

By: Kolkhorst

S.B. No. 1597

A BILL TO BE ENTITLED

AN ACT

relating to the transfer of the Texas Farm and Ranch Lands  
Conservation Program to the Parks and Wildlife Department.

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

SECTION 1. Subchapter B, Chapter 183, Natural Resources  
Code, is transferred to Subtitle E, Title 5, Parks and Wildlife  
Code, redesignated as Chapter 84, Parks and Wildlife Code, and  
amended to read as follows:

CHAPTER 84 [~~SUBCHAPTER B~~]. TEXAS FARM AND RANCH LANDS CONSERVATION  
PROGRAM

Sec. 84.001 [~~183.051~~]. PURPOSE. The purpose of the program  
established under this chapter [~~subchapter~~] is to enable and  
facilitate the purchase and donation of agricultural conservation  
easements.

Sec. 84.002 [~~183.052~~]. DEFINITIONS. In this chapter  
[~~subchapter~~]:

(1) "Agricultural conservation easement" means a  
conservation easement in qualified land that is designed to  
accomplish one or more of the following additional purposes:

(A) conserving water quality or quantity;  
(B) conserving native wildlife species through  
protection of their habitat;

(C) conserving rare or sensitive plant species;

or

(D) conserving large tracts of qualified open-space land that are threatened with fragmentation or development.

(2) "Conservation easement" has the meaning assigned by Section 183.001, Natural Resources Code [~~"Commissioner" means the commissioner of the General Land Office~~].

(3) "Council" means the Texas Farm and Ranch Lands Conservation Council established under Section 84.011 [~~183.061~~].

(4) "Fund" means the Texas farm and ranch lands conservation fund established under Section 84.008 [~~183.058~~].

(5) "Holder" has the meaning assigned by Section 183.001, Natural Resources Code [~~"Land office" means the General Land Office~~].

(6) "Program" means the Texas farm and ranch lands conservation program established under this chapter [~~subchapter~~].

(7) "Purchase of agricultural conservation easement" means the purchase from a willing seller of an agricultural conservation easement.

(8) "Qualified easement holder" means a holder that is:

(A) a state agency, a county, or a municipality;  
or

(B) an organization that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code and that is organized for the purpose of preserving agriculture, open space, or natural resources.

(9) "Qualified land" means qualified open-space land, as that term is defined by Section 23.51, Tax Code.

Sec. 84.003 [~~183.053~~]. PROGRAM. The Texas farm and ranch lands conservation program is established as a program of the department [~~land office~~] for the purpose of administering the assistance to be provided by the fund for the purchase of agricultural conservation easements.

Sec. 84.004 [~~183.054~~]. TERMS OF AGRICULTURAL CONSERVATION EASEMENT. (a) An agricultural conservation easement under this chapter [~~subchapter~~] must be perpetual or for a term of 30 years.

(b) The owner of qualified land and a potential purchaser of an agricultural conservation easement should consider and negotiate easement terms, including the following considerations:

(1) whether the landowner will receive a lump sum or annual payments;

(2) whether the term of the easement shall be perpetual or for a term of 30 years;

(3) whether a term easement is renewable;

(4) whether the landowner retains limited development rights; and

(5) the purchase price of the easement.

(c) An agricultural conservation easement may not be assigned to or enforced by a third party without the express written consent of the landowner.

Sec. 84.005 [~~183.055~~]. TERMINATION OF EASEMENT. (a) Any time after an agricultural conservation easement is acquired with a grant awarded under this chapter [~~subchapter~~], the landowner may

request that the council terminate the easement as provided by Subsection (b) on the ground that the landowner is unable to meet the conservation goals as described by Section 84.002(1) [~~183.052(1)~~]. The termination request must contain a verifiable statement of impossibility.

(b) On receipt of the request for termination, the council shall notify the qualified easement holder and conduct an inquiry. Not later than the 180th day after the date the council receives the request, the council shall notify the parties of the decision to grant or deny the request for termination. Either party may appeal the decision in district court not later than the 45th day after the date of the notification.

