

**House Bill 1544**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Subchapter D, Chapter 23, Tax Code, is amended by adding Section 23.527 to read as follows:

Sec. 23.527. TEMPORARY CESSATION OF AGRICULTURAL USE FOR SAND MINING OPERATION. (a) In this section:

(1) "Commission" means the Texas Commission on Environmental Quality.

(2) "Executive director" means the executive director of the commission.

(3) "Marketable material" means sand mined and processed for sale.

(4) "Sand mining operation" means an aggregate production operation registered under Chapter 28A, Water Code, at which sand is removed or extracted.

(5) "Unmarketable material" means material excavated or mined other than marketable material and includes surface soil, unmarketable sand, and overburden and interburden encountered during mining and processing operations.

(b) This section applies only to a sand mining operation that overlies the Carrizo Aquifer and is located within:

(1) 30 miles of the boundary of a municipality with a population of more than 500,000; or

(2) one mile of a building in use as a single-family or multifamily residence.

(c) The measurement of distance for purposes of Subsection (b) shall be taken from the point on the sand mining operation that is nearest to the municipal boundary or residence toward the point on the municipal boundary or residence that is nearest to the sand mining operation.

(d) The eligibility of land for appraisal under this subchapter does not end because the land ceases to be devoted principally to agricultural use to the degree of intensity generally

SENATE VERSION (CS)

SECTION 1. Subchapter D, Chapter 23, Tax Code, is amended by adding Section 23.527 to read as follows:

Sec. 23.527. TEMPORARY CESSATION OF AGRICULTURAL USE FOR SAND MINING OPERATION. (a) In this section:

(1) "Commission" means the Texas Commission on Environmental Quality.

(2) "Executive director" means the executive director of the commission.

(3) "Marketable material" means sand mined and processed for sale.

(4) "Sand mining operation" means an aggregate production operation registered under Chapter 28A, Water Code, at which sand is removed or extracted.

(5) "Unmarketable material" means material excavated or mined other than marketable material and includes surface soil, unmarketable sand, and overburden and interburden encountered during mining and processing operations.

(b) This section applies only to a sand mining operation that overlies the Carrizo-Wilcox Aquifer and is located within:

(1) 30 miles of the boundary of a municipality with a population of more than 500,000; or

(2) one mile of a building in use as a single-family or multifamily residence.

(c) The measurement of distance for purposes of Subsection (b) shall be taken from the point on the sand mining operation that is nearest to the municipal boundary or residence toward the point on the municipal boundary or residence that is nearest to the sand mining operation.

(d) The eligibility of land for appraisal under this subchapter does not end because the land ceases to be devoted principally to agricultural use to the degree of intensity generally

CONFERENCE

**House Bill 1544**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

accepted in the area if:

- (1) the owner of the land intends that the use of the land in that manner and to that degree of intensity be resumed;
- (2) the land is used for a sand mining operation; and
- (3) the land is reclaimed according to the standard best practices adopted under this section not later than the first anniversary of the date sand mining operations began on the land.

(e) The owner of land to which this section applies must notify the appraisal office in writing not later than the 30th day after the date sand mining operations begin on the land that the owner intends to ensure that the requirements of Subsection (d) are met.

(f) The commission by rule shall adopt standard best practices for reclamation of land used for a sand mining operation to be used for the purposes of this section. The standards must:

- (1) provide for the protection of surface water, groundwater, agricultural land, wildlife habitat, and wetlands;
- (2) require reclamation to:
  - (A) occur concurrently with sand mining operations by managing the movement of marketable and unmarketable material encountered during the operations; and
  - (B) incorporate best practices adopted by the Natural Resources Conservation Service of the United States Department of Agriculture;
- (3) include post-mining reclamation grade standards;
- (4) establish slope stabilization requirements, including by grading perpendicular to the gradient;
- (5) require unmarketable material from the land to be stockpiled on the land and used as backfill for site restoration;
- (6) prohibit the inclusion of material not excavated from the land in the backfill used for site restoration;

SENATE VERSION (CS)

accepted in the area if:

- (1) the owner of the land intends that the use of the land in that manner and to that degree of intensity be resumed;
- (2) the land is used for a sand mining operation; and
- (3) the land is reclaimed according to the standard best practices adopted under this section not later than the first anniversary of the date sand mining operations began on the land.

(e) The owner of land to which this section applies must notify the appraisal office in writing not later than the 30th day after the date sand mining operations begin on the land that the owner intends to ensure that the requirements of Subsection (d) are met.

(f) The commission by rule shall adopt standard best practices for reclamation of land used for a sand mining operation to be used for the purposes of this section. The standards must:

- (1) provide for the protection of surface water, groundwater, agricultural land, wildlife habitat, and wetlands;
- (2) require reclamation to:
  - (A) occur concurrently with sand mining operations by managing the movement of marketable and unmarketable material encountered during the operations; and
  - (B) incorporate best practices adopted by the Natural Resources Conservation Service of the United States Department of Agriculture;
- (3) include post-mining reclamation grade standards;
- (4) establish slope stabilization requirements, including by grading perpendicular to the gradient;
- (5) require unmarketable material from the land to be stockpiled on the land and used as backfill for site restoration;
- (6) prohibit the inclusion of material not excavated from the land in the backfill used for site restoration;

