

BILL ANALYSIS

S.B. 1044
By: Watson
Land & Resource Management
Committee Report (Unamended)

BACKGROUND AND PURPOSE

As Texas farmers and ranchers face escalating costs and encroaching development, it is becoming increasingly difficult for landowners to continue using their land for agricultural production, when selling their land to developers is often a more lucrative option. This is also the case in public areas such as state parks, and for landowners who desire to implement sound land use and management practices.

The Texas Farm and Ranch Lands Conservation Program (TFRLCP) was created by the 79th Legislature as a voluntary program to provide funds for agricultural conservation easements to help willing landowners maintain ownership of their agricultural land while protecting the state's open spaces and natural resources for future generations. Under an agricultural conservation easement, a landowner is paid to sell development rights to a qualified easement holder in order to protect and maintain the land in its natural state. As a result, natural habitat is preserved and along with its preservation comes a healthy wildlife population, water quality protection, and maintenance of open space.

Participation in TFRLCP is voluntary, and the state does not purchase or acquire any property interest through this program. Participating landowners and organizations or local governments qualified to hold agricultural conservation easements jointly apply for funding from the program.

TFRLCP may only provide funding for 50 percent of a project. The project applicant is required to provide the other 50 percent of project funding through partnerships, whether landowner donations, local government support, or donations from organizations such as the Federal Farm and Ranchlands Protection Program. TFRLCP has not been appropriated any state funds and the only current source of funding for TFRLCP is through federal grants under the Coastal Impact Assistance Program (CIAP). In most cases, federal funds cannot be used to match with other federal funds so locating a non-federal match for CIAP funds has been a challenge for this program. To date, the Texas Farm and Ranch Lands Conservation Council (council) has only been able to approve one project.

It is unclear under current law whether a county may issue a debt instrument to help finance the acquisition of a conservation easement since the county would not hold full title to the land. Current law also does not clearly authorize a county as a qualified easement holder under TFRLCP.

S.B. 1044 would allow the council to determine a project's match requirements. The bill clarifies that a county is eligible to participate as partner in the TFRCLP, and clarifies that counties may use bond proceeds to finance the purchase of a conservation easement.

As proposed, S.B. 1044 amends current law relating to authorizing counties to finance the acquisition of conservation easements.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 183, Natural Resources Code, by adding Section 183.006, as follows:

Sec. 183.006. COUNTY FINANCING FOR ACQUISITION OF CONSERVATION REPORT. (a) Authorizes a county, in addition to other methods of financing, including the use of the county's general fund, to finance the acquisition of a conservation easement under this chapter in the same manner as permitted for that county under Section 331.004 (Bonds and Taxes), Local Government Code, for the acquisition or improvement of land, buildings, or historically significant objects for park purposes or for historic or prehistoric preservation purposes, or Section 271.045 (Purposes for Which Certificates May be Authorized), Local Government Code, for land and rights-of-way.

(b) Provides that a conservation easement under this section is prohibited from being acquired by eminent domain and is not subject to Section 331.007 (Public Use), Local Government Code.

SECTION 2. Amends Section 183.052(8), Natural Resources Code, to redefine "qualified easement holder."

SECTION 3. Amends Section 183.059(b), Natural Resources Code, as follows:

(b) Requires an applicant who is qualified to be an easement holder under this subchapter, to receive a grant from the fund under this subchapter, to submit an application to the Texas Farm and Ranch Lands Conservation Council (council). Requires that the application:

- (1) set out the parties' clear conservation goals consistent with the program;
- (2) include a site-specific estimate-of-value appraisal by a licensed appraiser qualified to determine the market value of the easement; and
- (3) include a memorandum of understanding by the landowner and the applicant indicating intent to sell an agricultural conservation easement and containing the terms of the contract for the sale of the easement. Deletes existing text requiring the application to demonstrate that the applicant is able to match 50 percent of the amount of the grant being sought, considering that the council may choose to allow a donation of part of the appraised value of the easement to be considered as in-kind matching funds. Makes nonsubstantive changes.

SECTION 4. Effective date: upon passage or September 1, 2011.

EFFECTIVE DATE

Upon passage or September 1, 2011.