Sec. 84.006 [~~183.056~~]. REPURCHASE BY LANDOWNER. (a) In this section:

(1) "Agricultural value" means the price as of the appraisal date a buyer willing, but not obligated, to buy would pay for a farm or ranch unit with land comparable in quality and composition to the subject property, but located in the nearest location where profitable farming or ranching is feasible.

(2) "Fair market value" means the price as of the appraisal date that a buyer willing, but not obligated, to buy would pay for the land at its best and most beneficial use under any obtainable development zoning category.

(b) If a request for termination of an agricultural conservation easement is granted under Section 84.005 [~~183.055~~], the director [~~commissioner~~] shall order an appraisal of the fair market value and the agricultural value of the property subject to

1 the easement. The landowner shall bear the cost of the appraisal.

2 (c) Not later than the 180th day after the date of the  
3 appraisal under Subsection (b), the landowner must pay to the  
4 qualified easement holder an amount equal to the difference between  
5 the fair market value and the agricultural value. The qualified  
6 easement holder shall pay to the fund any amounts received under  
7 this subsection, not to exceed the amount paid by the fund for  
8 purchase of the easement.

9 (d) Not later than the 30th day after the date of payment by  
10 the landowner under Subsection (c), the qualified easement holder  
11 shall terminate the easement.

12 (e) If the request for termination is denied or if the  
13 landowner fails to make the payment required by Subsection (c) in  
14 the time required by that subsection, the landowner may not submit  
15 another request for termination of the easement before the fifth  
16 anniversary of the date of the last request.

17 Sec. 84.007 [~~183.057~~]. PROTECTED LAND; NOTICE OF TAKING.

18 (a) A department or agency of this state, a county, a municipality,  
19 another political subdivision, or a public utility may not approve  
20 any program or project that requires the use or taking through  
21 eminent domain of private land encumbered by an agricultural  
22 conservation easement purchased under this chapter [~~subchapter~~]  
23 unless the governmental entity or public utility acting through its  
24 governing body or officers determines that:

25 (1) there is no feasible and prudent alternative to  
26 the use or taking of the land; and

27 (2) the program or project includes all reasonable

1 planning to minimize harm to the land resulting from the use or  
2 taking.

3 (b) A determination required by Subsection (a) may be made  
4 only at a properly noticed public hearing.

5 (c) The governing body or officers of the governmental  
6 entity or public utility may consider clearly enunciated local  
7 preferences, and the provisions of this chapter [~~subchapter~~] do not  
8 constitute a mandatory prohibition against the use of the area if  
9 the determinations required by Subsection (a) are made.

10 (d) If, after making the determination required by  
11 Subsection (a), a department or agency of this state, a county, a  
12 municipality, another political subdivision, or a public utility  
13 acquires by eminent domain a fee simple interest in land encumbered  
14 by an agricultural conservation easement purchased under this  
15 chapter [~~subchapter~~]:

16 (1) the easement on the condemned property terminates;  
17 and

18 (2) the entity exercising the power of eminent domain  
19 shall:

20 (A) pay for an appraisal of the fair market  
21 value, as that term is defined by Section 84.006 [~~183.056~~], of the  
22 property subject to condemnation;

23 (B) pay to the qualified easement holder an  
24 amount equal to the amount paid by the holder for the portion of the  
25 easement affecting the property to be condemned;

26 (C) pay to the landowner an amount equal to the  
27 fair market value of the condemned property less the amount paid to

1 the qualified easement holder under Paragraph (B); and

2 (D) pay to the landowner and the qualified  
3 easement holder any additional damages to their interests in the  
4 remaining property, as determined by the special commissioners  
5 under Section 21.042, Property Code.

