

By: González

H.B. No. 2582

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the transfer of certain powers and duties related to
3 endangered species from the comptroller to the commissioner of
4 agriculture.

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

6 SECTION 1. Subchapter Q, Chapter 403, Government Code, is
7 transferred to Title 2, Agriculture Code, redesignated as Chapter
8 28, Agriculture Code, and amended to read as follows:

9 CHAPTER 28 [~~SUBCHAPTER Q~~]. SUPPORT FOR HABITAT PROTECTION MEASURES

10 Sec. 28.001 [~~403.451~~]. DEFINITIONS. In this chapter
11 [~~subchapter~~]:

12 (1) "Candidate conservation plan" means a plan to
13 implement such actions as necessary for the conservation of one or
14 more candidate species or species likely to become a candidate
15 species in the near future.

16 (2) "Candidate species" means a species identified by
17 the United States Department of the Interior as appropriate for
18 listing as threatened or endangered.

19 (3) "Endangered species," "federal permit," "habitat
20 conservation plan," and "mitigation fee" have the meanings assigned
21 by Section 83.011, Parks and Wildlife Code.

22 Sec. 28.002 [~~403.452~~]. [~~COMPTROLLER~~] POWERS AND DUTIES OF
23 COMMISSIONER. (a) To promote compliance with federal law
24 protecting endangered species and candidate species in a manner

1 consistent with this state's economic development and fiscal
2 stability, the commissioner [~~comptroller~~] may:

3 (1) develop or coordinate the development of a habitat
4 conservation plan or candidate conservation plan;

5 (2) apply for and hold a federal permit issued in
6 connection with a habitat conservation plan or candidate
7 conservation plan developed by the commissioner [~~comptroller~~] or
8 the development of which is coordinated by the commissioner
9 [~~comptroller~~];

10 (3) enter into an agreement for the implementation of
11 a candidate conservation plan with the United States Department of
12 the Interior or assist another entity in entering into such an
13 agreement;

14 (4) establish the habitat protection fund, to be held
15 by the comptroller outside the treasury and administered by the
16 commissioner, to be used to support the development or coordination
17 of the development of a habitat conservation plan or a candidate
18 conservation plan, or to pay the costs of monitoring or
19 administering the implementation of such a plan;

20 (5) impose or provide for the imposition of a
21 mitigation fee in connection with a habitat conservation plan or
22 such fees as are necessary or advisable for a candidate
23 conservation plan developed by the commissioner [~~comptroller~~] or
24 the development of which is coordinated by the commissioner
25 [~~comptroller~~]; and

26 (6) implement, monitor, or support the implementation
27 of a habitat conservation plan or candidate conservation plan

1 developed by the commissioner [~~comptroller~~] or the development of
2 which is coordinated by the commissioner [~~comptroller~~].

3 (b) The commissioner [~~comptroller~~] may solicit and accept
4 appropriations, fees under this chapter [~~subchapter~~], gifts, or
5 grants from any public or private source, including the federal
6 government, this state, a public agency, or a political subdivision
7 of this state, for deposit to the credit of the fund established
8 under this section.

9 (c) The legislature finds that expenditures described by
10 Subsection (a)(4) serve public purposes, including economic
11 development in this state.

12 (d) The commissioner [~~comptroller~~] may establish a
13 nonprofit corporation or contract with a third party to perform one
14 or more of the commissioner's [~~comptroller's~~] functions under this
15 section.

16 Sec. 28.003 [~~403.453~~]. STATE AGENCY POWERS AND DUTIES.

17 (a) Upon consideration of the factors identified in Subsection

18 (b), the commissioner [~~comptroller~~] may designate one of the
19 following agencies to undertake the functions identified in Section
20 28.002(a) [~~403.452(a)(1), (2), (3), (5), or (6)~~]:

21 (1) the comptroller's office [~~Department of~~
22 ~~Agriculture~~];

23 (2) the Parks and Wildlife Department;

24 (3) the Texas Department of Transportation;

25 (4) the State Soil and Water Conservation Board; or

26 (5) any agency receiving funds through Article VI
27 (Natural Resources) of the General Appropriations Act for the

1 2016-2017 state fiscal biennium [~~2012-2013 appropriations bill~~].

2 (b) In designating an agency pursuant to Subsection (a), the
3 commissioner [~~comptroller~~] shall consider the following factors:

4 (1) the economic sectors impacted by the species of
5 interest that will be included in the habitat conservation plan or
6 candidate conservation plan;

7 (2) the identified threats to the species of interest;
8 and

9 (3) the location of the species of interest.

10 (c) The commissioner [~~comptroller~~] may enter into a
11 memorandum of understanding or an interagency contract with any of
12 the agencies listed in this section to implement this chapter
13 [~~subchapter~~] and to provide for the use of the habitat protection
14 fund.

15 Sec. 28.004 [~~403.454~~]. CONFIDENTIAL INFORMATION.

16 Information collected under this chapter [~~subchapter~~] by an agency,
17 or an entity acting on the agency's behalf, from a private landowner
18 or other participant or potential participant in a habitat
19 conservation plan, proposed habitat conservation plan, candidate
20 conservation plan, or proposed candidate conservation plan is not
21 subject to Chapter 552, Government Code, and may not be disclosed to
22 any person, including a state or federal agency, if the information
23 relates to the specific location, species identification, or
24 quantity of any animal or plant life for which a plan is under
25 consideration or development or has been established under this
26 chapter [~~subchapter~~]. The agency may disclose information
27 described by this section only to the person who provided the

1 information unless the person consents in writing to full or
2 specified partial disclosure of the information.

