

By: Krusee

H.B. No. 2052

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the establishment of regional habitat conservation
3 plans by political subdivisions of the State.

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

5 SECTION 1. Section 83.013(d), Parks & Wildlife Code, is
6 amended to read as follows:

7 (d) A plan participant may accept [~~apply for~~] a federal
8 permit in conjunction with a regional habitat conservation plan
9 only if the qualified voters of a plan participant have authorized
10 the issuance of bonds or other debt financing in an amount equal to
11 the estimated cost of acquiring all land for habitat preserves
12 within the time required by this subchapter or the plan participant
13 has demonstrated that adequate sources of funding will exist to
14 acquire all land for habitat preserves within the time required by
15 this subchapter.

16 SECTION 2. Section 83.015, Parks & Wildlife Code, is
17 amended to read as follows:

18 Sec. 83.015. Biological Review; Criteria. (a) A regional
19 habitat conservation plan, including any mitigation fee, may
20 [~~shall~~] be based on the amount of harm to, and, after notice and
21 public hearing by the plan participant, any recovery criteria
22 applicable to, each endangered species to be protected under the
23 regional habitat conservation plan.

24 (b) The size of proposed habitat preserves may [~~shall~~] be

1 based [~~solely~~] on the amount of harm to, and, after notice and
2 public hearing by the plan participant, any recovery criteria
3 applicable to, the endangered species to be protected in the
4 regional habitat conservation plan.

5 SECTION 3. Section 83.017(c), Parks & Wildlife Code, is
6 amended to read as follows:

7 (a) Not later than the 60th day after the plan participant's
8 initial identification of the proposed habitat preserve system for
9 the federal permit, the plan participants shall notify in writing
10 each owner of land identified by the plan participants as habitat
11 preserve or potential habitat preserve. The plan participants
12 shall use the county tax rolls to identify the owners of land
13 identified as habitat preserve or potential habitat preserve. The
14 written notice must include at least the following information:

15 (1) the tax identification and parcel numbers;

16 (2) the owner's name and address;

17 (3) an explanation of the designation or possible
18 designation of the tract as habitat preserve or potential habitat
19 preserve under the regional habitat conservation plan;

20 (4) identification of the citizens advisory committee
21 members, including telephone numbers, addresses, and the group that
22 each committee member represents;

23 (5) identification of employees or agents of plan
24 participants who can provide information about the regional habitat
25 conservation plan;

26 (6) the date of the next citizens advisory committee
27 meeting or plan participant meeting regarding the regional habitat

1 conservation plan; and

2 (7) a description of the status of the regional
3 habitat conservation plan.

4 SECTION 4. Section 83.018, Parks & Wildlife Code, is
5 amended to read as follows:

6 Sec. 83.018. Preserve Acquisition. (a) The designation of
7 a tract of land as habitat preserve or potential habitat preserve or
8 the presence of endangered species or endangered species habitat
9 may not be considered in determining the fair market value of the
10 property for acquisition as a habitat preserve.

11 (b) A change to plan participant rules and regulations,
12 including land development standards, that occurs after the
13 earliest date that the biological advisory team, citizens advisory
14 committee, or plan participant initially identifies a tract of land
15 as habitat preserve or potential habitat preserve may not be
16 considered in determining the fair market value of the land for
17 acquisition as a habitat preserve.

18 (c) The plan participants shall make offers based on fair
19 market value to landowners for the acquisition of fee simple or
20 other interest in land designated in the regional habitat
21 conservation plan as habitat preserve, except as otherwise provided
22 in subsection (d), not later than 4 years after the issuance of the
23 federal permit or 6 [~~3~~] years after the initial application for the
24 federal permit, whichever is later [~~earlier~~]. Acquisition of
25 habitat preserves designated in the regional habitat conservation
26 plan as habitat preserve must be completed not later than the 5th
27 [~~4th~~] anniversary of the date on which the federal permit was

1 issued, except as otherwise provided in subsection (d). A plan
2 participant subject to this subsection who does not meet an
3 applicable deadline shall file an application to amend the federal
4 permit to remove the nonacquired habitat preserve land from the
5 regional habitat conservation plan as a habitat preserve not later
6 than the 60th day after the expiration of the applicable deadline
7 [~~fourth anniversary of the date on which the federal permit was~~
8 ~~issued~~].