6 (e) If, after making the determination required by  
7 Subsection (a), a department or agency of this state, a county, a  
8 municipality, another political subdivision, or a public utility  
9 acquires by eminent domain an interest other than a fee simple  
10 interest in land encumbered by an agricultural conservation  
11 easement purchased under this chapter [~~subchapter~~]:

12 (1) the entity exercising the power of eminent domain  
13 shall pay for an appraisal of the fair market value, as that term is  
14 defined by Section 84.006 [~~183.056~~], of the property subject to  
15 condemnation; and

16 (2) the special commissioners shall consider the fair  
17 market value as the value of the property for purposes of assessing  
18 damages under Section 21.042, Property Code.

19 (f) The qualified easement holder shall pay to the fund any  
20 amounts received under Subsections (d) and (e), not to exceed the  
21 amount paid by the fund for the purchase of the easement.

22 Sec. 84.008 [~~183.058~~]. TEXAS FARM AND RANCH LANDS  
23 CONSERVATION FUND. (a) The Texas farm and ranch lands conservation  
24 fund is an account in the general revenue fund that may be  
25 appropriated only to the department [~~land office~~] to be used as  
26 provided by Subsection (b). The fund may not be used for grants to  
27 purchase or acquire any right or interest in property by eminent

domain. The fund consists of:

- (1) money appropriated by the legislature to the fund;
- (2) public or private grants, gifts, donations, or contributions;
- (3) funds from any other source, including proceeds from the sale of bonds, state or federal mitigation funds, or funds from any local, state, or federal program;
- (4) proceeds of the sale of real property not required for the management of real property under Section [31.065\(d\)](#), Natural Resources Code; and
- (5) proceeds of the sale of real property under Section [31.066\(d\)](#), Natural Resources Code.

(b) The fund may be used only:

- (1) to award grants to qualified easement holders for the purchase of agricultural conservation easements;
- (2) to pay transaction costs related to the purchase of agricultural conservation easements, which may include reimbursement of appraisal costs; and
- (3) to pay associated administrative costs of the department ~~[land office]~~, not to exceed five percent of the money in the fund.

Sec. 84.009 ~~[183.059]~~. ADMINISTRATION OF FUND. (a) The council may:

- (1) adopt rules necessary to perform program duties under this chapter ~~[subchapter]~~;
- (2) request, accept, and use gifts, loans, donations, aid, appropriations, guaranties, subsidies, grants, or



1 contributions of any item of value for the furtherance of any  
2 purposes of this chapter [~~subchapter~~];

3 (3) establish, charge, and collect fees, charges, and  
4 penalties in connection with the programs, services, and activities  
5 provided for by this chapter [~~subchapter~~];

6 (4) make, enter into, and enforce contracts and  
7 agreements, and take other actions as may accomplish any of the  
8 purposes of this chapter [~~subchapter~~];

9 (5) seek ways to coordinate and leverage public and  
10 private sources of funding;

11 (6) adopt best practices and enforcement standards for  
12 the evaluation of easements purchased through grants from the fund;

13 (7) establish a protocol for the purchase of  
14 agricultural conservation easements and for the distribution of  
15 funds to approved applicants;

16 (8) administer grants awarded to successful  
17 applicants;

18 (9) ensure that agricultural conservation easements  
19 purchased under this chapter [~~subchapter~~] are not inconsistent with  
20 the preservation of open space and the conservation of wildlife  
21 habitat or water; and

22 (10) approve the termination of easements and take any  
23 other action necessary to further the goals of the program.

24 (b) To receive a grant from the fund under this chapter  
25 [~~subchapter~~], an applicant who is qualified to be an easement  
26 holder under this chapter [~~subchapter~~] must submit an application  
27 to the council. The application must:

(1) set out the parties' clear conservation goals consistent with the program;

(2) include a site-specific estimate-of-value appraisal by a licensed appraiser qualified to determine the market value of the easement; and

(3) include a memorandum of understanding signed by the landowner and the applicant indicating intent to sell an agricultural conservation easement and containing the terms of the contract for the sale of the easement.

(c) For the purposes of determining the amount of a grant under this chapter [~~subchapter~~], the value of an agricultural conservation easement shall be determined by a site-specific estimate-of-value appraisal performed by a licensed, qualified appraiser.

