

## **BILL ANALYSIS**

C.S.H.B. 2052  
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Culture, Recreation, & Tourism  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Well-constructed Regional Habitat Conservation Plans under the Endangered Species Act offer numerous potential benefits, including allowing Texas communities more control over federal endangered species issues, providing access to federal funding to help offset the impacts of this largely unfunded federal mandate, and allowing landowners and Texas public bodies more streamlined and cost effective alternatives for ESA compliance.

In the 78th Session, the Texas Legislature passed Chapter 83, partly in response to landowner concerns. These landowners were concerned that the identification of their property on maps as a potential endangered species reserve would have a negative effect on their property values and their ability to obtain development permits. Chapter 83 addressed these concerns by restricting the ability of local governments to condition permits, approvals, or utility service requests based on the presence or perceived presence of endangered species habitat.

Chapter 83 also established procedural and substantive requirements for governmental entities that wished to develop RHCPs.

Chapter 83 currently requires compressed timeframes relative to potential habitat preserve for RHCPs. C.S.H.B. 2052 lengthens these time frames, allowing greater flexibility in developing and implementing important conservation measures.

C.S.H.B. 2052 also clarifies that mechanisms identifying habitat preserve on a phased, rolling basis delay triggering Chapter 83 timeframes until each preserve is identified, again providing more flexibility in developing conservation measures.

C.S.H.B. 2052 further specifies recovery of species as a permissible objective of a RHCP, after notice and public hearing regarding the recovery objective is provided by the plan participant.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

Section 1 specifies that a plan participant may accept a federal permit in conjunction with an RHCP as long as the qualified voters of a participant have approved bonds or debt financing in an amount equal to the cost of land acquisition. This changes the statute to allow for a participant to apply for a permit before voters approve bonds, but still requires financing to be in place before acceptance of a federal permit.

Section 2 adds recovery of species as a permissible objective, after notice and public hearing by the plan participant, and defines "recovery criteria."

Section 3 clarifies language in Section 83.017(c) to specify that the plan participant must make proper notifications no later than the 60th day after the proposed habitat preserve system's identification.

Section 4 lengthens the timeframes to allow greater flexibility. This requires that some offers to purchase land for designation as habitat preserve must be made before the later of four years

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after permit issuance, or 6 years after permit application, and that acquisitions must be complete within six years after permit issuance. Further, Section 4. specifies that in certain circumstances, offers to purchase preserve land must be made four years after the tract is designated as habitat preserve, and that acquisitions must be complete within five years after such designation.

Section 5 provides that the application for and the processing of a permit application involving an RHCP can occur during consideration and resolution of a potential grievance filed against the RHCP.

Section 6 repeals Section 83.020(e) of the Parks and Wildlife Code.

Section 7 provides the applicability of this legislation.

Section 8 provides the effective date of this act

### **EFFECTIVE DATE**

September 1, 2005, or immediately if approved in the manner prescribed by the Texas Constitution.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.H.B. 2052 creates a legislative council draft for H.B. 2052.

Section 2 is amended, creating a new subsection (e) defining "recovery criteria" as the criteria developed in accordance with the Endangered Species Act, and a new subsection (f) which moves language for clarity.

Section 4 is revised for clarity, and makes changes to the timeframe in which offers and acquisition must occur. The date of the completion of habitat preserve acquisition is changed to the sixth anniversary of when the federal permit was issued, from the fifth anniversary. This corrects a potential issue with time constraints and permit issuance.

Section 5 removes from the draft the unnecessary citation of non-altered statute. Section 83.020(e), which was repealed in Section 5 of the original draft, is now repealed in a new Section 6 of the substitute.

Section 7 specifies that C.S.H.B. 2052 is applicable only to land included in an RHCP under a federal permit applied for on or after the act's effective date, and that a grievance filed before this act's effective date is governed by the law in effect on the date the grievance was filed.

Section 8 provides the effective date of this act.