

By: Rodriguez, Murphy, Guillen, Zwiener

H.B. No. 97

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the eligibility of land for appraisal for ad valorem tax  
3 purposes as qualified open-space land.

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

5 SECTION 1. Sections 23.51(1) and (2), Tax Code, are amended  
6 to read as follows:

7 (1) "Qualified open-space land" means land that is  
8 currently devoted principally to agricultural use to the degree of  
9 intensity generally accepted in the area and that has been devoted  
10 principally to agricultural use or to production of timber or  
11 forest products for five of the preceding seven years or land that  
12 is used principally as an ecological laboratory by a public or  
13 private college or university and that has been used principally in  
14 that manner by a college or university for five of the preceding  
15 seven years. A chief appraiser shall distinguish between the  
16 degree of intensity required for various agricultural production  
17 methods, including organic, sustainable, pastured poultry,  
18 rotational grazing, and other uncommon production methods or  
19 systems. Qualified open-space land includes all appurtenances to  
20 the land. For the purposes of this subdivision, appurtenances to  
21 the land means private roads, dams, reservoirs, water wells,  
22 canals, ditches, terraces, and other reshaping of the soil,  
23 fences, and riparian water rights. Notwithstanding the other  
24 provisions of this subdivision, land that is currently devoted

1 principally to wildlife management as defined by Subdivision (7)(B)  
2 or (C) to the degree of intensity generally accepted in the area  
3 qualifies for appraisal as qualified open-space land under this  
4 subchapter regardless of the manner in which the land was used in  
5 any preceding year.

6 (2) "Agricultural use" includes but is not limited to  
7 the following activities: cultivating the soil, producing crops  
8 for human food, animal feed, or planting seed or for the production  
9 of fibers; producing fruits and vegetables; floriculture,  
10 viticulture, and horticulture; raising or keeping livestock;  
11 raising or keeping exotic animals for the production of human food  
12 or of fiber, leather, pelts, or other tangible products having a  
13 commercial value; planting cover crops or leaving land idle for the  
14 purpose of participating in a governmental program, provided the  
15 land is not used for residential purposes or a purpose inconsistent  
16 with agricultural use; and planting cover crops or leaving land  
17 idle in conjunction with normal crop or livestock rotation  
18 procedure. The term also includes the use of land to produce or  
19 harvest logs and posts for the use in constructing or repairing  
20 fences, pens, barns, or other agricultural improvements on adjacent  
21 qualified open-space land having the same owner and devoted to a  
22 different agricultural use. The term also includes the use of land  
23 for wildlife management. The term also includes the use of land to  
24 raise or keep bees for pollination or for the production of human  
25 food or other tangible products having a commercial value, provided  
26 that the land used is not less than 5 or more than 20 acres.

27 SECTION 2. Subchapter D, Chapter 23, Tax Code, is amended by

1 adding Section 23.5211 to read as follows:

2 Sec. 23.5211. LIMITATION ON QUALIFICATION OF CERTAIN LAND  
3 FOR APPRAISAL BASED ON WILDLIFE MANAGEMENT USE. Land equal to or  
4 less than 20 acres in size that qualifies for appraisal under this  
5 subchapter solely on the basis that the land is used to raise or  
6 keep bees for pollination or for the production of human food or  
7 other tangible products having a commercial value may not  
8 subsequently qualify under Section 23.51(7) for appraisal under  
9 this subchapter if the owner changes the use of the land to wildlife  
10 management.

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

13 Sec. 23.5215. GUIDELINES FOR UNCOMMON AGRICULTURAL USES.

14 (a) The comptroller, in consultation with the chair of the house of  
15 representatives committee on agriculture and livestock, Texas A&M  
16 AgriLife Extension Service, individuals selected by the  
17 comptroller who represent appraisal districts, and individuals  
18 selected by the comptroller who represent affected producers, shall  
19 develop guidelines for determining under what conditions the  
20 cumulative effect of multiple agricultural uses of a tract of land  
21 meets the degree of intensity generally accepted in the area.

22 (b) The comptroller, in consultation with the chair of the  
23 house of representatives committee on agriculture and livestock,  
24 Texas A&M AgriLife Extension Service, individuals selected by the  
25 comptroller who represent appraisal districts, and individuals  
26 selected by the comptroller who represent small-scale producers,  
27 shall develop guidelines for determining under what conditions land

1 under 10 acres in size used for the production of fruits,  
2 vegetables, poultry, hogs, sheep, or goats qualifies for appraisal  
3 under this subchapter. The guidelines must provide that land under  
4 10 acres in size that qualifies for appraisal under this subchapter  
5 solely on the basis of the guidelines developed under this section  
6 may not subsequently qualify under Section 23.51(7) for appraisal  
7 under this subchapter if the owner changes the use of the land to  
8 wildlife management.

9 (c) The guidelines developed under this section may include  
10 recordkeeping requirements consistent with normal practices of  
11 agricultural operations.

12 (d) The comptroller in developing guidelines under this  
13 section may consider the following factors:

14 (1) the financial investment of a producer in an  
15 agricultural use of a tract of land;

16 (2) the degree of active management of a producer in  
17 the agricultural use of a tract of land;

18 (3) the percentage of a tract of land used by a  
19 producer for agricultural uses; and

20 (4) any other factor the comptroller considers  
21 appropriate.

22 (e) The comptroller, in cooperation with appraisal  
23 districts, shall provide educational resources to chief appraisers  
24 to assist with the appraisal of land using the guidelines developed  
25 under this section and of land using an uncommon production method,  
26 such as organic production, sustainable production, and pastured  
27 poultry.

1           SECTION 4. This section applies only to land that first  
2 qualified for appraisal under Subchapter D, Chapter 23, Tax Code,  
3 on the basis of its use as an ecological laboratory in the 2014,  
4 2015, 2016, 2017, 2018, 2019, or 2020 tax year. The change in law  
5 made by this Act to Section 23.51(1), Tax Code, relating to the  
6 qualification of land as an ecological laboratory for appraisal  
7 under Subchapter D, Chapter 23, Tax Code, applies to land to which  
8 this section applies beginning with the tax year that begins  
9 January 1, 2027. For the 2021, 2022, 2023, 2024, 2025, and 2026 tax  
10 years, the qualification of land to which this section applies for  
11 appraisal under Subchapter D, Chapter 23, Tax Code, on the basis of  
12 its use as an ecological laboratory is governed by the law as it  
13 existed immediately before the effective date of this Act, and the  
14 former law is continued in effect for that purpose.

15           SECTION 5. Section 23.5211, Tax Code, as added by this Act,  
16 applies only to land that did not qualify for appraisal under  
17 Subchapter D, Chapter 23, Tax Code, for the 2019 tax year on the  
18 basis of its use for wildlife management under Section 23.51(7),  
19 Tax Code.

20           SECTION 6. Not later than September 1, 2020, the  
21 comptroller shall distribute the guidelines required by Section  
22 23.5215, Tax Code, as added by this Act, to each appraisal district.

23           SECTION 7. Section 23.51, Tax Code, as amended by this Act,  
24 and Section 23.5215, Tax Code, as added by this Act, apply only to  
25 the appraisal of land for ad valorem tax purposes for a tax year  
26 that begins on or after January 1, 2021.

27           SECTION 8. This Act takes effect September 1, 2019.