

By: Watson, Estes

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:

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

8 (i) erosion control;

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

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

13 (iv) implementation of water-efficient
14 irrigation practices;

15 (v) riparian and wetland habitat and buffer
16 restoration and protection;

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

20 (vii) invasive aquatic plant and animal
21 control;

22 (B) 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; or

1 (C) 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. Section 23.52(g), Tax Code, is amended to read as
9 follows:

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

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

17 Sec. 23.5215. STANDARDS FOR QUALIFICATION OF LAND FOR
18 APPRAISAL BASED ON WATER-STEWARDSHIP USE. (a) The State Soil and
19 Water Conservation Board, with the assistance of the comptroller,
20 shall develop standards for determining whether land qualifies
21 under Section 23.51(9) for appraisal under this subchapter. The
22 comptroller by rule shall adopt the standards developed by the
23 State Soil and Water Conservation Board and distribute those rules
24 to each appraisal district. On request of the State Soil and Water
25 Conservation Board, the Texas AgriLife Extension Service shall
26 assist the board in developing the standards.

27 (b) The standards adopted under Subsection (a) may require

1 that a tract of land be a specified minimum size or contain specific
2 water-related attributes or that the owner of the land hold water
3 rights authorizing appropriation of a specified minimum amount of
4 water from a source of supply or point of diversion located on the
5 land for the land to qualify under Section 23.51(9) for appraisal
6 under this subchapter, taking into consideration one or more of the
7 following factors:

8 (1) the activities listed in Section 23.51(9);

9 (2) the region in this state in which the land is
10 located; and

11 (3) any other factor the State Soil and Water
12 Conservation Board determines is relevant.

13 (c) The standards adopted under Subsection (a) may include
14 specifications for a written management plan to be developed by a
15 landowner if the landowner receives a request for a written
16 management plan from a chief appraiser as part of a request for
17 additional information under Section 23.57.

18 (d) In determining whether land qualifies under Section
19 23.51(9) for appraisal under this subchapter, the chief appraiser
20 and the appraisal review board shall apply the standards adopted
21 under Subsection (a) and, to the extent they do not conflict with
22 those standards, the appraisal manuals developed and distributed
23 under Section 23.52(d).

24 SECTION 4. Section 23.56, Tax Code, is amended to read as
25 follows:

26 Sec. 23.56. LAND INELIGIBLE FOR APPRAISAL AS OPEN-SPACE
27 LAND. (a) Land is not eligible for appraisal as provided by this

1 subchapter if:

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

4 (A) the city or town is not providing the land
5 with governmental and proprietary services substantially
6 equivalent in standard and scope to those services it provides in
7 other parts of the city or town with similar topography, land
8 utilization, and population density;

9 (B) the land has been devoted principally to
10 agricultural use continuously for the preceding five years; or

11 (C) the land:

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

15 (ii) is used for wildlife management or
16 water stewardship;

17 (2) the land is owned by an individual who is a
18 nonresident alien or by a foreign government if that individual or
19 government is required by federal law or by rule adopted pursuant to
20 federal law to register his ownership or acquisition of that
21 property; or

22 (3) the land is owned by a corporation, partnership,
23 trust, or other legal entity if the entity is required by federal
24 law or by rule adopted pursuant to federal law to register its
25 ownership or acquisition of that land and a nonresident alien or a
26 foreign government or any combination of nonresident aliens and
27 foreign governments own a majority interest in the entity.

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

3 (1) the land was appraised as qualified open-space
4 land under this subchapter at the time the water-stewardship use
5 began and the land is developed to a degree that precludes the land
6 from eligibility for appraisal under this subchapter on a basis
7 other than use for water stewardship; or

8 (2) the land was appraised as qualified timber land
9 under Subchapter E at the time the water-stewardship use began and
10 the land is developed to a degree that precludes the land from
11 eligibility for appraisal under that subchapter.

12 SECTION 5. Section 23.60(a), Tax Code, is amended to read as
13 follows:

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

22 SECTION 6. (a) This Act applies only to the appraisal of
23 land for ad valorem tax purposes for a tax year that begins on or
24 after the effective date of this Act.

25 (b) As soon as practicable after the effective date of this
26 Act the State Soil and Water Conservation Board, with the
27 assistance of the comptroller, shall develop the standards required

1 by Section 23.5215, Tax Code, as added by this Act. As soon as
2 practicable after those standards are developed, the comptroller by
3 rule shall adopt those standards and distribute those rules to each
4 appraisal district as required by that section. The rules apply
5 only to tax years beginning on or after the effective date of this
6 Act.

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