

1-1 By: Watson, Estes, Seliger S.B. No. 449
1-2 (In the Senate - Filed January 31, 2011; February 2, 2011,
1-3 read first time and referred to Committee on Finance;
1-4 April 6, 2011, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 14, Nays 0; April 6, 2011,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 449 By: Estes

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the appraisal for ad valorem tax purposes of open-space
1-11 land devoted to water stewardship purposes on the basis of its
1-12 productive capacity.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Section 23.51, Tax Code, is amended by amending
1-15 Subdivision (2) and adding Subdivision (9) to read as follows:

1-16 (2) "Agricultural use" includes but is not limited to
1-17 the following activities: cultivating the soil, producing crops for
1-18 human food, animal feed, or planting seed or for the production of
1-19 fibers; floriculture, viticulture, and horticulture; raising or
1-20 keeping livestock; raising or keeping exotic animals for the
1-21 production of human food or of fiber, leather, pelts, or other
1-22 tangible products having a commercial value; planting cover crops
1-23 or leaving land idle for the purpose of participating in a
1-24 governmental program, provided the land is not used for residential
1-25 purposes or a purpose inconsistent with agricultural use; and
1-26 planting cover crops or leaving land idle in conjunction with
1-27 normal crop or livestock rotation procedure. The term also
1-28 includes the use of land to produce or harvest logs and posts for
1-29 the use in constructing or repairing fences, pens, barns, or other
1-30 agricultural improvements on adjacent qualified open-space land
1-31 having the same owner and devoted to a different agricultural use.
1-32 The term also includes the use of land for wildlife management or
1-33 water stewardship.

1-34 (9) "Water stewardship" means actively using land that
1-35 at the time the water-stewardship use began was appraised as
1-36 qualified open-space land under this subchapter or as qualified
1-37 timber land under Subchapter E in at least three of the following
1-38 ways to promote and sustain water quality and conservation of water
1-39 resources:

1-40 (A) erosion control;

1-41 (B) habitat stewardship benefiting water quality
1-42 or conservation;

1-43 (C) restoration of native aquatic and riparian
1-44 animal and plant species;

1-45 (D) implementation of practices that result in a
1-46 reduction of the amount of water used from a well that is exempt
1-47 from permitting under Section 36.117(b)(1), Water Code;

1-48 (E) riparian and wetland habitat and buffer
1-49 restoration and protection;

1-50 (F) allowance of groundwater and surface water
1-51 monitoring for data collection purposes in accordance with state
1-52 water planning or groundwater management area planning;

1-53 (G) invasive aquatic plant and animal control;

1-54 (H) maintaining a water right on deposit in the
1-55 Texas Water Trust in accordance with Section 15.7031, Water Code,
1-56 if the source of supply or point of diversion is located on land
1-57 that at the time the water right was deposited was appraised as
1-58 qualified open-space land under this subchapter or as qualified
1-59 timber land under Subchapter E; and

1-60 (I) holding a water right that authorizes the use
1-61 of water for instream flows dedicated to environmental needs or bay
1-62 and estuary inflows as provided by Section 11.0237, Water Code, if
1-63 the source of supply or point of diversion is located on land that,
1-64 at the time the water right was amended to authorize that use, was
1-65 appraised as qualified open-space land under this subchapter or as
1-66 qualified timber land under Subchapter E.

2-1 SECTION 2. Subsection (g), Section 23.52, Tax Code, is
2-2 amended to read as follows:

2-3 (g) The category of land that qualifies under Section
2-4 23.51(7) or (9) is the category of the land under this subchapter or
2-5 Subchapter E, as applicable, before the wildlife-management use or
2-6 water-stewardship use, as applicable, began.

2-7 SECTION 3. Subchapter D, Chapter 23, Tax Code, is amended by
2-8 adding Section 23.5215 to read as follows:

2-9 Sec. 23.5215. STANDARDS FOR QUALIFICATION OF LAND FOR
2-10 APPRAISAL BASED ON WATER-STEWARDSHIP USE. (a) The Parks and
2-11 Wildlife Department, with the assistance of the comptroller, shall
2-12 develop standards for determining whether land qualifies under
2-13 Section 23.51(9) for appraisal under this subchapter. On request
2-14 of the Parks and Wildlife Department or the comptroller, the Texas
2-15 AgriLife Extension Service shall assist the department and the
2-16 comptroller in developing the standards. The comptroller shall
2-17 designate one chief appraiser from a rural area of this state and
2-18 one chief appraiser from an urban area of this state to assist in
2-19 the development of the standards. The comptroller by rule shall
2-20 adopt the standards developed by the Parks and Wildlife Department
2-21 or adopt alternative standards and distribute those rules to each
2-22 appraisal district.

2-23 (b) The standards adopted under Subsection (a) must:

2-24 (1) require that a tract of land:

2-25 (A) be at least a specified minimum size and not
2-26 more than a specified maximum size as necessary to accomplish the
2-27 water-stewardship use; and

2-28 (B) possess specific water-related attributes
2-29 based on the intensity of use of the land and other requirements
2-30 relating to the productivity of the land;

2-31 (2) require that the owner of the land hold a water
2-32 right that authorizes the use of a specified minimum amount of water
2-33 for instream flows dedicated to environmental needs or bay and
2-34 estuary inflows for the land to qualify under Section 23.51(9)(I)
2-35 for appraisal under this subchapter;

2-36 (3) specify the degree to which the land may be
2-37 developed without becoming ineligible under Section 23.56(b) for
2-38 appraisal as provided by this subchapter on the basis of use for
2-39 water stewardship; and

2-40 (4) address:

2-41 (A) the activities listed in Section 23.51(9);

2-42 (B) the region in this state in which the land is
2-43 located; and

2-44 (C) any other factor the Parks and Wildlife
2-45 Department or the comptroller determines is relevant.

