

H.B. No. 3509

1 AN ACT

2 relating to endangered species habitat conservation and to the
3 creation of a board to oversee and guide the state's coordinated
4 response to federal actions regarding endangered species.

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

6 SECTION 1. Subtitle F, Title 4, Government Code, is amended
7 by adding Chapter 490F to read as follows:

CHAPTER 490F. HABITAT CONSERVATION BY A STATE AGENCY

9 Sec. 490F.001. DEFINITIONS. Notwithstanding the
10 definitions contained in Subchapter B, Chapter 83, Parks and
11 Wildlife Code, the following words and terms, when used in this
12 chapter, shall have the following meanings:

23 Sec. 490F.002. STATE AGENCY AUTHORITY. (a) Under the

24 provisions of Section 490E.004(c), a state agency may apply for or

1 hold a federal permit issued in connection with a habitat
2 conservation plan, candidate conservation plan, or similar plan
3 authorized or required by federal law in connection with a
4 candidate, threatened, or endangered species. A state agency that
5 takes an action under this section must notify other members of the
6 task force described in Section 490E.003(a).

7 (b) An agency that takes an action described by Subsection
8 (a) must:

9 (1) cooperate with all appropriate member agencies of
10 the task force; and
11 (2) enter into an interagency contract that may
12 provide for the payment of funds held by the comptroller inside the
13 treasury, at the direction of the task force established in Chapter
14 490E, for the purposes of carrying out this chapter.

15 Sec. 490F.003. PUBLIC NOTICE AND INPUT. (a) Before
16 engaging in an activity authorized by Section 490F.002(a), a state
17 agency shall:

18 (1) provide public notice; and
19 (2) solicit and consider comments from:
20 (A) the task force on economic growth and
21 endangered species created under Section 490E.003;
22 (B) affected landowners;
23 (C) conservation interests;
24 (D) business interests affected by the activity;
25 and
26 (E) mineral owners.

27 Sec. 490F.004. HABITAT PROTECTION AND RESEARCH FUND. (a)

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1 The habitat protection and research fund is held by the comptroller
2 inside the treasury and consists of money appropriated to the fund,
3 interest earned on the investment of money in the fund, and gifts
4 and grants made to the fund. This fund does not apply to activities
5 related to species proposed for listing under the Endangered
6 Species Act prior to September 1, 2013.

7 (b) Money in the habitat protection and research fund may be
8 used only to:

15 (c) Private money contributed to the habitat protection
16 fund under Section 403.452 is held by the comptroller outside the
17 treasury.

18 (d) Private funds collected pursuant to a mitigation plan
19 shall be held only by the comptroller outside the treasury for the
20 use prescribed by the plan.

21 (e) The comptroller may identify funds to reimburse state
22 institutions of higher education from the habitat protection and
23 research fund for science and biology research and work related to
24 threatened or endangered species.

25 Sec. 490F.005. CONFIDENTIAL INFORMATION. Information
26 collected under this chapter by an agency, or an entity acting on
27 the agency's behalf, from a private landowner or other participant

1 or potential participant in a habitat conservation plan, proposed
2 habitat conservation plan, candidate conservation plan, or
3 proposed candidate conservation plan is confidential and exempt
4 from disclosure under Chapter 552 if the information relates to the
5 specific location, property owner identification, species
6 identification, or quantity of any animal or plant life at a
7 specific location for which a plan is under consideration or
8 development or has been established under this chapter.
9 Information may be disclosed to a state agency or state officer upon
10 signature of a confidentiality agreement, but may not be disclosed
11 to a federal agency.

12 SECTION 2. Chapter 490E, Government Code, is amended by
13 adding Section 490E.000 to read as follows:

14 Sec. 490E.000. DUTIES. The task force on economic growth
15 and endangered species:

16 (1) shall select the holder of a federal permit issued
17 in connection with a habitat conservation plan, candidate
18 conservation plan, or similar plan, authorized or required by
19 federal law in connection with a candidate species or endangered
20 species that is to be held by a state agency; and

21 (2) may coordinate the comments, positions and
22 response to listings and potential listings of endangered species
23 for state agencies.

24 SECTION 3. Sections 490E.003(a) and (b), Government Code,
25 are amended to read as follows:

26 (a) The task force on economic growth and endangered species
27 is created and is composed of the following or their designee:

- (1) the comptroller;
- (2) the commissioner of agriculture;
- (3) the commissioner of the General Land Office;
- (4) the chair of the Railroad Commission;
- (5) the executive director of the State Soil and Water Conservation Board;
- (6) the executive director of the Parks and Wildlife Department;
- (7) [4] the executive director of the Texas Department of Transportation;
- (8) the director of the Texas A&M AgriLife Extension Service; and
- (9) the executive director of the Texas Commission on Environmental Quality [5] the executive director of the State Soil and Water Conservation Board].

