall assist in developing and
8 evaluating:

9 (1) the application process and scoring criteria for
10 project funding by the conservation board;

11 (2) recommendations to the conservation board; and

12 (3) other items as directed by the conservation board.

13 Sec. 31.210. MONITORING AND REPORTING. (a) Not later than
14 September 1 of every second year, the conservation board shall
15 prepare and submit to the legislature a report quantifying the
16 benefits of projects that have received grants under this
17 subchapter.

18 (b) The conservation board may use money from the fund to
19 prepare the report required by this section.

20 SECTION 2. The Texas land and water conservation board
21 shall submit to the legislature the initial report required by
22 Section 31.210, Natural Resources Code, as added by this Act, not
23 later than September 1, 2025.

24 SECTION 3. This Act takes effect September 1, 2023, but only
25 if the constitutional amendment providing for the creation of the
26 Texas land and water conservation fund to assist in the voluntary
27 protection of Texas' water quality, wildlife habitat, natural

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1 areas, and parks, while not increasing the rate of any taxes, is
2 approved by the voters. If that amendment is not approved by the
3 voters, this Act has no effect.