2-46 (c) The standards adopted under Subsection (a) must limit
2-47 eligibility of a tract of land for appraisal under this subchapter
2-48 on the basis of use for water stewardship to the portion of the
2-49 tract of land that is currently devoted principally to use for that
2-50 purpose.

2-51 (d) The standards adopted under Subsection (a) may include
2-52 specifications for a written management plan to be developed by a
2-53 landowner if the landowner receives a request for a written
2-54 management plan from a chief appraiser as part of a request for
2-55 additional information under Section 23.57.

2-56 (e) In determining whether land qualifies under Section
2-57 23.51(9) for appraisal under this subchapter, the chief appraiser
2-58 and the appraisal review board shall apply the standards adopted
2-59 under Subsection (a) and, to the extent they do not conflict with
2-60 those standards, the appraisal manuals developed and distributed
2-61 under Section 23.52(d).

2-62 SECTION 4. Section 23.56, Tax Code, is amended to read as
2-63 follows:

2-64 Sec. 23.56. LAND INELIGIBLE FOR APPRAISAL AS OPEN-SPACE
2-65 LAND. (a) Land is not eligible for appraisal as provided by this
2-66 subchapter if:

2-67 (1) the land is located inside the corporate limits of
2-68 an incorporated city or town, unless:

2-69 (A) the city or town is not providing the land
2-70 with governmental and proprietary services substantially
2-71 equivalent in standard and scope to those services it provides in

3-1 other parts of the city or town with similar topography, land
3-2 utilization, and population density;

3-3 (B) the land has been devoted principally to
3-4 agricultural use continuously for the preceding five years; or

3-5 (C) the land:
3-6 (i) has been devoted principally to
3-7 agricultural use or to production of timber or forest products
3-8 continuously for the preceding five years; and

3-9 (ii) is used for wildlife management or
3-10 water stewardship;

3-11 (2) the land is owned by an individual who is a
3-12 nonresident alien or by a foreign government if that individual or
3-13 government is required by federal law or by rule adopted pursuant to
3-14 federal law to register his ownership or acquisition of that
3-15 property; or

3-16 (3) the land is owned by a corporation, partnership,
3-17 trust, or other legal entity if the entity is required by federal
3-18 law or by rule adopted pursuant to federal law to register its
3-19 ownership or acquisition of that land and a nonresident alien or a
3-20 foreign government or any combination of nonresident aliens and
3-21 foreign governments own a majority interest in the entity.

3-22 (b) Land is not eligible for appraisal as provided by this
3-23 subchapter on the basis of use for water stewardship if:

3-24 (1) the land was appraised as qualified open-space
3-25 land under this subchapter at the time the water-stewardship use
3-26 began and the land is developed to a degree that precludes the land
3-27 from eligibility for appraisal under this subchapter on a basis
3-28 other than use for water stewardship; or

3-29 (2) the land was appraised as qualified timber land
3-30 under Subchapter E at the time the water-stewardship use began and
3-31 the land is developed to a degree that precludes the land from
3-32 eligibility for appraisal under that subchapter.

3-33 SECTION 5. Subsection (a), Section 23.60, Tax Code, is
3-34 amended to read as follows:

3-35 (a) An owner of qualified open-space land, other than land
3-36 used for wildlife management or water stewardship, on which the
3-37 Texas Animal Health Commission has established a temporary
3-38 quarantine of at least 90 days in length in the current tax year for
3-39 the purpose of regulating the handling of livestock and eradicating
3-40 ticks or exposure to ticks at any time during a tax year is entitled
3-41 to a reappraisal of the owner's land for that year on written
3-42 request delivered to the chief appraiser.

3-43 SECTION 6. (a) As soon as practicable after the effective
3-44 date of this Act, the Parks and Wildlife Department, with the
3-45 assistance of the comptroller of public accounts, shall develop the
3-46 standards required by Section 23.5215, Tax Code, as added by this
3-47 Act. As soon as practicable after those standards are developed,
3-48 the comptroller by rule shall adopt those standards or adopt
3-49 alternative standards and distribute those rules to each appraisal
3-50 district as required by that section. The rules apply only to tax
3-51 years beginning after the tax year in which the rules are adopted
3-52 and distributed.

3-53 (b) This Act applies only to the appraisal of land for ad
3-54 valorem tax purposes for a tax year that begins after the tax year
3-55 in which the comptroller of public accounts adopts the rules
3-56 described by Subsection (a) of this section and distributes those
3-57 rules to each appraisal district.

3-58 SECTION 7. This Act takes effect January 1, 2012, but only
3-59 if the constitutional amendment proposed by the 82nd Legislature,
3-60 Regular Session, 2011, providing for the appraisal for ad valorem
3-61 tax purposes of open-space land devoted to water stewardship
3-62 purposes on the basis of its productive capacity is approved by the
3-63 voters. If that amendment is not approved by the voters, this Act
3-64 has no effect.

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