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S.B. No. 449

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the appraisal for ad valorem tax purposes of open-space  
3 land devoted to water stewardship purposes on the basis of its  
4 productive capacity.

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

6 SECTION 1. Section 23.51, Tax Code, is amended by amending  
7 Subdivision (2) and adding Subdivision (9) to read as follows:

8 (2) "Agricultural use" includes but is not limited to  
9 the following activities: cultivating the soil, producing crops for  
10 human food, animal feed, or planting seed or for the production of  
11 fibers; floriculture, viticulture, and horticulture; raising or  
12 keeping livestock; raising or keeping exotic animals for the  
13 production of human food or of fiber, leather, pelts, or other  
14 tangible products having a commercial value; planting cover crops  
15 or leaving land idle for the purpose of participating in a  
16 governmental program, provided the land is not used for residential  
17 purposes or a purpose inconsistent with agricultural use; and  
18 planting cover crops or leaving land idle in conjunction with  
19 normal crop or livestock rotation procedure. The term also  
20 includes the use of land to produce or harvest logs and posts for  
21 the use in constructing or repairing fences, pens, barns, or other  
22 agricultural improvements on adjacent qualified open-space land  
23 having the same owner and devoted to a different agricultural use.  
24 The term also includes the use of land for wildlife management or

1 water stewardship.

2 (9) "Water stewardship" means actively using land that  
3 at the time the water-stewardship use began was appraised as  
4 qualified open-space land under this subchapter or as qualified  
5 timber land under Subchapter E in at least three of the following  
6 ways to promote and sustain water quality and conservation of water  
7 resources:

8 (A) erosion control;

9 (B) habitat stewardship benefiting water quality  
10 or conservation;

11 (C) restoration of native aquatic and riparian  
12 animal and plant species;

13 (D) implementation of practices that result in a  
14 reduction of the amount of water used from a well that is exempt  
15 from permitting under Section 36.117(b)(1), Water Code;

16 (E) riparian and wetland habitat and buffer  
17 restoration and protection;

18 (F) allowance of groundwater and surface water  
19 monitoring for data collection purposes in accordance with state  
20 water planning or groundwater management area planning;

21 (G) invasive aquatic plant and animal control;

22 (H) maintaining a water right on deposit in the  
23 Texas Water Trust in accordance with Section 15.7031, Water Code,  
24 if the source of supply or point of diversion is located on land  
25 that at the time the water right was deposited was appraised as  
26 qualified open-space land under this subchapter or as qualified  
27 timber land under Subchapter E; and

1           (I) holding a water right that authorizes the use  
2 of water for instream flows dedicated to environmental needs or bay  
3 and estuary inflows as provided by Section 11.0237, Water Code, if  
4 the source of supply or point of diversion is located on land that,  
5 at the time the water right was amended to authorize that use, was  
6 appraised as qualified open-space land under this subchapter or as  
7 qualified timber land under Subchapter E.

8           SECTION 2. Subsection (g), Section 23.52, Tax Code, is  
9 amended to read as follows:

10           (g) The category of land that qualifies under Section  
11 23.51(7) or (9) is the category of the land under this subchapter or  
12 Subchapter E, as applicable, before the wildlife-management use or  
13 water-stewardship use, as applicable, began.

14           SECTION 3. Subchapter D, Chapter 23, Tax Code, is amended by  
15 adding Section 23.5215 to read as follows:

16           Sec. 23.5215. STANDARDS FOR QUALIFICATION OF LAND FOR  
17 APPRAISAL BASED ON WATER-STEWARDSHIP USE. (a) The Parks and  
18 Wildlife Department, with the assistance of the comptroller, shall  
19 develop standards for determining whether land qualifies under  
20 Section 23.51(9) for appraisal under this subchapter. On request  
21 of the Parks and Wildlife Department or the comptroller, the Texas  
22 AgriLife Extension Service shall assist the department and the  
23 comptroller in developing the standards. The comptroller shall  
24 designate one chief appraiser from a rural area of this state and  
25 one chief appraiser from an urban area of this state to assist in  
26 the development of the standards. The comptroller by rule shall  
27 adopt the standards developed by the Parks and Wildlife Department

1 or adopt alternative standards and distribute those rules to each  
2 appraisal district.

3 (b) The standards adopted under Subsection (a) must:

4 (1) require that a tract of land:

5 (A) be at least a specified minimum size and not  
6 more than a specified maximum size as necessary to accomplish the  
7 water-stewardship use; and

8 (B) possess specific water-related attributes  
9 based on the intensity of use of the land and other requirements  
10 relating to the productivity of the land;

11 (2) require that the owner of the land hold a water  
12 right that authorizes the use of a specified minimum amount of water  
13 for instream flows dedicated to environmental needs or bay and  
14 estuary inflows for the land to qualify under Section 23.51(9)(I)  
15 for appraisal under this subchapter;

16 (3) specify the degree to which the land may be  
17 developed without becoming ineligible under Section 23.56(b) for  
18 appraisal as provided by this subchapter on the basis of use for  
19 water stewardship; and

20 (4) address:

21 (A) the activities listed in Section 23.51(9);

22 (B) the region in this state in which the land is  
23 located; and

24 (C) any other factor the Parks and Wildlife  
25 Department or the comptroller determines is relevant.