16 (b) The position of presiding officer rotates among the
17 statewide elected members specified in Subsection (a) regardless of
18 who occupies the named office at the time of the rotation. The
19 position of chair rotates every two years in the order listed in
20 Subsection (a), beginning with the comptroller. [The comptroller
21 is the presiding officer of the task force.]

22 SECTION 4. Section 490E.004, Government Code, is amended by
23 amending Subsection (b) and adding Subsections (c) and (d) to read
24 as follows:

25 (b) If requested by a landowner, other person in this state,
26 or a local government or a state official, the task force may review
27 state and local governmental efforts to address endangered species

1 issues and provide recommendations to make those efforts more cost
2 effective. ~~[The task force shall consider all available options as~~
3 ~~part of its recommendations. The options considered must include:~~

4 ~~[(1) fee simple acquisition of land;~~

5 ~~[(2) conservation easements;~~

6 ~~[(3) use of land owned by local governments or this~~
7 ~~state;~~

8 ~~[(4) recovery crediting;~~ and

9 ~~[(5) all relevant federal programs.]~~

10 (c) If determined by the task force, a state agency that is
11 represented on the task force may hold a permit issued under the
12 federal Endangered Species Act.

13 (d) The permit holder shall inform members of the task force
14 of any mitigation plan, including costs, at least 10 days prior to
15 the plan being submitted to the U.S. Fish and Wildlife Service for
16 approval.

17 SECTION 5. Section 490E.005, Government Code, is amended by
18 amending Subsections (a) and (c) and adding Subsection (f) to read
19 as follows:

20 (a) With the advice of the task force, the presiding officer
21 shall ~~[comptroller may]~~ create at least one advisory committee for
22 each species ~~[committees]~~ to assist the task force with its work.
23 Of the members of an advisory committee:

24 (1) one-fourth ~~[one-third]~~ must be representatives of
25 affected landowners;

26 (2) one-fourth ~~[one-third]~~ must be representatives of
27 conservation interests; ~~[and]~~

5 (c) The presiding officer [comptroller] shall designate one
6 member of an advisory committee as interim presiding officer for
7 the purpose of calling and conducting the initial meeting of the
8 committee.

19 SECTION 6. Section 490E.008, Government Code, is amended to
20 read as follows:

21 Sec. 490E.008. ADMINISTRATIVE SUPPORT. The presiding
22 officer's [comptroller's] office shall provide administrative
23 support and maintain a public website for [to] the task force.

24 SECTION 7. Chapter 490E, Government Code, is amended by
25 adding Section 490E.009 to read as follows:

1 shall provide legal advice to the task force.

2 SECTION 8. Section 403.452, Government Code, is amended by
3 adding Subsection (e) to read as follows:

4 (e) Except as provided under Section 490E.004(c), the
5 authority of the comptroller to enter into an agreement for any
6 species other than the dunes sagebrush lizard, under this section,
7 with the United States Fish and Wildlife Service for the
8 implementation of a candidate conservation plan or a habitat
9 conservation plan, expires September 1, 2013.

10 SECTION 9. Section 490E.006, Government Code, is repealed.

11 SECTION 10. The Task Force on Economic Growth and
12 Endangered Species, in collaboration with three members of the
13 House State Affairs Committee appointed by the speaker and three
14 members of the Senate Natural Resources Committee appointed by the
15 lieutenant governor, and one stakeholder representing landowner
16 interests appointed by the governor, shall conduct a study to
17 determine state policies to defend against the overreaching
18 inclusion of species on the Endangered Species List by the United
19 States Fish and Wildlife Service. The study shall be submitted to
20 the governor, lieutenant governor, speaker, and members of the
21 legislature not later than December 1, 2014.

22 SECTION 11. Nothing in this Act precludes a person or group
23 of persons from working together and with the United States Fish and
24 Wildlife Service to address threatened or endangered species
25 issues.

26 SECTION 12. An approved conservation plan, federal permit
27 issued, an application for a federal permit submitted, or a

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1 conservation agreement entered into prior to the effective date of
2 this bill is governed by the law in effect at the time the permit was
3 acquired or the plan was approved, and the former law continues in
4 effect for the purpose of full implementation of the conservation
5 plan, including the authority to apply for a federal permit in the
6 event of a listing decision for the species covered by the
7 conservation plan.

8 SECTION 13. This Act takes effect September 1, 2013.

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President of the Senate

Speaker of the House

I certify that H.B. No. 3509 was passed by the House on May 10, 2013, by the following vote: Yeas 118, Nays 16, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3509 on May 24, 2013, by the following vote: Yeas 134, Nays 10, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3509 was passed by the Senate, with amendments, on May 22, 2013, by the following vote: Yeas 27, Nays 4.

Secretary of the Senate

APPROVED: _____

Date

Governor