Sec. 84.010 [~~183.060~~]. CRITERIA FOR AWARDDING GRANTS. The council shall adopt a scoring process to be used in evaluating applications that considers the following:

(1) maintenance of landscape and watershed integrity to conserve water and natural resources;

(2) protection of highly productive agricultural lands;

(3) protection of habitats for native plant and animal species, including habitats for endangered, threatened, rare, or sensitive species;

(4) susceptibility of the subject property to subdivision, fragmentation, or other development;

(5) potential for leveraging state money allocated to

1 the program with additional public or private money;

2 (6) proximity of the subject property to other  
3 protected lands;

4 (7) the term of the proposed easement, whether  
5 perpetual or for a term of 30 years; and

6 (8) a resource management plan agreed to by both  
7 parties and approved by the council.

8 Sec. 84.011 [~~183.061~~]. TEXAS FARM AND RANCH LANDS  
9 CONSERVATION COUNCIL. (a) The Texas Farm and Ranch Lands  
10 Conservation Council is established to advise and assist the  
11 director [~~commissioner~~] with administration of the program and to  
12 select applicants to receive grants under this chapter [~~subchapter~~]  
13 using the criteria adopted by the council under Section 84.010  
14 [~~183.060~~]. The council consists of eleven members as follows:

15 (1) six members appointed by the governor as follows:

16 (A) two members [~~one member~~] who each operate  
17 [~~operates~~] a family farm or ranch in this state;

18 (B) one member who is the designated  
19 representative of an agricultural banking or lending organization  
20 and who has significant experience lending for farms and ranches or  
21 lands encumbered by conservation easements;

22 (C) two members who are the designated  
23 representatives of a statewide agricultural organization in  
24 existence in this state for not less than 10 years; and

25 (D) one member who is a designated representative  
26 of a statewide nonprofit organization that represents land trusts  
27 operating in this state; and

1                   ~~[(E) one member from a state institution of~~  
2 ~~higher education who has significant experience with natural~~  
3 ~~resources issues, and]~~

4                   (2) five ~~[four]~~ ex officio members as follows:

5                   (A) a [the] commissioner of the Texas Commission  
6 on Environmental Quality, or the commissioner's designee;

7                   (B) the commissioner of agriculture or the  
8 commissioner's designee;

9                   (C) the chair of the Texas Water Development  
10 Board, or the chair's designee ~~[presiding officer of the Parks and~~  
11 ~~Wildlife Commission or the presiding officer's designee]; [and]~~

12                   (D) the state conservationist of the Natural  
13 Resources Conservation Service of the United States Department of  
14 Agriculture or a designee of that person, who serves as a nonvoting  
15 member; and

16                   (E) the presiding officer of the commission or  
17 the presiding officer's designee, who must be a member of the  
18 commission.

19                   (b) Appointed members of the council serve staggered terms  
20 of six years, with two of the members' terms expiring February 1 of  
21 each odd-numbered year.

22                   (c) Appointments to and removal from the council shall be  
23 made by the governor without regard to the race, color, disability,  
24 sex, religion, age, or national origin of the appointees.

25                   (d) The presiding officer of the commission or the presiding  
26 officer's ~~[commissioner or the commissioner's]~~ designee shall serve  
27 as the presiding officer of the council and shall designate from

1 among the members of the council an assistant presiding officer of  
2 the council to serve in that capacity at the will of the presiding  
3 officer of the commission [~~commissioner~~]. The council may choose  
4 from its members other officers as the council considers necessary.

5 (e) A member of the council is not entitled to compensation  
6 for service on the council but is entitled to reimbursement of the  
7 necessary and reasonable travel expenses incurred by the member  
8 while conducting the business of the council, as provided for state  
9 employees by the General Appropriations Act.

10 (f) The council shall meet not less than once each year.

