

By: Averitt

S.B. No. 1828

Substitute the following for S.B. No. 1828:

By: Hardcastle

C.S.S.B. No. 1828

A BILL TO BE ENTITLED

AN ACT

relating to the composition and duties of the State Soil and Water Conservation Board.

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

SECTION 1. Section 201.011, Agriculture Code, is amended to read as follows:

Sec. 201.011. COMPOSITION. (a) The State Soil and Water Conservation Board is a state agency composed of seven [~~five~~] members as follows:

(1) [~~with~~] one member elected from each of the state districts in accordance with this subchapter; and

(2) two members appointed by the governor, each of whom is:

(A) actively engaged in the business of farming, animal husbandry, or other business related to agriculture and who wholly or partly owns or leases land used in connection with that business; and

(B) not a member of the board of directors of a conservation district, but meets the qualifications listed under Section 201.072.

(b) For the purposes of this section, the term "actively engaged" refers to a person who derives at least 51 percent of the person's income from farming, animal husbandry, or other business related to agriculture and who wholly or partly owns land used in

1 connection with that business.

2 SECTION 2. Section 201.015(b), Agriculture Code, is amended
3 to read as follows:

4 (b) The term of office of an elected [~~a~~] member of the state
5 board begins on the day after the day on which the member was
6 elected. The term of one member appointed by the governor expires
7 February 1 of each odd-numbered year, and the term of the other
8 member appointed by the governor expires February 1 of each
9 even-numbered year.

10 SECTION 3. Subchapter B, Chapter 201, Agriculture Code, is
11 amended by adding Section 201.0152 to read as follows:

12 Sec. 201.0152. APPLICATION. Sections 201.0141, 201.0142,
13 and 201.0151 apply to the governor's appointees under this chapter.

14 SECTION 4. Sections 201.016, Agriculture Code, is amended
15 to read as follows:

16 Sec. 201.016. VACANCY. Vacancies in the state district
17 positions on the state board are filled by election in the manner
18 provided by this subchapter for an unexpired term or for a full
19 term.

20 SECTION 5. Section 201.019(a) and (d), Agriculture Code,
21 are amended to read as follows:

22 (a) The state board shall designate one of its elected
23 members as chairman.

24 (d) The state board may delegate any power or duty under
25 this chapter to its chairman, one or more of its elected members, or
26 one of more of its agents or employees.

27 SECTION 6. Subchapter B, Chapter 201, Agriculture Code, is

1 amended by adding Sections 201.028 and 201.029 to read as follows:

2 Sec. 201.028. SEMIANNUAL REPORT. Not later than January 1
3 and July 1 of each year, the state board shall prepare and deliver
4 to the governor, the lieutenant governor, and the speaker of the
5 house of representatives a report relating to the status of the
6 board's activities, including outreach programs, grants made and
7 received, federal funding applied for and received, any special
8 projects, and the board's oversight of water conservation district
9 activities.

10 Sec. 201.029. MANAGEMENT AUDIT. (a) Not later than March
11 1, 2004, the state auditor, in coordination with the Legislative
12 Budget Board, shall conduct a management audit of the state board
13 and deliver a report of the audit to the governor, the lieutenant
14 governor, and the speaker of the house of representatives. The
15 audit must include an evaluation of the state board's
16 administrative budget.

17 (b) This section expires April 1, 2004.

18 SECTION 7. Sections 203.011, 203.012, 203.013, 203.016, and
19 203.051, Agriculture Code, are amended to read as follows:

20 Sec. 203.011. AUTHORITY OF BOARD. The board has
21 jurisdiction over and, with the assistance of local districts,
22 shall administer the brush control program under this chapter.

23 Sec. 203.012. RULES. The board, after consulting with
24 local districts, shall adopt reasonable rules that are necessary to
25 carry out this chapter.

26 Sec. 203.013. AUTHORITY OF DISTRICTS. Each district [~~in~~
27 ~~which all or part of a critical area is located~~] may carry out the

1 responsibilities provided by Subchapter D [~~of this code~~] as
2 delegated by the board [~~in that critical area~~].

