

BILL ANALYSIS

Senate Research Center

S.B. 1273
By: Jackson, Mike
Natural Resources
8/8/2005
Enrolled

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Texas is losing its rural lands at a faster rate than any other state in the country. As the state becomes more urbanized, the pressure to protect natural resources through condemnation or acquisition will increase. Through the purchase of agricultural conservation easements, cities and other public entities can achieve resource protection goals while keeping rural lands in private ownership and on the tax rolls.

S.B. 1273 creates a grant-making program that will provide landowners with financial incentives to conserve Texas' agriculture and natural resources through the voluntary sale of either perpetual or term conservation easements.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas farm and ranch lands conservation council in SECTION 2 (Section 183.059, Natural Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 183, Natural Resources Code, by designating Sections 183.001 through 183.005 as Subchapter A, Chapter 183, Natural Resources Code, and adding a heading for that subchapter, to read as follows:

SUBCHAPTER A. CONSERVATION EASEMENTS GENERALLY

SECTION 2. Amends Chapter 183, Natural Resources Code, by adding Subchapter B, as follows:

SUBCHAPTER B. TEXAS FARM AND RANCH LANDS CONSERVATION PROGRAM

Sec. 183.051. PURPOSE. Sets forth the purpose of the program established under this subchapter.

Sec. 183.052. DEFINITIONS. Defines "agricultural conservation easement," "commissioner," "council," "fund," "land office," "program," "purchase of agricultural conservation easement," "qualified easement holder," and "qualified land."

Sec. 183.053. PROGRAM. Provides that the Texas farm and ranch lands conservation program (program) is established as a program of the General Land Office (land office) for the purpose of administering the assistance to be provided by the Texas farm and ranch lands conservation fund (fund) for the purchase of agricultural conservation easements.

Sec. 183.054. TERMS OF AGRICULTURAL CONSERVATION EASEMENT.
(a) Requires an agricultural conservation easement under this subchapter to be perpetual or for a term of 30 years.

(b) Provides that the owner of qualified land and a potential purchaser of an agricultural conservation easement should consider and negotiate easement terms, including certain considerations.

(c) Prohibits an agricultural conservation easement from being assigned to or enforced by a third party without the express written consent of the landowner.

Sec. 183.055. TERMINATION OF EASEMENT. (a) Authorizes the landowner, any time after an agricultural conservation easement is acquired with a grant awarded under this subchapter, to request that the Texas farm and ranch lands conservation council (council) terminate the easement as provided by Subsection (b) on the ground that the landowner is unable to meet the conservation goals as described by Section 183.052(1). Requires the termination request to contain a verifiable statement of impossibility.

(b) Requires the council, on receipt of the request for termination, to notify the qualified easement holder and conduct an inquiry. Requires the council to notify the parties of the decision to grant or deny the request for termination, not later than the 180th day after the date the council receives the request. Authorizes either party to appeal the decision in district court not later than the 45th day after the date of the notification.

Sec. 183.056. REPURCHASE BY LANDOWNER. (a) Defines "agricultural value" and "fair market value."

(b) Requires the commissioner of the land office (commissioner) to order an appraisal of the fair market value and the agricultural value of the property subject to the easement, if a request for termination of an agricultural conservation easement is granted under Section 183.055. Requires the landowner to bear the cost of the appraisal.

(c) Requires the landowner to pay to the qualified easement holder an amount equal to the difference between the fair market value and the agricultural value, not later than the 180th day after the date of the appraisal under Subsection (b). Requires the qualified easement holder to pay any amounts received under this subsection to the fund, not to exceed the amount paid by the fund for purchase of the easement.

(d) Requires the qualified easement holder to terminate the easement, not later than the 30th day after the date of payment by the landowner under Subsection (c).

(e) Prohibits the landowner, if the request for termination is denied or if the landowner fails to make the payment required by Subsection (c) in the time required by that subsection, from submitting another request for termination of the easement before the fifth anniversary of the date of the last request.

Sec. 183.057. PROTECTED LAND; NOTICE OF TAKING. (a) Prohibits a department or agency of this state, a county, a municipality, another political subdivision, or a public utility from approving any program or project that requires the use or taking through eminent domain of private land encumbered by an agricultural conservation easement purchased under this subchapter unless the governmental entity or public utility acting through its governing body or officers makes certain determinations.

(b) Authorizes a determination required by Subsection (a) to be made only at a properly noticed public hearing.

(c) Authorizes the governing body or officers of the governmental entity or public utility to consider clearly enunciated local preferences, and provides that the provisions of this subchapter do not constitute a mandatory prohibition against the use of the area if the determinations required by Subsection (a) are made.