3 Sec. 28.005 [~~403.455~~]. RULES. The commissioner
4 [~~comptroller~~] or agencies identified in Section 28.003 [~~403.453~~]
5 may adopt rules as necessary for the administration of this chapter
6 [~~subchapter~~].

7 SECTION 2. Section 490E.002, Government Code, is amended to
8 read as follows:

9 Sec. 490E.002. DEFINITIONS. In this chapter:

10 (1) "Commissioner" means the commissioner of
11 agriculture.

12 (2) "Endangered species" has the meaning assigned by
13 Section 68.002, Parks and Wildlife Code.

14 (3) [~~(2)~~] "Task force" means the interagency task
15 force on economic growth and endangered species created under this
16 chapter.

17 SECTION 3. Sections 490E.003(a) and (b), Government Code,
18 are amended to read as follows:

19 (a) The task force on economic growth and endangered species
20 is created and is composed of:

21 (1) the comptroller;

22 (2) the commissioner [~~of agriculture~~];

23 (3) the executive director of the Parks and Wildlife
24 Department;

25 (4) the executive director of the Texas Department of
26 Transportation; and

27 (5) the executive director of the State Soil and Water

1 Conservation Board.

2 (b) The commissioner [~~comptroller~~] is the presiding officer
3 of the task force.

4 SECTION 4. Sections 490E.005(a) and (c), Government Code,
5 are amended to read as follows:

6 (a) With the advice of the task force, the commissioner
7 [~~comptroller~~] may create advisory committees to assist the task
8 force with its work. Of the members of an advisory committee:

9 (1) one-third must be representatives of affected
10 landowners;

11 (2) one-third must be representatives of conservation
12 interests; and

13 (3) one-third must be representatives of
14 municipalities or other affected jurisdictions.

15 (c) The commissioner [~~comptroller~~] shall designate one
16 member of an advisory committee as interim presiding officer for
17 the purpose of calling and conducting the initial meeting of the
18 committee.

19 SECTION 5. Section 490E.008, Government Code, is amended to
20 read as follows:

21 Sec. 490E.008. ADMINISTRATIVE SUPPORT. The Department of
22 Agriculture [~~comptroller's office~~] shall provide administrative
23 support to the task force.

24 SECTION 6. (a) On the effective date of this Act, the
25 following are transferred from the comptroller to the commissioner
26 of agriculture:

27 (1) the powers, duties, functions, programs, and

1 activities of the comptroller under Subchapter Q, Chapter 403,
2 Government Code, as that subchapter existed immediately before the
3 effective date of this Act;

4 (2) a habitat conservation plan or candidate
5 conservation plan developed by the comptroller or the development
6 of which was coordinated by the comptroller under Subchapter Q,
7 Chapter 403, Government Code, as that subchapter existed
8 immediately before the effective date of this Act;

9 (3) any agreement with the United States Department of
10 the Interior entered into under Subchapter Q, Chapter 403,
11 Government Code, as that subchapter existed immediately before the
12 effective date of this Act;

13 (4) any nonprofit corporation established by the
14 comptroller under Subchapter Q, Chapter 403, Government Code, as
15 that subchapter existed immediately before the effective date of
16 this Act;

17 (5) any memoranda of understanding or interagency
18 contracts entered into by the comptroller under Subchapter Q,
19 Chapter 403, Government Code, as that subchapter existed
20 immediately before the effective date of this Act;

21 (6) any obligations or contracts of the comptroller
22 that are directly related to implementing a power, duty, function,
23 program, or activity transferred under this section; and

24 (7) all property and records in the custody of the
25 comptroller that are related to a power, duty, function, program,
26 or activity transferred under this section and all funds
27 appropriated by the legislature for that power, duty, function,

1 program, or activity.

2 (b) Information that was confidential under Section
3 403.454, Government Code, as that section existed immediately
4 before the effective date of this Act, remains confidential under
5 Section 28.004, Agriculture Code, as transferred, redesignated,
6 and amended by this Act.

7 (c) The rules, policies, procedures, and decisions of the
8 comptroller under Subchapter Q, Chapter 403, Government Code, as
9 that subchapter existed immediately before the effective date of
10 this Act, are continued in effect as rules, policies, procedures,
11 and decisions of the commissioner of agriculture until superseded
12 by a rule or other appropriate action of the commissioner under
13 Chapter 28, Agriculture Code, as transferred, redesignated, and
14 amended by this Act.

15 SECTION 7. (a) On the effective date of this Act, the
16 following are transferred from the comptroller to the commissioner
17 of agriculture:

18 (1) the powers, duties, functions, programs, and
19 activities of the comptroller under Chapter 490E, Government Code;

20 (2) any obligations and contracts of the comptroller
21 that are directly related to implementing a power, duty, function,
22 program, or activity transferred under this Act; and

23 (3) all property and records in the custody of the
24 comptroller that are related to a power, duty, function, program,
25 or activity transferred under this Act and all funds appropriated
26 by the legislature for that power, duty, function, program, or
27 activity.

1 (b) Any rules, policies, procedures, and decisions of the
2 comptroller under Chapter 490E, Government Code, are continued in
3 effect as rules, policies, procedures, and decisions of the
4 commissioner of agriculture until superseded by a rule or other
5 appropriate action of the commissioner.

6 SECTION 8. This Act takes effect September 1, 2015.