88R17974 JAM-F

By:  Holland, Rose, González of El Paso, H.B. No. 3165

     Bell of Montgomery, Zwiener, et al.

Substitute the following for H.B. No. 3165:

By:  King of Uvalde C.S.H.B. No. 3165

A BILL TO BE ENTITLED

AN ACT

relating to the establishment, administration, and use of the Texas land and water conservation fund.

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

SECTION 1.  Chapter 31, Natural Resources Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. TEXAS LAND AND WATER CONSERVATION FUND

Sec. 31.201.  DEFINITIONS. In this subchapter:

(1)  "Advisory committee" means the Texas land and water technical advisory committee.

(2)  "Agricultural conservation easement" has the meaning assigned by Section 84.002, Parks and Wildlife Code.

(3)  "Conservation board" means the Texas land and water conservation board.

(4)  "Conservation easement" has the meaning assigned by Section 183.001, Natural Resources Code.

(5)  "Fund" means the Texas land and water conservation fund.

(6)  "Nature-based project" means a project or practice that uses protected, restored, or constructed natural features or an engineered project or practice that mimics natural processes.

(7)  "Private park" means an open space area that is privately owned and open to the general public for recreation. The term does not include 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.

(8)  "Public access" means 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.

Sec. 31.202.  TEXAS LAND AND WATER CONSERVATION BOARD. (a) The Texas land and water conservation board is composed of five voting members as follows:

(1)  the commissioner or the commissioner's designee;

(2)  the executive director of the Texas Commission on Environmental Quality or the executive director's designee;

(3)  the executive director of the Parks and Wildlife Department or the executive director's designee;

(4)  the executive administrator of the Texas Water Development Board or the executive administrator's designee; and

(5)  the executive director of the State Soil and Water Conservation Board.

(b)  The commissioner or the commissioner's designee is the chair of the conservation board.

(c)  The chair of the advisory committee established by Section 31.209 or the chair's designee shall serve as a nonvoting ex officio member. The conservation board may appoint to the conservation board not more than two nonvoting members with professional or academic experience in a field related to the conservation board's duties. A member appointed under this section may serve for a term of not more than two years.

Sec. 31.203.  TEXAS LAND AND WATER CONSERVATION FUND. (a) The Texas land and water conservation fund is created as a fund outside the state treasury.

(b)  The fund may be used:

(1)  without further legislative appropriation; and

(2)  only as provided by this subchapter.

(c)  The fund consists of:

(1)  money appropriated to the fund by law;

(2)  the proceeds of fees or other sources of revenue dedicated by law for deposit to the fund;

(3)  interest and other earnings on the investment of money in the fund;

(4)  gifts, grants, or donations to the fund; and

(5)  money from other sources designated by the conservation board for deposit to the fund as authorized by law.

(d)  The conservation board may use the fund only to:

(1)  award a grant to an entity for a public parks or natural areas project or a natural resource conservation project as provided by Section 31.204;

(2)  award a grant to provide matching funds to an entity to participate in a federal program for a public parks or natural areas project or a natural resource conservation project as provided by Section 31.204; and

(3)  pay the necessary and reasonable expenses to administer the fund, not to exceed three percent of money disbursed from the fund in any given year.

(e)  The conservation board shall allocate from money in the fund described by Subsection (c)(3) amounts necessary to pay the expenses of administering the fund.

(f)  The fund may not be used:

(1)  to facilitate the use of eminent domain for the acquisition of real property; or

(2)  for the acquisition or transfer of real property to be managed by the federal government.

Sec. 31.204.  ELIGIBLE PROJECTS AND PERSONS ELIGIBLE FOR GRANT; PRIORITY. (a) Projects eligible for a grant awarded from the fund include:

(1)  a public parks or natural areas project that benefits, protects, or enhances:

(A)  public access in general;

(B)  the local park grant program administered by the Parks and Wildlife Department;

(C)  a public or private local park; or

(D)  a recreation trail or trail easement; and

(2)  a natural resource conservation project that benefits, protects, or enhances:

(A)  farm, ranch, or forest land through a project related to the Texas Farm and Ranch Lands Conservation Program under Chapter 84, Parks and Wildlife Code, or by other means, including by:

