

By: Holland

H.B. No. 3165

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the establishment, administration, and use of the land
3 and water conservation fund and allocations and transfers of money
4 to that fund, the economic stabilization fund, and the state
5 highway fund.

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

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

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

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

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

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

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

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

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

24 (1) transfer the amount that would otherwise be

1 allocated to the land and water conservation fund under Section
2 49-g(c-1), Article III, Texas Constitution, to the economic
3 stabilization fund to the extent that the transfer will not result
4 in an amount that exceeds the limit in effect for that biennium
5 under Section 49-g(g), Article III, Texas Constitution; and

6 (2) if the total of the amount of the transfer under
7 Subdivision (1) and the sum described by Subsection (a) is less than
8 the amount determined under Section 316.092 for that state fiscal
9 biennium, reduce the allocation to the state highway fund provided
10 by Section 49-g(c-1) [49-g(e)], Article III, Texas Constitution,
11 and increase the allocation to the economic stabilization fund[7]
12 in an [equal] amount equal to the reduction of that allocation[7]
13 until the amount determined under Section 316.092 for that state
14 fiscal biennium would be achieved by the transfer to the fund or the
15 total amount of the sum described by Section 49-g(c), Article III,
16 Texas Constitution, is allocated to the fund, whichever occurs
17 first.

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

1 that biennium under Section 49-g(g) of that article.

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

4 SUBCHAPTER F. LAND AND WATER CONSERVATION FUND

5 Sec. 31.201. DEFINITIONS. In this subchapter:

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

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

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

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

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

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

18 (7) "Public access" means a land or water area for
19 human use and enjoyment that is relatively free of man-made
20 structures and includes land and water parks owned or operated by
21 the state or a political subdivision.

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

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

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

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

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

5 (5) the chair of the advisory committee established by
6 Section 31.209 or the chair's designee.

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

9 (c) The conservation board may appoint to the conservation
10 board not more than two nonvoting members with professional or
11 academic experience in a field related to the conservation board's
12 duties. A member appointed under this section may serve for a term
13 of not more than two years.

14 Sec. 31.203. LAND AND WATER CONSERVATION FUND. (a) The
15 land and water conservation fund is a special fund in the state
16 treasury outside the general revenue fund.

17 (b) The fund may be used:

18 (1) without further legislative appropriation; and

19 (2) only as provided by this subchapter.

20 (c) The fund consists of:

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

23 (2) money appropriated to the fund by law;

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

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

1 (5) gifts, grants, or donations to the fund; and
2 (6) money from other sources designated by the
3 conservation board for deposit to the fund as authorized by law.

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

5 (1) award a grant to an entity for a conservation,
6 restoration, or public access project as provided by Section
7 31.204;

8 (2) award a grant to provide matching funds to an
9 entity to participate in a federal program for a conservation,
10 restoration, or public access project as provided by Section
11 31.204; and

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

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

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

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

21 (i) by creating an agricultural
22 conservation easement;

23 (ii) by creating a conservation easement;

24 (iii) by conserving forest lands; and

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

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

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

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

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

9 (i) aquifer recharge area protection;

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

12 (iii) dedication for 10 years or more of a
13 water right or permit allocation to maintain or improve instream
14 flows, spring flows, and bay and estuary inflows;

15 (2) a restoration project that:

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

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

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

25 (3) a public access project that benefits, protects,
26 or enhances the local park grant program administered by the Parks
27 and Wildlife Department, a private or public local park, a

1 recreation trail or trail easement, or public access in general.

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

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

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

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

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

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

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

19 (6) the overall ecological benefit of the project.

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

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

1 Sec. 31.206. FUNDING DETERMINATIONS; APPLICATION PROCESS.

2 (a) The conservation board shall implement an application process
3 to select eligible projects in accordance with the priority
4 criteria established under Section 31.204(b).

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

8 (1) not less than 65 percent of the funding in any
9 cycle to conservation projects as described by Section
10 31.204(a)(1);

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

14 (3) not more than 25 percent of the funding in any
15 cycle to public access projects as described by Section
16 31.204(a)(3).

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

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

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

25 Sec. 31.208. RULES. The conservation board shall adopt
26 rules necessary to implement this subchapter, including rules that
27 establish procedures for:

1 (1) the administration of the fund; and

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

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

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

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

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

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

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

18 (2) recommendations to the conservation board; and

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

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

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

27 SECTION 6. The amendments made by this Act to Subchapter H,

1 Chapter 316, Government Code, apply beginning with the state fiscal
2 biennium beginning September 1, 2025.

3 SECTION 7. The land and water conservation board shall
4 submit to the legislature the initial report required by Section
5 31.210, Natural Resources Code, as added by this Act, not later than
6 September 1, 2027.

7 SECTION 8. This Act takes effect September 1, 2023, but only
8 if the constitutional amendment providing for the creation of the
9 land and water conservation fund, dedicating certain money in that
10 fund to the conservation of, restoration of, or public access to
11 land, water, or natural resources in this state, and providing for
12 the transfer of certain general revenues to the economic
13 stabilization fund, the land and water conservation fund, and the
14 state highway fund is approved by the voters. If that amendment is
15 not approved by the voters, this Act has no effect.