CONFERENCE

**House Bill 1544**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

- (7) prohibit the stockpiling of unmarketable material at a horizontal to vertical slope greater than a 3 to 1 ratio;
- (8) require surface soil removed during sand mining operations to be used as the uppermost layer of the final reclamation grade;
- (9) require a reclaimed area to be left for successive vegetation growth after final reclamation grade standard best practices have been satisfied; and
- (10) encourage the construction of ponds to catch runoff in locations that are outside critical runoff zones for rivers.
- (g) The commission shall establish a process to allow an owner of land who submits a notice under Subsection (e) to obtain from the executive director a letter determining whether the land that is the subject of the notice was reclaimed according to the standard best practices adopted under this section in the time frame required under Subsection (d). The owner must apply to the executive director for the determination not later than the 90th day after the first anniversary of the date sand mining operations began on the land.
- (h) The executive director shall:
  - (1) send notice by regular mail or by electronic means to the chief appraiser of the appraisal district for the county in which the land is located that the owner has applied for a determination letter for the land;
  - (2) issue a letter to the owner stating the executive director's determination of whether the land has been reclaimed according to the standard best practices adopted under this section in the time frame required under Subsection (d); and
  - (3) send a copy of the determination letter by regular mail or by electronic means to the chief appraiser of the appraisal district for the county in which the land is located.

SENATE VERSION (CS)

- (7) prohibit the stockpiling of unmarketable material at a horizontal to vertical slope greater than a 3 to 1 ratio;
- (8) require surface soil removed during sand mining operations to be used as the uppermost layer of the final reclamation grade;
- (9) require a reclaimed area to be left for successive vegetation growth after final reclamation grade standard best practices have been satisfied; and
- (10) encourage the construction of ponds to catch runoff in locations that are outside critical runoff zones for rivers.
- (g) The commission shall establish a process to allow an owner of land who submits a notice under Subsection (e) to obtain from the executive director a letter determining whether the land that is the subject of the notice was reclaimed according to the standard best practices adopted under this section in the time frame required under Subsection (d). The owner must apply to the executive director for the determination not later than the 90th day after the first anniversary of the date sand mining operations began on the land.
- (h) The executive director shall:
  - (1) send notice by regular mail or by electronic means to the chief appraiser of the appraisal district for the county in which the land is located that the owner has applied for a determination letter for the land;
  - (2) issue a letter to the owner stating the executive director's determination of whether the land has been reclaimed according to the standard best practices adopted under this section in the time frame required under Subsection (d); and
  - (3) send a copy of the determination letter by regular mail or by electronic means to the chief appraiser of the appraisal district for the county in which the land is located.

CONFERENCE

**House Bill 1544**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

(i) Not later than the 20th day after the date of receipt of the letter issued by the executive director, the owner seeking the determination or the chief appraiser may appeal the executive director's determination to the commission. The commission shall consider the appeal at the next regularly scheduled meeting of the commission for which adequate notice may be given. The owner seeking the determination and the chief appraiser may testify at the meeting. The commission may remand the matter to the executive director for a new determination or deny the appeal and affirm the executive director's determination. On issuance of a new determination, the executive director shall issue a letter to the owner seeking the determination and provide a copy to the chief appraiser as provided by Subsection (h). A new determination of the executive director may be appealed to the commission in the manner provided by this subsection. A proceeding under this subsection is not a contested case for purposes of Chapter 2001, Government Code.

(j) The executive director shall issue a determination letter required by Subsection (h) to the owner seeking the determination, and the commission shall take final action on the initial appeal under Subsection (i) if an appeal is made, not later than the first anniversary of the date the executive director receives the request from the owner for the determination.

(k) The commission may charge an owner seeking a determination letter under this section a fee not to exceed its administrative costs for making the determination and issuing the letter required by this section.

(l) The chief appraiser shall accept a final determination by the executive director as conclusive evidence that land was reclaimed according to the standard best practices adopted

SENATE VERSION (CS)

(i) Not later than the 20th day after the date of receipt of the letter issued by the executive director, the owner seeking the determination or the chief appraiser may appeal the executive director's determination to the commission. The commission shall consider the appeal at the next regularly scheduled meeting of the commission for which adequate notice may be given. The owner seeking the determination and the chief appraiser may testify at the meeting. The commission may remand the matter to the executive director for a new determination or deny the appeal and affirm the executive director's determination. On issuance of a new determination, the executive director shall issue a letter to the owner seeking the determination and provide a copy to the chief appraiser as provided by Subsection (h). A new determination of the executive director may be appealed to the commission in the manner provided by this subsection. A proceeding under this subsection is not a contested case for purposes of Chapter 2001, Government Code.

(j) The executive director shall issue a determination letter required by Subsection (h) to the owner seeking the determination, and the commission shall take final action on the initial appeal under Subsection (i) if an appeal is made, not later than the first anniversary of the date the executive director receives the request from the owner for the determination.

(k) The commission may charge an owner seeking a determination letter under this section a fee not to exceed its administrative costs for making the determination and issuing the letter required by this section.

(l) The chief appraiser shall accept a final determination by the executive director as conclusive evidence that land was reclaimed according to the standard best practices adopted

CONFERENCE

**House Bill 1544**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

under this section in the time frame required under Subsection (d).

SECTION 2. (a) This section applies only to land on which a sand mining operation began before the effective date of this Act.

(b) Notwithstanding Section 23.527(e), Tax Code, as added by this Act, the eligibility of the land for appraisal under Subchapter D, Chapter 23, Tax Code, does not end because the land ceases to be devoted principally to agricultural use to the degree of intensity generally accepted in the area if:

(1) the owner of the land provides the notice required by Section 23.527(e), Tax Code, as added by this Act, not later than the 90th day after the effective date of this Act; and

(2) the chief appraiser of the appraisal district in which the land is located has not, as of the effective date of this Act, made a determination under Section 23.55, Tax Code, that a change in use of the land has occurred.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.

SENATE VERSION (CS)

under this section in the time frame required under Subsection (d).

SECTION 2. Same as House version.

SECTION 3. Same as House version.

CONFERENCE