3 Sec. 203.016. CONSULTATION. The State Soil and Water
4 Conservation Board [~~board~~] shall consult with:

5 (1) the Texas Water Development Board in regard to the
6 effects of the brush control program on water quantity;

7 (2) the department in regard to the effects of the
8 brush control program on agriculture; and

9 (3) the Parks and Wildlife Department in regard to the
10 effects of the brush control program on fish and wildlife.

11 Sec. 203.051. STATE PLAN. The board shall prepare and adopt
12 a state brush control plan that shall:

13 (1) include a comprehensive strategy for managing
14 brush in all areas of the state where brush is contributing to a
15 substantial water conservation problem; and

16 (2) rank [~~designate~~] areas of [~~critical need in~~] the
17 state in need of a [~~which to implement the~~] brush control program,
18 as provided by Section 203.053.

19 SECTION 8. Sections 203.052(b), (c), and (d), Agriculture
20 Code, are amended to read as follows:

21 (b) Not less than 30 days before the date the hearing is to
22 be held, the board shall mail written notice of the hearing to each
23 district in the state. The notice must:

24 (1) include the date and place for holding the
25 hearing;

26 (2) [~~and must~~] state the purpose for holding the
27 hearing; and

1 (3) include instructions for each district to submit
2 written comments on the proposed plan.

3 (c) At the hearing, representatives of a district and any
4 other person may appear and present testimony including information
5 and suggestions for any changes in the proposed plan. The board
6 shall enter into the record any written comments received on the
7 proposed plan and shall consider all written comments and testimony
8 before taking final action on the plan.

9 (d) After the conclusion of the hearing, the board shall
10 consider the testimony, including the information and suggestions
11 made at the hearing and in written comments, and~~[7]~~ after making any
12 changes in the proposed plan that it finds necessary, the board
13 shall adopt the plan.

14 SECTION 9. Sections 203.053, 203.055, and 203.101,
15 Agriculture Code, are amended to read as follows:

16 Sec. 203.053. CRITERIA FOR EVALUATING BRUSH CONTROL
17 ~~[DESIGNATING CRITICAL]~~ AREAS. (a) In ranking ~~[designating~~
18 ~~critical]~~ areas under the plan, the board shall consider:

19 (1) the location of various brush infestations;
20 (2) the type and severity of ~~[various]~~ brush
21 infestations;

22 (3) the various management methods that may be used to
23 control brush; ~~[and]~~

24 (4) the amount of water produced by a project and the
25 severity of water shortage in the project area; and

26 (5) any other criteria that the board considers
27 relevant to assure that the brush control program can be most

1 effectively, efficiently, and economically implemented.

2 (b) In ranking [~~designating critical~~] areas, the board
3 shall give priority to areas with the most critical water
4 conservation needs and in which brush control and revegetation
5 projects will be most likely to produce substantial water
6 conservation.

7 Sec. 203.055. APPROVED METHODS FOR BRUSH CONTROL. (a) The
8 board shall study and must approve all methods used to control brush
9 under this chapter [~~Act~~] considering the overall impact of the
10 project [~~will have within critical areas~~].

11 (b) The board may approve a method for use under the
12 cost-sharing program provided by Subchapter E [~~of this chapter~~] if
13 the board finds that the proposed method:

14 (1) has proven to be an effective and efficient method
15 for controlling brush;

16 (2) is cost efficient;

17 (3) will have a beneficial impact on the development
18 of water sources and wildlife habitat;

19 (4) will maintain topsoil to prevent erosion or
20 silting of any river or stream; and

21 (5) will allow the revegetation of the area after the
22 brush is removed with plants that are beneficial to stream flows,
23 groundwater levels, and livestock and wildlife.

24 Sec. 203.101. GENERAL AUTHORITY. Each district may
25 administer the aspects of the brush control program [~~within any~~
26 ~~critical area located~~] within the jurisdiction of that district.

27 SECTION 10. Section 203.154, Agriculture Code, is amended

1 by amending Subsections (a) and (c) and adding Subsections (d) and
2 (e) to read as follows:

3 (a) Not more than 70 [~~80~~] percent of the total cost of a
4 single brush control project may be made available as the state's
5 share in cost sharing.

