

By: Thimesch, Cain, Kitzman

H.B. No. 3857

A BILL TO BE ENTITLED

AN ACT

relating to the eligibility of land for appraisal for ad valorem tax purposes as qualified open-space land.

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

SECTION 1. Sections 23.51(1) and (2), Tax Code, are amended to read as follows:

(1) "Qualified open-space land" means land that is currently devoted principally to agricultural use to the degree of intensity generally accepted in the area and that has been devoted principally to agricultural use or to production of timber or forest products for five of the preceding seven years or land that is used principally as an ecological laboratory by a public or private college or university and that has been used principally in that manner by a college or university for five of the preceding seven years. A chief appraiser shall distinguish between the degree of intensity required for various agricultural production methods, including organic, sustainable, pastured poultry, rotational grazing, and other uncommon production methods or systems. Qualified open-space land includes all appurtenances to the land. For the purposes of this subdivision, appurtenances to the land means private roads, dams, reservoirs, water wells, canals, ditches, terraces, and other reshaping of the soil, fences, and riparian water rights. Notwithstanding the other provisions of this subdivision, land that is currently devoted

1 principally to wildlife management as defined by Subdivision (7)(B)
2 or (C) to the degree of intensity generally accepted in the area
3 qualifies for appraisal as qualified open-space land under this
4 subchapter regardless of the manner in which the land was used in
5 any preceding year.

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

27 SECTION 2. Subchapter D, Chapter 23, Tax Code, is amended by

1 adding Section 23.5215 to read as follows:

2 Sec. 23.5215. GUIDELINES FOR UNCOMMON AGRICULTURAL USES.

3 (a) The comptroller, in consultation with the Texas A&M AgriLife
4 Extension Service, individuals selected by the comptroller who
5 represent appraisal districts, and individuals selected by the
6 comptroller who represent affected producers, shall develop
7 guidelines for determining under what conditions the cumulative
8 effect of multiple agricultural uses of a tract of land meets the
9 degree of intensity generally accepted in the area.

10 (b) The comptroller, in consultation with the Texas A&M
11 AgriLife Extension Service, individuals selected by the
12 comptroller who represent appraisal districts, and individuals
13 selected by the comptroller who represent small-scale producers,
14 shall develop guidelines for determining under what conditions land
15 under 10 acres in size used for the production of fruits,
16 vegetables, poultry, hogs, sheep, or goats qualifies for appraisal
17 under this subchapter. The guidelines must provide that land under
18 10 acres in size that qualifies for appraisal under this subchapter
19 solely on the basis of the guidelines developed under this section
20 may not subsequently qualify under Section 23.51(7) for appraisal
21 under this subchapter if the owner changes the use of the land to
22 wildlife management.

23 (c) The guidelines developed under this section may include
24 recordkeeping requirements consistent with normal practices of
25 agricultural operations.

26 (d) The comptroller in developing guidelines under this
27 section may consider the following factors:

1 (1) the financial investment of a producer in an
2 agricultural use of a tract of land;

3 (2) the degree of active management of a producer in
4 the agricultural use of a tract of land;

5 (3) the percentage of a tract of land used by a
6 producer for agricultural uses; and

7 (4) any other factor the comptroller considers
8 appropriate.

9 (e) The comptroller, in cooperation with appraisal
10 districts, shall provide educational resources to chief appraisers
11 to assist with the appraisal of land using the guidelines developed
12 under this section and of land using an uncommon production method,
13 such as organic production, sustainable production, and pastured
14 poultry.

15 SECTION 3. Not later than September 1, 2024, the
16 comptroller shall distribute the guidelines required by Section
17 23.5215, Tax Code, as added by this Act, to each appraisal district.

18 SECTION 4. This Act applies only to the appraisal of land
19 for ad valorem tax purposes for a tax year that begins on or after
20 January 1, 2025.

21 SECTION 5. This Act takes effect September 1, 2023.