11 (g) A person may not be appointed as a council member if the  
12 person or the person's spouse:

13 (1) is employed by or participates in the management  
14 of a business entity or other organization receiving money under  
15 the program;

16 (2) owns or controls, directly or indirectly, more  
17 than a 10 percent interest in a business entity or other  
18 organization receiving money under the program; or

19 (3) uses or receives a substantial amount of tangible  
20 goods, services, or money under the program other than  
21 reimbursement authorized by law for travel expenses as described by  
22 Subsection (e).

23 (h) In this subsection, "Texas trade association" means a  
24 cooperative and voluntarily joined statewide association of  
25 business or professional competitors in this state designed to  
26 assist its members and its industry or profession in dealing with  
27 mutual business or professional problems and in promoting their

1 common interest. A person may not be an appointed member of the  
2 council if:

3 (1) the person is an officer, employee, or paid  
4 consultant of a Texas trade association for an occupation or  
5 profession with an interest in land conservation that is related to  
6 the occupation or profession; or

7 (2) the person's spouse is an officer, manager, or paid  
8 consultant of a Texas trade association for an occupation or  
9 profession with an interest in land conservation that is related to  
10 that occupation or profession.

11 (i) A person may not be an appointed member of the council or  
12 act as the general counsel to the council if the person is required  
13 to register as a lobbyist under Chapter 305, Government Code,  
14 because of the person's activities for compensation on behalf of an  
15 occupation or profession with an interest in land conservation that  
16 is related to that occupation or profession.

17 (j) It is a ground for removal from the council if a member:  
18 (1) is ineligible for membership under this section;  
19 (2) cannot, because of illness or disability,  
20 discharge the member's duties for a substantial part of the member's  
21 term; or

22 (3) is absent from more than half of the regularly  
23 scheduled council meetings that the member is eligible to attend  
24 during a calendar year without an excuse approved by a majority vote  
25 of the council.

26 (k) The validity of an action of the council is not affected  
27 by the fact that it is taken when a ground for removal of a

1 participating council member exists.

2 (1) If the presiding officer of the council has knowledge  
3 that a potential ground for removal exists, the presiding officer  
4 of the council shall notify the director [~~commissioner~~] and the  
5 governor that a potential ground for removal exists.

6 (m) The presiding officer of the council or that person's  
7 [~~the presiding officer's~~] designee, with the assistance of staff of  
8 the department [~~land office~~], shall provide to members of the  
9 council information regarding a member's responsibilities under  
10 applicable laws relating to standards of conduct for state  
11 officers.

12 (n) A person who is appointed to and qualifies for office as  
13 a member of the council may not vote, deliberate, or be counted as a  
14 member in attendance at a meeting of the council until the person  
15 completes a training program that complies with this section. The  
16 training program must provide the person with information  
17 regarding:

- 18 (1) the legislation that created the council;
- 19 (2) the program to be administered under this chapter  
20 [~~subchapter~~];
- 21 (3) the role and functions of the council;
- 22 (4) the rules of the council, with an emphasis on the  
23 rules that relate to disciplinary and investigatory authority;
- 24 (5) the current budget for the council;
- 25 (6) the results of the most recent formal audit of the  
26 council;
- 27 (7) the requirements of:

(A) the open meetings law, Chapter 551, Government Code;

(B) the public information law, Chapter 552, Government Code;

(C) the administrative procedure law, Chapter 2001, Government Code; and

(D) other laws relating to public officials, including conflict-of-interest laws; and

(8) any applicable policies adopted by the council or the Texas Ethics Commission.

(o) A person appointed to the council is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the training program occurs before or after the person qualifies for office.

Sec. 84.012 [~~183.062~~]. EFFECT ON TAX APPRAISAL. An agricultural conservation easement under this chapter [~~subchapter~~] does not affect the eligibility of the property subject to the easement for appraisal for ad valorem tax purposes under Subchapter D, Chapter 23, Tax Code.

Sec. 84.013 [~~183.063~~]. REPORT TO TEXAS DEPARTMENT OF TRANSPORTATION. Not later than the 10th day after the date of a closing of a purchase of an easement under this chapter [~~subchapter~~], the department [~~land office~~] shall provide the Texas Department of Transportation a legal description of the property subject to the easement and shall include with the description the date the closing occurred.



