

BILL ANALYSIS

C.S.H.B. 604
By: Howard, Donna
Local Government Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In order to preserve raw land for the future benefit of endangered species, some private land owners have negotiated conservation easements on their land or made other commitments to perpetually restrict the development of the land as part of federally-permitted habitat conservation plans. Once a conservation easement is granted, the value of the land is reduced, but some tax appraisal districts continue to ignore this reduction when calculating ad valorem taxes. Several counties are considering adopting new federal habitat conservation plans.

S.B. 767 from the 79th Legislature included language that requires a chief appraiser to *consider* the effect of the restriction imposed through the conservation easement, or other law, when calculating the ad valorem tax. Unfortunately, that language, which was adopted into law as part of HB 2491 that session, did not produce enough certainty that these federally-permitted habitat conservation plan restrictions would be appraised fairly.

This bill, therefore, would amend the definition of "wildlife exemption", which currently only applies to *agricultural* land that is managed for wildlife purposes, so that the term includes the limited number of lands (including non-agricultural land) that comply with the same standards contained in Section 23.225, Tax Code, as passed by the 79th Legislature.

In addition, state and federal law designates the Texas General Land Office, Texas Parks and Wildlife Department, Texas Commission on Environmental Quality, the National Oceanic and Atmospheric Administration, and the U.S. Fish and Wildlife Service as Natural Resource Trustees (Trustees) in cases involving the release of oil or hazardous materials. The Trustees undertake the assessment of damage to natural resources from such events and negotiate agreements with the party responsible for such spills to compensate for the damages. These settlements may result in an agreement to identify and preserve habitat that was equivalent in character and quality to the affected property to compensate for the damage to natural resources through the use of a conservation easement. In such cases the property owner agrees to maintain the natural character of the property subject to the easement and is compensated by the party responsible for the natural resource damages. Extension of the "wildlife exemption" to property subject to such conservation easements will facilitate settlement of natural resource damage cases by encouraging property owners to convey their development rights.

In order to be eligible to receive the wildlife exemption, the land must be encumbered by a conservation easement created under Chapter 183, Natural Resources Code or other law granted by a local government to fulfill the jurisdiction's land management commitments as part of a federally-permitted habitat conservation plan (HCP) or to compensate for natural resource damages pursuant to an agreement with State and Federal Natural Resource Trustees.

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. Amends Section 23.51, Tax Code, by amending Subdivisions (1) and (7) and adding Subdivision (8), as follows:

- (1) Adds a provision to the definition of "Qualified open-space land" to clarify that land identified in new paragraphs Subdivision (7)(B) and (C) of this Section are considered "Qualified open-space land" regardless of how it was used in the past.

(7)(B) Adds paragraph (B) to include land that is used to protect an endangered species under a federal permit in a habitat preserve and is subject to a conservation easement created under Chapter 183, Natural Resources Code, or other law that restricts the use of the land in order to accomplish that purpose in the definition of "Wildlife management."

(7)(C) Adds paragraph (C) to include land that is used to compensate for natural resource damages pursuant to Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C.A., Section 9601, et seq., the Oil Pollution Act (OPA), 33 U.S.C.A. Section 2701, et seq., the Clean Water Act (CWA), 33 U.S.C.A. Section 1251, et seq., or the Texas Oil Spill Prevention and Response Act (OSPRA), Natural Resources Code Section 40.001, et seq.

(8) Assigns "Endangered Species," "federal permit," and "habitat preserve" the meanings provided in Section 83.011, Parks and Wildlife Code.

SECTION 2. Makes technical corrections to Section 23.521(b), Tax Code, which addresses factors that may require a tract of land be a specified minimum size to qualify under the amended Section 23.51(7)(A) for appraisal under this subchapter.

SECTION 3. Repeals Section 23.225, Tax Code, APPRAISAL OF LAND INCLUDED IN HABITAT PRESERVE AND SUBJECT TO CONSERVATION EASEMENT.

SECTION 4. Clarifies that this Act only applies to land appraisal for ad valorem tax purposes for a tax year on or after the effective date.

SECTION 5. Effective date: January 1, 2008.

EFFECTIVE DATE

The effective date is January 1, 2008, or immediately if approved by two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution.

COMPARISON OF ORIGINAL TO SUBSTITUTE

SECTION 1. The provisions of both H.B. 604 and C.S.H.B. 604 are the same, except that C.S.H.B. adds paragraph (C) to Subdivision (7) of Section 23.51, Tax Code, to also include land that is used to compensate for natural resource damages pursuant to Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C.A., Section 9601, et seq., the Oil Pollution Act (OPA), 33 U.S.C.A. Section 2701, et seq., the Clean Water Act (CWA), 33 U.S.C.A. Section 1251, et seq., or the Texas Oil Spill Prevention and Response Act (OSPRA), Natural Resources Code Section 40.001, et seq.

SECTION 2. No change between H.B. 604 and C.S.H.B. 604

SECTION 3. No change between H.B. 604 and C.S.H.B. 604

SECTION 4. No change between H.B. 604 and C.S.H.B. 604

SECTION 5. No change between H.B. 604 and C.S.H.B. 604