

1-1 By: Wentworth S.B. No. 1455
1-2 (In the Senate - Filed March 10, 2005; March 21, 2005, read
1-3 first time and referred to Committee on Natural Resources;
1-4 April 11, 2005, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 10, Nays 0; April 11, 2005,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1455 By: Jackson

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the establishment of regional habitat conservation
1-11 plans by political subdivisions of this state.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subsection (d), Section 83.013, Parks and
1-14 Wildlife Code, is amended to read as follows:

1-15 (d) A plan participant may accept ~~apply for~~ a federal
1-16 permit in conjunction with a regional habitat conservation plan
1-17 only if the qualified voters of a plan participant have authorized
1-18 the issuance of bonds or other debt financing in an amount equal to
1-19 the estimated cost of acquiring all land for habitat preserves
1-20 within the time required by this subchapter or the plan participant
1-21 has demonstrated that adequate sources of funding exist to acquire
1-22 all land for habitat preserves within the time required by this
1-23 subchapter.

1-24 SECTION 2. Section 83.015, Parks and Wildlife Code, is
1-25 amended by amending Subsections (a) and (b) and adding Subsections
1-26 (e) and (f) to read as follows:

1-27 (a) Except as provided by Subsection (f), a [A] regional
1-28 habitat conservation plan, including any mitigation fee, shall be
1-29 based on the amount of harm to each endangered species to be
1-30 protected under the regional habitat conservation plan.

1-31 (b) Except as provided by Subsection (f), the [The] size of
1-32 proposed habitat preserves shall be based solely on the amount of
1-33 harm to the endangered species to be protected in the regional
1-34 habitat conservation plan.

1-35 (e) For purposes of this section, "recovery criteria" means
1-36 the criteria developed under a recovery plan in accordance with the
1-37 federal act.

1-38 (f) After notice and hearing by the plan participants, the
1-39 following may be based partly on any recovery criteria applicable
1-40 to each endangered species to be protected under the plan:

1-41 (1) a regional habitat conservation plan, including
1-42 any mitigation fee; or

1-43 (2) the size of proposed habitat preserves.

1-44 SECTION 3. Subsection (c), Section 83.017, Parks and
1-45 Wildlife Code, is amended to read as follows:

1-46 (c) Not later than the 60th day after the plan participants'
1-47 initial identification of the proposed habitat preserve system for
1-48 the federal permit, the plan participants shall notify in writing
1-49 each owner of land identified by the plan participants as habitat
1-50 preserve or potential habitat preserve. The plan participants
1-51 shall use the county tax rolls to identify the owners of land
1-52 identified as habitat preserve or potential habitat preserve. The
1-53 written notice must include at least the following information:

1-54 (1) the tax identification and parcel numbers;

1-55 (2) the owner's name and address;

1-56 (3) an explanation of the designation or possible
1-57 designation of the tract as habitat preserve or potential habitat
1-58 preserve under the regional habitat conservation plan;

1-59 (4) identification of the citizens advisory committee
1-60 members, including telephone numbers, addresses, and the group that
1-61 each committee member represents;

1-62 (5) identification of employees or agents of plan
1-63 participants who can provide information about the regional habitat

2-1 conservation plan;

2-2 (6) the date of the next citizens advisory committee
2-3 meeting or plan participant meeting regarding the regional habitat
2-4 conservation plan; and

2-5 (7) a description of the status of the regional
2-6 habitat conservation plan.

2-7 SECTION 4. Section 83.018, Parks and Wildlife Code, is
2-8 amended by amending Subsection (c) and adding Subsections (d) and
2-9 (e) to read as follows:

2-10 (c) Except as provided by Subsection (d), the [The] plan
2-11 participants shall make offers based on fair market value to the
2-12 landowners for the acquisition of fee simple or other interest in
2-13 land designated in the regional habitat conservation plan as
2-14 proposed habitat preserve not later than four [two] years after the
2-15 issuance of the federal permit or six [three] years after the
2-16 initial application for the federal permit, whichever is later
2-17 [earlier]. Except as provided by Subsection (e), acquisition
2-18 [Acquisition] of all habitat preserves designated as proposed
2-19 habitat preserves in the regional habitat conservation plan must be
2-20 completed not later than the sixth [fourth] anniversary of the date
2-21 on which the federal permit was issued. A plan participant subject
2-22 to this subsection who does not meet an applicable deadline shall
2-23 file an application to amend the federal permit to remove the
2-24 nonacquired habitat preserve land from the regional habitat
2-25 conservation plan as a habitat preserve not later than the 60th day
2-26 after the expiration of the applicable deadline [fourth anniversary
2-27 of the date on which the federal permit was issued].

2-28 (d) If plan participants have not designated a landowner's
2-29 land as proposed habitat preserve in a regional habitat
2-30 conservation plan before the date on which the federal permit is
2-31 issued but designate the land as proposed habitat preserve in a
2-32 regional habitat conservation plan on or after that date, plan
2-33 participants shall make an offer to the landowner based on fair
2-34 market value for the acquisition of fee simple or other interest in
2-35 the land not later than the fourth anniversary of the date on which
2-36 the land is identified or designated as proposed habitat preserve.

2-37 (e) Plan participants must complete acquisition of land
2-38 subject to Subsection (d) as habitat preserves not later than the
2-39 fifth anniversary of the date on which the plan participants
2-40 identified or designated the land as proposed habitat preserves.

2-41 SECTION 5. Subsection (d), Section 83.020, Parks and
2-42 Wildlife Code, is amended to read as follows:

2-43 (d) If the commission approves the grievance, the
2-44 commission shall instruct the plan participant or participants to
2-45 amend the plan so that it will comply with this subchapter. ~~[The~~
2-46 ~~plan participant may not submit an application for a federal permit~~
2-47 ~~until the commission is satisfied that its instructions to amend~~
2-48 ~~the plan to comply with this subchapter have been carried out.]~~

2-49 SECTION 6. Subsection (e), Section 83.020, Parks and
2-50 Wildlife Code, is repealed.

2-51 SECTION 7. (a) The changes in law affecting purchase
2-52 offers for and acquisitions of habitat preserves under Section
2-53 83.018, Parks and Wildlife Code, as amended by this Act, apply only
2-54 to land included in a regional habitat conservation plan under a
2-55 federal permit applied for on or after the effective date of this
2-56 Act. Land included in a regional habitat conservation plan under a
2-57 federal permit applied for before the effective date of this Act is
2-58 subject to the law related to offers and acquisitions in effect
2-59 immediately before the effective date of this Act and that law is
2-60 continued in effect for that purpose.

2-61 (b) Section 83.020, Parks and Wildlife Code, as amended by
2-62 this Act, applies only to a grievance filed with the Parks and
2-63 Wildlife Commission on or after the effective date of this Act. A
2-64 grievance filed before the effective date of this Act is governed by
2-65 the law in effect on the date the grievance was filed and that law is
2-66 continued in effect for that purpose.

2-67 SECTION 8. This Act takes effect immediately if it receives
2-68 a vote of two-thirds of all the members elected to each house, as
2-69 provided by Section 39, Article III, Texas Constitution. If this

3-1 Act does not receive the vote necessary for immediate effect, this
3-2 Act takes effect September 1, 2005.

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