SECTION 2. Section 31.065(d), Natural Resources Code, is amended to read as follows:

(d) If real property acquired by grant, gift, devise, or bequest is not held as part of the permanent school fund or possessed, administered, or used by a particular state agency, board, commission, department, or other particular state entity, the commissioner may manage that real property or sell or exchange the real property under terms and conditions the commissioner determines to be in the best interest of the state. Real property sold under this subsection must be sold in accordance with Section 31.158. Proceeds of the sale that are not required for the management of real property under this subsection shall be deposited in the Texas farm and ranch lands conservation fund established under Chapter 84, Parks and Wildlife Code ~~[183]~~. Real property acquired under this subsection may be dedicated by the commissioner to any state agency, board, commission, or department, a political subdivision or other governmental entity of this state, or the federal government, for the benefit and use of the public in exchange for nonmonetary consideration, if the commissioner determines that the exchange is in the best interest of the state.

SECTION 3. Section 31.066(d), Natural Resources Code, is amended to read as follows:

(d) The commissioner may sell any title or interest acquired by the state under this section in accordance with Section 31.158. Proceeds of the sale shall be deposited in the Texas farm and ranch lands conservation fund established under Chapter 84, Parks and Wildlife Code ~~[183]~~.

1           SECTION 4. (a) Not later than January 1, 2016, the governor  
2 shall make the appointments described by Section 84.011, Parks and  
3 Wildlife Code, as amended by this Act.

4           (b) Not later than January 1, 2016, the General Land Office  
5 and the Parks and Wildlife Department shall enter into a memorandum  
6 of understanding relating to the transfer of the administration of  
7 the Texas Farm and Ranch Lands Conservation Program from the  
8 General Land Office to the Parks and Wildlife Department. The  
9 memorandum of understanding must include a timetable and specific  
10 steps and methods for the transfer on September 1, 2016, of all  
11 powers, duties, obligations, rights, contracts, leases, records,  
12 real or personal property, personnel, and unspent and unobligated  
13 appropriations and other funds relating to the administration of  
14 the Texas Farm and Ranch Lands Conservation Program from the  
15 General Land Office to the Parks and Wildlife Department.

16           (c) On September 1, 2016, the following are transferred to  
17 the Department of Parks and Wildlife:

18                   (1) all powers, duties, obligations, and liabilities  
19 of the General Land Office relating to the administration of the  
20 Texas Farm and Ranch Lands Conservation Program;

21                   (2) all unobligated and unexpended funds appropriated  
22 to the General Land Office designated for the purpose of the  
23 administration of the Texas Farm and Ranch Lands Conservation  
24 Program;

25                   (3) all equipment and property of the General Land  
26 Office used for the administration of the Texas Farm and Ranch Lands  
27 Conservation Program;

1           (4) all personnel, as described by the memorandum of  
2 understanding entered into under Subsection (b) of this section;  
3 and

4           (5) all files and other records of the General Land  
5 Office kept by the office regarding the Texas Farm and Ranch Lands  
6 Conservation Program.

7           (d) Before September 1, 2016, the General Land Office may  
8 agree with the Parks and Wildlife Department to transfer any  
9 property of the General Land Office to the Parks and Wildlife  
10 Department to implement the transfer required by this Act.

11          (e) In the period beginning on the effective date of this  
12 Act and ending on September 1, 2016, the General Land Office shall  
13 continue to perform functions and activities under Subchapter B,  
14 Chapter 183, Natural Resources Code, as if that subchapter had not  
15 been transferred, redesignated, and amended by this Act, and the  
16 former law is continued in effect for that purpose.

17          SECTION 5. This Act takes effect immediately if it receives  
18 a vote of two-thirds of all the members elected to each house, as  
19 provided by Section 39, Article III, Texas Constitution. If this  
20 Act does not receive the vote necessary for immediate effect, this  
21 Act takes effect September 1, 2015.