

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Howard of Travis

H.B. No. 604

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the appraisal for ad valorem tax purposes of certain  
3 land used for wildlife management under a conservation easement.

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

5 SECTION 1. Section 23.51, Tax Code, is amended by amending  
6 Subdivisions (1) and (7) and adding Subdivision (8) to read as  
7 follows:

8 (1) "Qualified open-space land" means land that is  
9 currently devoted principally to agricultural use to the degree of  
10 intensity generally accepted in the area and that has been devoted  
11 principally to agricultural use or to production of timber or  
12 forest products for five of the preceding seven years or land that  
13 is used principally as an ecological laboratory by a public or  
14 private college or university. Qualified open-space land includes  
15 all appurtenances to the land. For the purposes of this  
16 subdivision, appurtenances to the land means private roads, dams,  
17 reservoirs, water wells, canals, ditches, terraces, and other  
18 reshapings of the soil, fences, and riparian water rights.  
19 Notwithstanding the other provisions of this subdivision, land that  
20 is currently devoted principally to wildlife management as defined  
21 by Subdivision (7)(B) or (C) to the degree of intensity generally  
22 accepted in the area qualifies for appraisal as qualified  
23 open-space land under this subchapter regardless of the manner in  
24 which the land was used in any preceding year.

1 (7) "Wildlife management" means:

2 (A) actively using land that at the time the  
3 wildlife-management use began was appraised as qualified  
4 open-space land under this subchapter in at least three of the  
5 following ways to propagate a sustaining breeding, migrating, or  
6 wintering population of indigenous wild animals for human use,  
7 including food, medicine, or recreation:

8 (i) [~~A~~] habitat control;

9 (ii) [~~B~~] erosion control;

10 (iii) [~~C~~] predator control;

11 (iv) [~~D~~] providing supplemental supplies  
12 of water;

13 (v) [~~E~~] providing supplemental supplies  
14 of food;

15 (vi) [~~F~~] providing shelters; and

16 (vii) [~~G~~] making of census counts to  
17 determine population;

18 (B) actively using land to protect an endangered  
19 species under a federal permit if the land is included in a habitat  
20 preserve and is subject to a conservation easement created under  
21 Chapter 183, Natural Resources Code, or other law that restricts  
22 the use of the land to accomplish that purpose; or

23 (C) actively using land for a conservation or  
24 restoration project to provide compensation for natural resource  
25 damages pursuant to the Comprehensive Environmental Response,  
26 Compensation, and Liability Act of 1980 (42 U.S.C. Section 9601 et  
27 seq.), the Oil Pollution Act of 1990 (33 U.S.C. Section 2701 et

1 seq.), the Federal Water Pollution Control Act (33 U.S.C. Section  
2 1251 et seq.), or Chapter 40, Natural Resources Code.

3 (8) "Endangered species," "federal permit," and  
4 "habitat preserve" have the meanings assigned by Section 83.011,  
5 Parks and Wildlife Code.

6 SECTION 2. Section 23.521(b), Tax Code, is amended to read  
7 as follows:

8 (b) The standards adopted under Subsection (a) may require  
9 that a tract of land be a specified minimum size to qualify under  
10 Section 23.51(7)(A) [~~23.51(7)~~] for appraisal under this  
11 subchapter, taking into consideration one or more of the following  
12 factors:

13 (1) the activities listed in Section 23.51(7)(A)  
14 [~~23.51(7)~~];

15 (2) the type of indigenous wild animal population the  
16 land is being used to propagate;

17 (3) the region in this state in which the land is  
18 located; and

19 (4) any other factor the Parks and Wildlife Department  
20 determines is relevant.

21 SECTION 3. Section 23.225, Tax Code, is repealed.

22 SECTION 4. This Act applies only to the appraisal of land  
23 for ad valorem tax purposes for a tax year that begins on or after  
24 the effective date of this Act.