6 (c) The board may grant an exception to Subsection (b) [~~of~~
7 ~~this section~~] if the board finds that joint participation of the
8 state brush control program and any federal brush control program
9 will:

10 (1) enhance the efficiency and effectiveness of a
11 project; [~~and~~]

12 (2) lessen the state's financial commitment to the
13 project; and

14 (3) not exceed 80 percent of the total cost of the
15 project.

16 (d) A political subdivision is eligible for cost sharing
17 under the brush control program, provided that the state's share
18 may not exceed 50 percent of the total cost of a single project.

19 (e) Notwithstanding any other provision of this section,
20 100 percent of the total cost of a single project on public lands
21 may be made available as the state's share in cost sharing.

22 SECTION 11. Sections 203.156, 203.157, and 203.158,
23 Agriculture Code, are amended to read as follows:

24 Sec. 203.156. APPLICATION FOR COST SHARING. A person,
25 including a political subdivision, that [~~who~~] desires to
26 participate with the state in a brush control project and to obtain
27 cost-sharing participation by the state shall file an application

1 with the district board in the district in which the land on which
2 the project is to be accomplished is located. The application must
3 be in the form provided by board rules.

4 Sec. 203.157. CONSIDERATIONS IN PASSING ON APPLICATION. In
5 passing on an application for cost sharing, the board shall
6 consider:

7 (1) the location of [~~whether~~] the project [~~is to be~~
8 ~~carried out in a critical area~~];

9 (2) the method of control that is to be used by the
10 project applicant;

11 (3) the plans for revegetation;

12 (4) the total cost of the project;

13 (5) the amount of land to be included in the project;

14 (6) whether the applicant for the project is
15 financially able to provide the applicant's [~~his~~] share of the
16 money for the project;

17 (7) the cost-share percentage, if an applicant agrees
18 to a higher degree of financial commitment;

19 (8) any comments and recommendations submitted by a
20 local district, the department, the Texas Water Development Board,
21 or [~~of~~] the Parks and Wildlife Department; and

22 (9) any other pertinent information considered
23 necessary by the board.

24 Sec. 203.158. APPROVAL OF APPLICATION. The board may
25 approve an application if, after considering the factors listed in
26 Section 203.157 [~~of this code~~] and any other relevant factors, the
27 board finds:

1 (1) the owner of the land fully agrees to cooperate in
2 the project;

3 (2) the method of eradication is a method approved by
4 the board under Section 203.055 [~~of this code~~]; and

5 (3) the project is a higher priority than other
6 projects submitted in accordance with [~~to be carried out in a~~
7 ~~critical area designated under~~] the board's plan.

8 SECTION 12. Sections 203.159(a) and (c), Agriculture Code,
9 are amended to read as follows:

10 (a) If the demand for funds under the cost-sharing program
11 is greater than funds available, the board shall [~~may~~] establish
12 priorities favoring the areas with the most critical water
13 conservation needs and projects that will be most likely to produce
14 substantial water conservation.

15 (c) The quantity of stream flows or groundwater or [~~amount~~
16 ~~of land dedicated to the project that will produce significant~~]
17 water conservation from the eradication of brush is a consideration
18 in assigning priority.

19 SECTION 13. (a) Section 203.001(5), Agriculture Code, is
20 repealed.

21 (b) Section 203.155, Agriculture Code, is repealed.

22 SECTION 14. In making initial appointments to the State
23 Soil and Water Conservation Board under Section 201.011,
24 Agriculture Code, as amended by this Act, the governor shall
25 designate one member to serve a term expiring February 1, 2004, and
26 one member to serve a term expiring February 1, 2005.

27 SECTION 15. The State Soil and Water Conservation Board

C.S.S.B. No. 1828

1 shall prepare and deliver the first report required by Section
2 201.028, Agriculture Code, as added by this Act, not later than
3 January 1, 2004.

4 SECTION 16. This Act takes effect September 1, 2003.