9 (d) With respect to land that is not designated in a
10 regional habitat conservation plan as habitat preserve at the time
11 of issuance of the federal permit, but that is designated pursuant
12 to a regional habitat conservation plan as habitat preserve after
13 issuance of the federal permit, plan participants shall make offers
14 based on fair market value to landowners for the acquisition of fee
15 simple or other interest in land with respect to the tract of land
16 proposed as habitat preserve not later than 4 years after the tract
17 is identified or designated by the plan participant as proposed
18 habitat preserve. Acquisition of habitat preserves for plan
19 participants subject to this subsection must be completed not later
20 than the 5th anniversary of the date on which the tract is
21 identified or designated by the plan participant as proposed
22 habitat preserve.

23 SECTION 5. Section 83.020, Parks & Wildlife Code, is
24 amended to read as follows:

25 Sec. 83.020. Grievance With Development of Regional Habitat
26 Conservation Plan. (a) An individual appointed to a citizens
27 advisory committee under Section 83.016(b) may file a grievance

1 with the commission regarding the development a regional habitat
2 conservation plan under this subchapter if the individual believes
3 that the plan is being developed in violation of this subchapter.
4 The individual filing the grievance must have been a member of the
5 citizens advisory committee for the plan named in the grievance.

6 (b) A grievance must be filed under this section not later
7 than the 60th day after the date the plan is approved by the plan
8 participants. The grievance must cite each provision of this
9 subchapter alleged to have been violated during development of the
10 plan and must describe each act alleged to have violated this
11 subchapter.

12 (c) The commission shall review a grievance filed under this
13 section to determine whether the plan is being developed in
14 compliance with this subchapter. If after reviewing the grievance
15 the commission finds that the grievance has no merit, the
16 commission may dismiss the grievance. If the commission finds that
17 the grievance does have merit, the commission must hold a public
18 hearing in accordance with Chapter 551, Government Code. The
19 commission shall take testimony from each plan participant and from
20 the individual filing the grievance. On conclusion of testimony,
21 the commission shall vote on whether to approve or dismiss the
22 grievance or to schedule a public hearing not later than the 30th
23 day after the conclusion of the initial public hearing and to vote
24 after the conclusion of that hearing whether to approve or dismiss
25 the grievance.

26 (d) If the commission approves the grievance, the
27 commission shall instruct the plan participant or participants to

1 amend the plan so that it will comply with this subchapter. [~~The~~
2 ~~plan participant may not submit an application for a federal permit~~
3 ~~until the commission is satisfied that its instructions to amend~~
4 ~~the plan to comply with this subchapter have been carried out.~~

5 [~~(c) A plan participant in a plan that is the subject of a~~
6 ~~grievance filed with the commission may not submit an application~~
7 ~~for a federal permit before the commission.~~

8 [~~(1) has dismissed the grievance, or~~

9 [~~(2) if the commission approves the grievance, has~~
10 ~~determined that the commission's recommended amendments to the plan~~
11 ~~have been made.]~~

12 (e) [~~(f)~~] If an individual files a grievance under this
13 section, that individual may not file a subsequent grievance.

14 SECTION 6. The importance of this legislation and the
15 crowded condition of the calendars in both houses create an
16 emergency and an imperative public necessity that the
17 constitutional rule requiring bills to be read on three several
18 days in each house be suspended, and this rule is hereby suspended,
19 and that this Act take effect and be in force from and after its
20 passage, and it is so enacted.

21 SECTION 7. If this Act does not receive the necessary vote
22 that is required for immediate effect pursuant to Section 39,
23 Article III, Texas Constitution, then this Act shall take effect on
24 September 1, 2005.