88R7181 JAM-F

By:  Holland H.B. No. 3165

A BILL TO BE ENTITLED

AN ACT

relating to the establishment, administration, and use of the land and water conservation fund and allocations and transfers of money to that fund, the economic stabilization fund, and the state highway fund.

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

SECTION 1.  The heading to Subchapter H, Chapter 316, Government Code, is amended to read as follows:

SUBCHAPTER H. ALLOCATION OF CONSTITUTIONAL TRANSFERS TO CERTAIN FUNDS [~~ECONOMIC STABILIZATION FUND AND STATE HIGHWAY FUND~~]

SECTION 2.  The heading to Section 316.092, Government Code, is amended to read as follows:

Sec. 316.092.  DETERMINATION OF THRESHOLD FOR CONSTITUTIONAL TRANSFER TO CERTAIN FUNDS [~~STATE HIGHWAY FUND~~].

SECTION 3.  The heading to Section 316.093, Government Code, is amended to read as follows:

Sec. 316.093.  ADJUSTMENT OF CONSTITUTIONAL ALLOCATIONS TO CERTAIN FUNDS [~~FUND AND STATE HIGHWAY FUND~~].

SECTION 4.  Sections 316.093(b) and (c), Government Code, are amended to read as follows:

(b)  If the sum described by Subsection (a) is less than the amount determined under Section 316.092 for that state fiscal biennium, the comptroller shall:

(1)  transfer the amount that would otherwise be allocated to the land and water conservation fund under Section 49-g(c-1), Article III, Texas Constitution, to the economic stabilization fund to the extent that the transfer will not result in an amount that exceeds the limit in effect for that biennium under Section 49-g(g), Article III, Texas Constitution; and

(2)  if the total of the amount of the transfer under Subdivision (1) and the sum described by Subsection (a) is less than the amount determined under Section 316.092 for that state fiscal biennium, reduce the allocation to the state highway fund provided by Section 49-g(c-1) [~~49-g(c)~~], Article III, Texas Constitution, and increase the allocation to the economic stabilization fund[~~,~~] in an [~~equal~~] amount equal to the reduction of that allocation[~~,~~] until the amount determined under Section 316.092 for that state fiscal biennium would be achieved by the transfer to the fund or the total amount of the sum described by Section 49-g(c), Article III, Texas Constitution, is allocated to the fund, whichever occurs first.

(c)  For the purposes of Section 49-g(c-2), Article III, Texas Constitution, the comptroller shall adjust the allocation provided by Section 49-g(c-1) of that article of amounts to be transferred to the fund, the land and water conservation fund, and [~~to~~] the state highway fund under Section 49-g(c) of that article in a state fiscal year beginning on or after September 1, 2035, so that the total of those amounts is transferred to the economic stabilization fund, except that the comptroller shall reduce a transfer made under this subsection as necessary to prevent the amount in that [~~the~~] fund from exceeding the limit in effect for that biennium under Section 49-g(g) of that article.

SECTION 5.  Chapter 31, Natural Resources Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. LAND AND WATER CONSERVATION FUND

Sec. 31.201.  DEFINITIONS. In this subchapter:

(1)  "Advisory committee" means the 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 land and water conservation board.

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

(5)  "Fund" means the 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)  "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.  LAND AND WATER CONSERVATION BOARD. (a) The land and water conservation board is composed of five 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 chair of the advisory committee established by Section 31.209 or the chair's designee.

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

(c)  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.  LAND AND WATER CONSERVATION FUND. (a) The land and water conservation fund is a special fund in the state treasury outside the general revenue fund.

(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 transferred to the fund in accordance with Sections 49-g(c) and (c-1), Article III, Texas Constitution;

(2)  money appropriated to the fund by law;

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

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

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

(6)  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 conservation, restoration, or public access 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 conservation, restoration, or public access 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.

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

(1)  a conservation project that benefits, protects, or enhances:

(A)  farm, ranch, and forest land, including:

(i)  by creating an agricultural conservation easement;

(ii)  by creating a conservation easement;

(iii)  by conserving forest lands; and

(iv)  through a project related to the Texas Farm and Ranch Lands Conservation Program under Chapter 84, Parks and Wildlife Code;

(B)  wildlife or a wildlife habitat, including acquisition of:

(i)  land for wildlife preservation or a management area; or

(ii)  a land or conservation easement for protection of a wetland or wildlife habitat; and

(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;

(2)  a restoration project that:

(A)  improves water quality, prevents soil erosion, reduces loss of wildlife habitat, or restores native grassland on agricultural land;

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

(C)  enhances spring flow, restores a stream, river, or riparian area, improves habitat, or improves water quality; and

(3)  a public access project that benefits, protects, or enhances the local park grant program administered by the Parks and Wildlife Department, a private or public local park, a recreation trail or trail easement, or public access in general.

(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(b).

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

(1)  not less than 65 percent of the funding in any cycle to conservation projects as described by Section 31.204(a)(1);

(2)  not more than 25 percent of the funding in any cycle to restoration projects as described by Section 31.204(a)(2); and

(3)  not more than 25 percent of the funding in any cycle to public access projects as described by Section 31.204(a)(3).

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. 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.

Sec. 31.209.  LAND AND WATER CONSERVATION TECHNICAL ADVISORY COMMITTEE. (a) The 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 fourth 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 6.  The amendments made by this Act to Subchapter H, Chapter 316, Government Code, apply beginning with the state fiscal biennium beginning September 1, 2025.

SECTION 7.  The 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, 2027.

SECTION 8.  This Act takes effect September 1, 2023, but only if the constitutional amendment providing for the creation of the land and water conservation fund, dedicating certain money in that fund to the conservation of, restoration of, or public access to land, water, or natural resources in this state, 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 is approved by the voters. If that amendment is not approved by the voters, this Act has no effect.