(i)  creating a conservation easement or an agricultural conservation easement; and

(ii)  conserving forest lands;

(B)  wildlife or a wildlife habitat, including acquisition of a land or conservation easement for protection of a wetland or wildlife habitat;

(C)  a nature-based project that uses water resources for water quality and quantity, including:

(i)  aquifer recharge area protection;

(ii)  acquisition of land or conservation easements for protection and enhancement of a water resource; and

(iii)  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

(D)  a restoration project that:

(i)  prevents soil erosion, reduces loss of wildlife habitat, or restores native grassland on agricultural land;

(ii)  restores critical wildlife habitat, maintains or enhances fish or wildlife habitat, or restores a wetland; or

(iii)  enhances spring flow, restores a stream, river, or riparian area, or improves water quality.

(b)  The conservation board may award a grant under this chapter only to a district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, a municipality, a county, a state agency, or a nongovernmental entity.

(c)  The conservation board by rule shall establish criteria for setting priorities for the projects eligible to receive grants under this subchapter. The criteria must include:

(1)  the project's use of matching funds;

(2)  the potential to maximize benefits in multiple eligible project areas;

(3)  the long-term sustainability and benefits of the project;

(4)  coordination and integration with other relevant projects necessary for the success of the project;

(5)  regional and eco-regional diversity of the project; and

(6)  the overall ecological benefit of the project.

Sec. 31.205.  APPLICATION PREPARATION ASSISTANCE. (a) The conservation board shall establish a grant program to provide financial assistance to eligible entities for conservation planning, application preparation, and administrative costs associated with eligible projects described by Section 31.204.

(b)  The conservation board shall provide guidance to applicants for projects that are eligible under more than one funding category.

Sec. 31.206.  FUNDING DETERMINATIONS; APPLICATION PROCESS. (a) The conservation board shall implement an application process to select eligible projects in accordance with the priority criteria established under Section 31.204(c).

(b)  If the conservation board receives a sufficient number of applications for eligible projects, the conservation board shall allocate:

(1)  50 percent of the funding in any cycle to public parks or natural areas projects as described by Section 31.204(a)(1); and

(2)  50 percent of the funding in any cycle to natural resource conservation projects as described by Section 31.204(a)(2).

Sec. 31.207.  APPROVAL OF APPLICATIONS. The conservation board may approve an application only if the conservation board finds that:

(1)  the application and the assistance applied for meet the requirements of this subchapter and rules adopted under this subchapter; and

(2)  the applicant demonstrates the ability to complete the project.

Sec. 31.208.  RULES. (a) The conservation board shall adopt rules necessary to implement this subchapter, including rules that establish procedures for:

(1)  the administration of the fund; and

(2)  an application for a project grant from the fund.

(b)  The conservation board may adopt rules to ensure that a policy or practice of the conservation board under this subchapter does not prevent qualification for or the use of federal matching funds.

Sec. 31.209.  TEXAS LAND AND WATER CONSERVATION TECHNICAL ADVISORY COMMITTEE. (a) The Texas land and water conservation technical advisory committee is composed of the following nine members:

(1)  one representative from each state agency specified by Sections 31.202(a)(1)-(4);

(2)  three representatives appointed by the conservation board from nongovernmental entities who have relevant experience; and

(3)  two representatives appointed by the conservation board from institutions of higher education who have relevant professional experience.

(b)  The advisory committee shall assist in developing and evaluating:

(1)  the application process and scoring criteria for project funding by the conservation board;

(2)  recommendations to the conservation board; and

(3)  other items as directed by the conservation board.

Sec. 31.210.  MONITORING AND REPORTING. (a) Not later than September 1 of every second year, the conservation board shall prepare and submit to the legislature a report quantifying the benefits of projects that have received grants under this subchapter.

(b)  The conservation board may use money from the fund to prepare the report required by this section.

SECTION 2.  The Texas land and water conservation board shall submit to the legislature the initial report required by Section 31.210, Natural Resources Code, as added by this Act, not later than September 1, 2025.

SECTION 3.  This Act takes effect September 1, 2023, but only 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. If that amendment is not approved by the voters, this Act has no effect.