

BILL ANALYSIS

C.S.H.B. 3165
By: Holland
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Each year, millions of Texans and visitors from other states visit our state parks, appreciating the nature of the state while also spurring economic activity. While the state's population is growing and there have been rapid increases in the number of visitors to these parks, the amount of public land has remained mostly the same. The author of C.S.H.B. 3165 believes that the presence of public parks and the conservation of public lands are critical for the quality of life of Texas citizens. Public lands provide the food, water, fiber, and recreational opportunities that the state needs to continue to grow, and the state has a vested interest in protecting land for generations to come. C.S.H.B. 3165 establishes the Texas Land and Water Conservation Fund with a working board and an advisory committee with a purpose of prioritizing projects and programs to preserve more land across the state through the issuance of grants from the fund.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the land and water conservation board in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 3165 amends the Natural Resources Code to establish the Texas land and water conservation fund outside the state treasury and authorizes the Texas land and water conservation board established under the bill's provisions to use the fund, without further legislative appropriation, only to award grants to certain entities for a public parks or natural areas project or a natural resource conservation project and to pay certain necessary and reasonable administrative expenses, not to exceed three percent of money disbursed from the fund in any given year. The fund consists of the following:

- money appropriated to the fund by law;
- the proceeds of fees or other sources of revenue dedicated by law for deposit to the fund;
- interest and other earnings on the investment of money in the fund;
- gifts, grants, or donations to the fund; and
- money from other sources designated by the conservation board for deposit to the fund as authorized by law.

The bill prohibits the fund from being used to facilitate the use of eminent domain for the acquisition of real property or for the acquisition or transfer of real property to be managed by the federal government.

C.S.H.B. 3165 establishes the Texas land and water conservation board composed of the following five voting members:

- the commissioner of the General Land Office (GLO) or the commissioner's designee;
- the executive director of the Texas Commission on Environmental Quality (TCEQ) or the executive director's designee;
- the executive director of the Parks and Wildlife Department (TPWD) or the executive director's designee;
- the executive administrator of the Texas Water Development Board (TWDB) or the executive administrator's designee; and
- the executive director of the State Soil and Water Conservation Board.

The chair of the land and water conservation technical advisory committee established by the bill or the chair's designee serves as a nonvoting ex officio member, and the conservation board may appoint not more than two nonvoting members with professional or academic experience in a field related to the board's duties and limits such a member's term to two years. The commissioner of the GLO or the commissioner's designee is the chair of the board.

C.S.H.B. 3165 establishes that the following projects are eligible for a grant from the fund:

- a public parks or natural areas project that benefits, protects, or enhances:
 - public access in general;
 - the local park grant program administered by TPWD;
 - a public or private local park; or
 - a recreation trail or trail easement; and
- a natural resource conservation project that benefits, protects, or enhances:
 - farm, ranch, and forest land through a project related to the Texas Farm and Ranch Lands Conservation Program or by other means, including:
 - creating a conservation easement or an agricultural conservation easement; and
 - conserving forest lands;
 - wildlife or a wildlife habitat, including acquisition of a land or conservation easement for protection of a wetland or wildlife habitat; or
 - a nature-based project that uses water resources for water quality and quantity, including:
 - aquifer recharge area protection;
 - acquisition of land or conservation easements for protection and enhancement of a water resource; and
 - dedication for 10 years or more of a water right or permit allocation to maintain or improve instream flows, spring flows, and bay and estuary inflows; and
 - a restoration project that:
 - prevents soil erosion, reduces loss of wildlife habitat, or restores native grassland on agricultural land;
 - restores critical wildlife habitat, maintains or enhances fish or wildlife habitat, or restores a wetland; or
 - enhances spring flow, restores a stream, river, or riparian area, improves habitat, or improves water quality.

C.S.H.B. 3165 defines the following for its purposes:

- "nature-based project" as a project or practice that uses protected, restored, or constructed natural features or an engineered project or practice that mimics natural processes;
- "private park" as an open space area that is privately owned and open to the general public for recreation excluding an amusement park or similar facility the primary uses of which are rides, games of chance, or the sale of food, beverages, toys, or souvenirs; and

- "public access" as a land or water area for human use and enjoyment that is relatively free of man-made structures and includes land and water parks owned or operated by the state or a political subdivision.

The conservation board may only award grants to a district or authority created under the Texas Constitution as a road utility district, a water-related district or similar special-purpose district, or a conservation and reclamation district or to a municipality, county, state agency, or nongovernmental entity.

C.S.H.B. 3165 requires the conservation board by rule to establish criteria for setting priorities for the projects eligible to receive grants under the bill's provisions. The criteria must include:

- the project's use of matching funds;
- the potential to maximize benefits in multiple eligible project areas;
- the long-term sustainability and benefits of the project;
- coordination and integration with other relevant projects necessary for the success of the project;
- regional and eco-regional diversity of the project; and
- the overall ecological benefit of the project.