26 (c) The standards adopted under Subsection (a) must limit  
27 eligibility of a tract of land for appraisal under this subchapter

1 on the basis of use for water stewardship to the portion of the  
2 tract of land that is currently devoted principally to use for that  
3 purpose.

4 (d) The standards adopted under Subsection (a) may include  
5 specifications for a written management plan to be developed by a  
6 landowner if the landowner receives a request for a written  
7 management plan from a chief appraiser as part of a request for  
8 additional information under Section 23.57.

9 (e) In determining whether land qualifies under Section  
10 23.51(9) for appraisal under this subchapter, the chief appraiser  
11 and the appraisal review board shall apply the standards adopted  
12 under Subsection (a) and, to the extent they do not conflict with  
13 those standards, the appraisal manuals developed and distributed  
14 under Section 23.52(d).

15 SECTION 4. Section 23.56, Tax Code, is amended to read as  
16 follows:

17 Sec. 23.56. LAND INELIGIBLE FOR APPRAISAL AS OPEN-SPACE  
18 LAND. (a) Land is not eligible for appraisal as provided by this  
19 subchapter if:

20 (1) the land is located inside the corporate limits of  
21 an incorporated city or town, unless:

22 (A) the city or town is not providing the land  
23 with governmental and proprietary services substantially  
24 equivalent in standard and scope to those services it provides in  
25 other parts of the city or town with similar topography, land  
26 utilization, and population density;

27 (B) the land has been devoted principally to

1 agricultural use continuously for the preceding five years; or

2 (C) the land:

3 (i) has been devoted principally to  
4 agricultural use or to production of timber or forest products  
5 continuously for the preceding five years; and

6 (ii) is used for wildlife management or  
7 water stewardship;

8 (2) the land is owned by an individual who is a  
9 nonresident alien or by a foreign government if that individual or  
10 government is required by federal law or by rule adopted pursuant to  
11 federal law to register his ownership or acquisition of that  
12 property; or

13 (3) the land is owned by a corporation, partnership,  
14 trust, or other legal entity if the entity is required by federal  
15 law or by rule adopted pursuant to federal law to register its  
16 ownership or acquisition of that land and a nonresident alien or a  
17 foreign government or any combination of nonresident aliens and  
18 foreign governments own a majority interest in the entity.

19 (b) Land is not eligible for appraisal as provided by this  
20 subchapter on the basis of use for water stewardship if:

21 (1) the land was appraised as qualified open-space  
22 land under this subchapter at the time the water-stewardship use  
23 began and the land is developed to a degree that precludes the land  
24 from eligibility for appraisal under this subchapter on a basis  
25 other than use for water stewardship; or

26 (2) the land was appraised as qualified timber land  
27 under Subchapter E at the time the water-stewardship use began and

1 the land is developed to a degree that precludes the land from  
2 eligibility for appraisal under that subchapter.

3 SECTION 5. Subsection (a), Section 23.60, Tax Code, is  
4 amended to read as follows:

5 (a) An owner of qualified open-space land, other than land  
6 used for wildlife management or water stewardship, on which the  
7 Texas Animal Health Commission has established a temporary  
8 quarantine of at least 90 days in length in the current tax year for  
9 the purpose of regulating the handling of livestock and eradicating  
10 ticks or exposure to ticks at any time during a tax year is entitled  
11 to a reappraisal of the owner's land for that year on written  
12 request delivered to the chief appraiser.

13 SECTION 6. (a) As soon as practicable after the effective  
14 date of this Act, the Parks and Wildlife Department, with the  
15 assistance of the comptroller of public accounts, shall develop the  
16 standards required by Section 23.5215, Tax Code, as added by this  
17 Act. As soon as practicable after those standards are developed,  
18 the comptroller by rule shall adopt those standards or adopt  
19 alternative standards and distribute those rules to each appraisal  
20 district as required by that section. The rules apply only to tax  
21 years beginning after the tax year in which the rules are adopted  
22 and distributed.

23 (b) This Act applies only to the appraisal of land for ad  
24 valorem tax purposes for a tax year that begins after the tax year  
25 in which the comptroller of public accounts adopts the rules  
26 described by Subsection (a) of this section and distributes those  
27 rules to each appraisal district.

1           SECTION 7. This Act takes effect January 1, 2012, but only  
2 if the constitutional amendment proposed by the 82nd Legislature,  
3 Regular Session, 2011, providing for the appraisal for ad valorem  
4 tax purposes of open-space land devoted to water stewardship  
5 purposes on the basis of its productive capacity is approved by the  
6 voters. If that amendment is not approved by the voters, this Act  
7 has no effect.