25 SECTION 5. This Act takes effect January 1, 2008.

# ADOPTED

MAY 17 2007

*Lotay Spaul*  
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY:

*F. J. ...*  
(Negar)

1 Amend H.B. No. 604 (Senate Committee Printing) in SECTION 1  
2 of the bill, in amended Subdivision (7), Section 23.51, Tax Code, by  
3 striking proposed Paragraph (B) of the subdivision (page 1, lines  
4 49 through 53) and substituting the following:

5 (B) actively using land to protect federally  
6 listed endangered species under a federal permit if the land is:

7 (i) included in a habitat preserve and is  
8 subject to a conservation easement created under Chapter 183,  
9 Natural Resources Code; or

10 (ii) part of a conservation development  
11 under a federally approved habitat conservation plan that restricts  
12 the use of the land to protect federally listed endangered species;  
13 or

9  
1

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 3, 2007**

**TO:** Honorable Kip Averitt, Chair, Senate Committee on Natural Resources

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB604** by Howard, Donna (Relating to the appraisal for ad valorem tax purposes of certain land used for wildlife management under a conservation easement.), **As Engrossed**

Passage of the bill would lower the appraisal of property converted to wildlife management land without the current requirement of being appraised as qualified open-space land at the time the land is converted to wildlife management use. As a result, taxable property values could be reduced and the related costs to the Foundation School Fund could be increased.

The bill would amend Section 23.51 of the Tax Code to allow certain land to qualify for appraisal as wildlife management land without the current requirement of being appraised as qualified open-space land at the time the land is converted to wildlife management use.

The bill would include as a wildlife management use, actively using land to protect an endangered species under a federal permit if the land is included in a habitat preserve and is subject to a conservation easement that restricts the use of the land to protect an endangered species.

The proposed new class of wildlife management land would not be subject to minimum size requirements as determined by Comptroller rule.

The bill would repeal Section 23.225 of the Tax Code to remove current language that requires the chief appraiser to consider the effects of restrictions on land use relating to conservation easements and the preservation of endangered species when determining the value of the land.

Because the state is constitutionally prohibited from imposing a state property tax, there would be no direct fiscal impact on the state; however, Section 403.302 of the Government Code requires the Comptroller to conduct a property value study to determine the total taxable value for each school district. Total taxable value is an element in the state's school funding formula. Passage of this bill could cause a change in school district taxable values reported to the Commissioner of Education by the Comptroller.

Under current law, to qualify for agricultural appraisal under the wildlife management use, land must be qualified for agricultural appraisal under Chapter 23, Subchapter D, Tax Code (also called 1-d-1, or open space agricultural appraisal) at the time the owner changes use to wildlife management. The land must have been qualified and appraised as agricultural land during the year before the year the owner changes to the wildlife management use. For example, an owner who wishes to qualify for wildlife management use in 2007 must be able to show that the land was qualified for and appraised as agricultural land in 2006.

Currently, wildlife management use is a revenue neutral use of land. The owner who switches from another agricultural use to wildlife management use must pay the same amount of property taxes that would have been paid if the land had remained in its former agricultural use. Passage of this bill would result in an undetermined amount of acreage being appraised at an undefined productivity value after being appraised at a higher market value in the preceding year and could result in a loss of revenue to taxing units where the described land is located, if the owner elected to actively use the land to protect an endangered species.

The amount of loss would depend on the taxable (market) value of the land in the year preceding conversion to the wildlife management use and the taxable (productivity) value assigned to the land by the appraisal district based on the wildlife management use. The potential amount of revenue loss could also be determined by language in the bill concerning "other law that restricts the use of the land in order to accomplish that purpose." Subsequent state and federal laws could expand the application of the bill. The bill is silent on the methodology to be used in appraising the proposed class of land based on the wildlife management use.

The Comptroller's Property Tax Division does not receive or maintain information from appraisal districts or taxing units that would be helpful in determining the fiscal impact of this bill.

This bill would take effect January 1, 2008.

### **Local Government Impact**

Passage of the bill would lower the appraisal of certain property converted to wildlife management land. As a result, taxable property values and the related ad valorem tax revenue for units of local government could be reduced.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** JOB, DB, CT, SD, SJS

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**March 14, 2007**

**TO:** Honorable Fred Hill, Chair, House Committee on Local Government Ways & Means

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB604** by Howard, Donna (Relating to the appraisal for ad valorem tax purposes of certain land used for wildlife management under a conservation easement.), **Committee Report 1st House, Substituted**

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**LBB Staff:** JOB, CT, SD, SJS



**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**March 9, 2007**

**TO:** Honorable Fred Hill, Chair, House Committee on Local Government Ways & Means

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB604** by Howard, Donna (Relating to the appraisal for ad valorem tax purposes of certain land used for wildlife management under a conservation easement.), **As Introduced**

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