The bill requires the conservation board to do the following with respect to the application process and funding determinations:

- establish a grant program to provide financial assistance to eligible entities for conservation planning, application preparation, and administrative costs associated with eligible projects;
- provide guidance to applicants for projects that are eligible under more than one funding category;
- implement an application process to select eligible projects in accordance with priority criteria; and
- if the conservation board receives a sufficient number of applications for eligible projects, allocate:
 - 50 percent of the funding in any cycle to public parks or natural areas projects that benefit, protect, or enhance public access, the TPWD local park grant program, local parks, or recreation trails or easements; and
 - 50 percent of the funding in any cycle to natural resource conservation projects that benefit, protect, or enhance:
 - farm, ranch, or forest land;
 - wildlife or wildlife habitat;
 - a nature-based project that uses water resources for water quality and quantity; and
 - a restoration project for specified purposes.

C.S.H.B. 3165 provides that the conservation board may approve an application only if the board finds that the application and the assistance applied for meet the requirements established and rules adopted under the bill and the applicant demonstrates the ability to complete the project. The bill requires the conservation board to adopt rules necessary to implement the bill's provisions, including rules that establish procedures for the fund's administration and an application for a project grant from the fund. The bill authorizes the conservation board to adopt rules to ensure that a policy or practice of the board does not prevent qualification for or the use of federal matching funds.

C.S.H.B. 3165 establishes the land and water conservation technical advisory committee composed of the following nine members:

- one representative each from the GLO, TCEQ, TPWD, and TWDB;
- three representatives appointed by the conservation board from nongovernmental entities who have relevant experience; and
- two representatives appointed by the conservation board from institutions of higher education who have relevant professional experience.

The bill requires the committee to assist in developing and evaluating:

- the application process and scoring criteria for project funding by the board;
- recommendations to the board; and
- other items as directed by the board.

The bill requires the conservation board, not later than September 1 of every second year, beginning not later than September 1, 2025, to prepare and submit to the legislature a report quantifying the benefits of projects that have received grants from the fund and authorizes the board to use fund money to prepare the report.

EFFECTIVE DATE

September 1, 2023, if the constitutional amendment providing for the creation of the Texas land and water conservation fund to assist in the voluntary protection of Texas' water quality, wildlife habitat, natural areas, and parks, while not increasing the rate of any taxes, is approved by the voters.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 3165 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Both the introduced and the substitute establish a conservation fund, but the introduced established the fund inside the state treasury and the substitute establishes the fund outside the state treasury. Both the introduced and the substitute condition the bill's effective date on the voter approval of a constitutional amendment but the nature of the amendments cited differs as follows:

- the introduced cited an amendment dedicating certain money in that fund to the conservation of, restoration of, or public access to land, water, or natural resources in Texas and providing for the transfer of certain general revenues to the economic stabilization fund, the land and water conservation fund, and the state highway fund; but
- the substitute cites an amendment that has as a purpose of the fund assisting in the voluntary protection of Texas' water quality, wildlife habitat, natural areas, and parks, while not increasing the rate of any taxes.

Both the introduced and substitute include provisions providing for the use of fund money and eligibility for grants from the fund, but those provisions differ as follows:

- the introduced provided for grants to be awarded for certain conservation, restoration, and public access projects, while the substitute provides for the grants to be awarded for certain public parks or natural areas projects or natural resource conservation projects;
- the substitute includes a provision not in the introduced prohibiting the fund from being used to facilitate the use of eminent domain for the acquisition of real property or for the acquisition or transfer of real property to be managed by the federal government; and
- the substitute does not include a provision in the introduced that authorized the use of funds for a restoration project that improves water quality.

Both the introduced and the substitute provide for the allocation of fund money to each type of eligible project. However, the allocations differ as follows:

- the introduced provided for the board to allocate the following amounts in any cycle:
 - not less than 65 percent to conservation projects that benefit, protect, or enhance farms, ranches, and forest lands;
 - not more than 25 percent to certain restoration projects; and
 - not more than 25 percent to public access projects that benefit, protect, or enhance local park grant programs administered by TPWD, private or public local parks, recreation trails or trail easements, or public access in general; but
- the substitute provides for the board to allocate the following amounts in any cycle:

- 50 percent to public parks or natural areas projects that benefit, protect, or enhance public access, the TPWD local park grant program, local parks, or recreation trails or easements; and
- 50 percent to certain natural resource conservation projects that benefit, protect, or enhance:
 - farm, ranch, or forest land;
 - wildlife or wildlife habitat;
 - a nature-based project that uses water resources for water quality and quantity; and
 - a restoration project for specified purposes.

The substitute includes provisions that were not in the introduced that do the following:

- defines "private park";
- includes the executive director of the State Soil and Water Conservation Board as a conservation board member;
- provides for the chair of the land and water conservation technical advisory committee or the chair's designee to serve as a nonvoting ex officio conservation board member; and
- authorizes the conservation board to adopt rules to ensure that a policy or practice of the conservation board does not prevent qualification for or the use of federal matching funds.

The substitute does not include the provisions from the introduced that did the following:

- provided for the transfer of money to the fund from general revenue;
- included this transferred money in the fund; and
- provided for these provisions to apply with respect to the 2026-2027 state fiscal biennium.

The substitute changes the deadline by which the conservation board must submit its report from not later than September 1 of every fourth year, beginning not later than September 1, 2027, as in the introduced, to not later than September 1 of every second year, beginning not later than September 1, 2025.