(d) Provides that if, after making the determination required by Subsection (a), a department or agency of this state, a county, a municipality, another political subdivision, or a public utility acquires a fee simple interest in land encumbered

by an agricultural conservation easement purchased under this subchapter by eminent domain, certain guidelines are required to be followed.

(e) Sets forth requirements for a department or agency of this state, a county, a municipality, another political subdivision, or a public utility acquires by eminent domain an interest other than a fee simple interest in land encumbered by an agricultural conservation easement purchased under this subchapter, after making the determination required by Subsection (a).

(f) Requires the qualified easement holder to pay any amounts received under Subsections (d) and (e) to the fund, not to exceed the amount paid by the fund for the purchase of the easement.

Sec. 183.058. TEXAS FARM AND RANCH LANDS CONSERVATION FUND.

(a) Provides that the Texas farm and ranch lands conservation fund is an account in the general revenue fund that may be appropriated only to the land office to be used as provided by Subsection (b). Prohibits the fund from being used for grants to purchase or acquire any right or interest in property by eminent domain. Sets forth the composition of the fund.

(b) Authorizes the fund to be used only for specific purposes.

Sec. 183.059. ADMINISTRATION OF FUND. (a) Authorizes the council to perform certain functions.

(b) Requires an applicant who is qualified to be an easement holder under this subchapter to submit an application to the council to receive a grant from the fund under this subchapter. Sets forth requirements for the application.

(c) Requires the value of an agricultural conservation easement, for the purposes of determining the amount of a grant under this subchapter, to be determined by a site-specific estimate-of-value appraisal performed by a licensed, qualified appraiser.

Sec. 183.060. CRITERIA FOR AWARDING GRANTS. Requires the council to adopt a scoring process to be used in evaluating applications that makes certain considerations.

Sec. 183.061. TEXAS FARM AND RANCH LANDS CONSERVATION COUNCIL.

(a) Provides that the Texas Farm and Ranch Lands Conservation Council is established to advise and assist the commissioner with administration of the program and to select applicants to receive grants under this subchapter using the criteria adopted by the council under Section 183.060. Sets forth the composition of the council.

(b) Provides that appointed members of the council serve staggered terms of six years, with two of the members' terms expiring February 1 of each odd-numbered year.

(c) Requires appointments to and removal from the council to be made by the governor without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(d) Requires the commissioner or the commissioner's designee to serve as the presiding officer of the council and to designate from among the members of the council an assistant presiding officer to serve in that capacity at the will of the commissioner. Authorizes the council to choose from its members other officers as the council considers necessary.

(e) Provides that a member of the council is not entitled to compensation for service on the council but is entitled to reimbursement of the necessary and reasonable travel expenses incurred by the member while conducting the business

of the council, as provided for state employees by the General Appropriations Act.

(f) Requires the council to meet at least once each year.

(g) Prohibits a person from being appointed as a council member if the person or the person's spouse holds certain private interests.

(h) Defines "Texas trade association."

(i) Prohibits a person from being an appointed member of the council or acting as the general counsel to the council if the person is required to register as a lobbyist under Chapter 305 (Registration of Lobbyists), Government Code, because of the person's activities for compensation on behalf of an occupation or profession with an interest in land conservation that is related to that occupation or profession.

(j) Sets forth grounds for removal from the council.

(k) Provides that the validity of an action of the council is not affected by the fact that it is taken when a ground for removal of a participating council member exists.

(l) Requires the presiding officer, upon having knowledge that a potential ground for removal exists, to notify the commissioner and the governor that a potential ground for removal exists.

(m) Requires the presiding officer or the presiding officer's designee, with the assistance of staff of the land office, to provide to members of the council information regarding a member's responsibilities under applicable laws relating to standards of conduct for state officers.

(n) Prohibits a person who is appointed to and qualifies for office as a member of the council from voting, deliberating, or being counted as a member in attendance at a meeting of the council until the person completes a training program that complies with this section. Sets forth requirements for the training program.

(o) Provides that a person appointed to the council is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the training program occurs before or after the person qualifies for office.

Sec. 183.062. EFFECT ON TAX APPRAISAL. Provides that an agricultural conservation easement under this subchapter does not affect the eligibility of the property subject to the easement for appraisal for ad valorem tax purposes under Subchapter D (Appraisal of Agricultural Land), Chapter 23, Tax Code.

Sec. 183.063. REPORT TO TEXAS DEPARTMENT OF TRANSPORTATION. Requires the land office, not later than the 10th day after the date of a closing of a purchase of an easement under this subchapter, to provide the Texas Department of Transportation a legal description of the property subject to the easement and shall include with the description the date the closing occurred.

SECTION 3. Requires the governor, as soon as practicable after the effective date of this Act, to appoint the members of the council, as required under Section 183.061, Natural Resources Code, as added by this Act. Sets forth council member terms.

SECTION 4. Effective date: September 1, 2005.