

SUBJECT: Proposing a constitutional amendment to create a conservation fund

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 9 ayes — T. King, E. Thompson, Gámez, Kacal, Kitzman, Lalani, Price, Rogers, Zwiener

0 nays

2 absent — Metcalf, Ramos

WITNESSES: For — Jeremy Mazur, Texas 2036; Suzanne Scott, The Nature Conservancy (*Registered, but did not testify*: Chloe Crumley, Audubon Texas; Edmond McCarthy, Clients of the Firm; Joey Park, Coastal Conservation Association Texas; Matthew Garcia, Dallas Regional Chamber; Justin Keener, Doug Deason; Kirby Brown, Ducks Unlimited; Vanessa Puig-Williams, EDF; James Mathis, Edwards Aquifer Authority; Luke Metzger, Environment Texas; Genevieve Genest, Galveston Bay Foundation; Mike Clifford, Greater Edwards Aquifer Alliance; Marisa Bruno, Hill country alliance; Katherine Miller, Hill Country Conservancy; Bill Kelly, Mayor's Office, City of Houston; Amanda Fuller, National wildlife federation; Tristan Castaneda Jr, San Antonio River Authority; Chad Ellis, Texas Ag Land Trust; Leah Martinsson, Texas Alliance of Groundwater Districts; Carrie Simmons, Texas Chapter of the Wildlife Society; John DeFillipo, Texas Conservation Alliance; Rob Hughes, Texas Forestry Association; John Shepperd, Texas Foundation for Conservation; Scott Moorhead, Mark Steinbach, Texas Land Conservancy; Lori Olson, Texas Land Trust Council; Monty Wynn, Texas Municipal League; Zach Spector, Texas Parks Wildlife Foundation; Jeff Achee, Erin Franz, Texas Recreation and Park Society; Justin Dreibelbis, Texas Wildlife Association; Cicely Kay, Travis County Commissioners Court; Christy Muse, Travis County Parks Foundation; David White, TREAD Coalition; Robert Kent, Trust for Public Land; George Cofer; Dennis Kearns; Carlos Rubinstein; Andrew Sansom; Alexandra Vasut)

Against — (*Registered, but did not testify*: Angela Smith, Fredericksburg Tea Party; Chuck DeVore, Texas Public Policy Foundation)

On — (*Registered, but did not testify*: David Green, Angela Sunley, General Land Office; TJ Helton, State Soil and Water Conservation Board; Clayton Wolf, Texas Parks and Wildlife Department; Amanda Lavin, Texas Water Development Board)

DIGEST: CSHJR 138 would amend the Texas Constitution to create the Texas land and water conservation fund as a special fund outside the state treasury.

Money in the fund could be administered and used, without further appropriation, by the Texas land and water conservation board or its successor to provide funding for conservation and restoration of and public access to land, water, and natural resources.

Separate accounts could be established in the fund as necessary for administration or authorized projects.

The ballot proposal would be presented to voters at an election on November 7, 2023, and would read: “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.”

SUPPORTERS SAY: CSHJR 138 would give voters the opportunity to help preserve and enhance Texas’s parks, landscapes, natural resources, and agriculturally productive lands by creating a state grant program to fund projects for those purposes. The state’s population continues to grow, increasing development pressures on wild spaces, parks, farms, and ranches. Conservation efforts would help to ensure that Texans continue to enjoy natural recreational spaces, biodiversity, and an ample supply of clean water. With a substantial state budget surplus, the Legislature has a unique opportunity to incentivize projects that will conserve the state’s lands and waters for future generations.

Farms and ranches that provide food, fuel, and fiber are vital to Texans' well-being, but many family farms struggle to pay estate taxes and preserve ownership. The conservation fund could help these farmers and ranchers maintain agricultural productivity through conservation easements that restrict certain land uses while ensuring other uses, including agricultural uses, can be continued at the landowner's discretion.

Parks drive tourism and job creation for many communities, especially in rural areas, but current trends project that a substantial number of Texas counties may not have enough parkland in the future. The conservation fund would help protect existing parks by providing state matches for local park grants, and could also support land acquisition to expand state parks.

CSHJR 138's enabling legislation would help to protect private property rights by prohibiting conservation fund money from being used to support the use of eminent domain or federal ownership or control of Texas lands. Conservation easements are an alternative and voluntary expression of property rights that enables farmers, foresters, and ranchers to continue using their land for agricultural purposes by protecting the land from pressure to develop.

Conservation easements supported by the fund would not result in a significant net reduction in property taxes because most easements are placed on lands that are already classified as agricultural or otherwise not appraised based on market value.

CRITICS
SAY:

Through its enabling legislation, CSHJR 138 could undermine private property rights by allowing the use of state funds to promote the adoption of conservation easements, which permanently shift control over land use from owners to easement holders and restrict landowners from certain land uses, such as development.

The fund also could disproportionately benefit large Texas landowners who could reduce their property taxes by accepting a conservation

easement on larger amounts of their property without the inconvenience that may be experienced by smaller farms.

NOTES:

CSHB 3165, the enabling legislation for CSHJR 138, is set for second reading consideration today.

According to the Legislative Budget Board, CSHJR 138 would have no cost to the state other than the cost of publication, which would be \$204,406.