

BILL ANALYSIS

Senate Research Center

S.B. 1273
By: Jackson, Mike
S/C on Agriculture & Coastal Resources
4/6/2005
As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Texas is losing its rural lands at a faster rate than any other state in the country. As the state becomes more urbanized, the pressure to protect natural resources through condemnation or acquisition will increase. Through the purchase of agricultural conservation easements, cities and other public entities can achieve resource protection goals while keeping rural lands in private ownership and on the tax rolls.

As proposed, S.B. 1273 creates a grant-making program that will provide landowners with financial incentives to conserve Texas' agriculture and natural resources through the voluntary sale of either perpetual or term conservation easements.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Farm and Ranch Lands Conservation Council in SECTION 3 (Section 59A.002, Agriculture Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 4, Agriculture Code, by adding Chapter 59A, as follows:

Chapter 59A. TEXAS FARM AND RANCH LANDS CONSERVATION PROGRAM.
Sets forth the purpose of this chapter.

SECTION 2. Amends Title 4, Agriculture Code, by adding [Section 59A.001,] as follows:

Sec. 59A.001. DEFINITIONS. Defines "agricultural conservation easement," "council," "center," "fund," "program," "purchase of agricultural conservation easement," "qualified easement holder," and "qualified land."

SECTION 3. Amends Title 4, Agriculture Code, by adding [Sections 59A.002, 59A.003, 59A.004, 59A.005, 59A.006, 59A.007, 59A.008, 59A.009, 59A.010, and 59A.011,] as follows:

Sec. 59A.002. TEXAS FARM AND RANCH LANDS CONSERVATION COUNCIL.
(1) Establishes the Texas Farm and Ranch Lands Conservation Council (council) within the Real Estate Research Council and sets forth the membership of the council.

(2) Sets forth the authority, duties, and responsibilities of the council.

Sec. 59A.003. TERMS; CONSIDERATION IN MAKING APPOINTMENTS. (a) Requires appointed members of the council to serve staggered terms of six years, with one-third of the appointed members' terms expiring February 1 of each odd-numbered year.

(b) Requires appointments to the council to be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 59A.004. OFFICERS; COMPENSATION. (a) Requires the governor to designate a member of the council as the presiding officer of the council to serve in that capacity at the will of the governor. Authorizes the council to choose from its members other officers as the council considers necessary.

(b) Provides that an appointed member of the council is not entitled to compensation but is entitled to reimbursement for certain travel expenses. Provides that an ex officio member of the council is not entitled to additional compensation for service on the council, and that service on the council is considered a duty of the member's underlying state office or employment for purposes of receiving reimbursement for expenses related to services on the council.

Sec. 59A.005. PUBLIC MEMBERS OF COUNCIL. Sets forth which persons are prohibited from being appointed as a council member.

Sec. 59A.006. CONFLICTS OF INTEREST. (a) Defines "Texas trade association."

(b) Sets forth which persons are prohibited from being an appointed member of the council.

(b) [sic] Sets forth persons engaged in certain lobbyist activities who are prohibited from being appointed members of the council or acting as general counsel to the council.

Sec. 59A.007. GROUNDS FOR REMOVAL. (a) Sets forth the grounds for removal from the council.

(b) Provides that the validity of an action of the council is not affected by the fact that it is taken when a ground for removal of a council member exists.

(c) Requires the presiding officer, if the presiding officer has knowledge that a potential ground for removal exists, to notify the governor and the attorney general.

Sec. 59A.008. INFORMATION REGARDING REQUIREMENTS FOR OFFICE. Requires the presiding officer or the presiding officer's designee to provide to members of the council, as often as necessary, information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers.

Sec. 59A.009. TRAINING. (a) Prohibits a person who is appointed to and qualifies for office as a member of the council to vote, deliberate, or be counted as a member in attendance at a meeting of the council until the person completes a training [sic] that complies with this section.

(b) Requires the training program to provide the person with certain information.

(d) [sic] Entitles a person appointed to the council to certain travel expenses incurred in attending the training program.

Sec. 59A.010. PUBLIC INPUT. Requires the council to develop and implement policies that provide the public with a reasonable opportunity to appear before the council and to speak on any issue under the jurisdiction of the council.

Sec. 59A.011. COMPLAINTS. (a) Requires the council to maintain a file containing each written complaint filed with the council and certain other information.

(b) Requires the council to provide the person filing the complaint and each person who is a subject of the complaint a copy of the council's policies and procedures relating to complaint investigation and resolution.

(c) Requires the council, at least quarterly until the final disposition of the complaint, to notify the person filing the complaint[.]

SECTION 4. Adds [sic] Title 4, Agriculture Code, by adding [Section 59A.003,] as follows:

Sec. 59A.003 [sic]. TEXAS FARM AND RANCH LANDS CONSERVATION FUND. (1) Prohibits the Texas Farm and Ranch Lands Conservation Fund (fund) from being used for grants to purchase or acquire any right to property by eminent domain.

(2)(a) Requires the fund to be used to award grants for the purchase of agricultural conservation easements. Sets forth the method for determining the value of the easement.

(b) Requires the fund to be used to pay transaction costs related to the purchase of agricultural conservation easements.

(c) Prohibits the council from using more than five percent of the money in the account for administrative costs.

SECTION 5. Amends Title 4, Agriculture Code, by adding [Section 59A.004,] as follows:

Sec. 59A.004 [sic]. APPLICATION PROCESS. Requires an applicant who is qualified to be an easement holder to submit an application to the council. Sets forth the information the application must include.

SECTION 6. Amends Title 4, Agriculture Code, by adding [Section 59A.005,] as follows:

Sec. 59A.005 [sic]. CRITERIA FOR AWARDED GRANTS. Requires the council to adopt a scoring process that considers certain criteria. Provides that grants will be awarded to the applicant that demonstrates strength in the highest number of certain categories, and sets forth the categories.

SECTION 7. Amends Title 4, Agriculture Code, by adding [Section 59A.006,] as follows:

Sec. 59A.006 [sic]. TERMS OF AGRICULTURAL CONSERVATION EASEMENT. Sets forth the easement terms that the owner of qualified land and the potential purchaser of an agricultural conservation easement should consider and negotiate.

SECTION 8. Amends Title 4, Agriculture Code, by adding [Section 59A.007,] as follows:

Sec. 59A.007 [sic]. TERMINATION OF EASEMENTS. Authorizes a landowner at any time after the acquisition of an agricultural conservation easement to request that the council terminate the easement on the grounds that the landowner is unable to meet the conservation goals. Requires the termination request to contain a statement of impossibility verified by the owner. Requires the owner to deliver a copy of the request to the easement holder. Requires the council, on receipt of the request, to conduct an inquiry and, within 180 days after the request, to notify the parties of its decision to grant or deny the request for termination. Provides that either party has 45 days to appeal the council's decision in district court.

SECTION 9. Amends Title 4, Agriculture Code, by adding [Section 59A.008,] as follows:

Sec. 59A.008 [sic]. REPURCHASE BY LANDOWNER. (1) Requires the council, if a request for termination is granted, to order an appraisal of the fair market value and the agricultural value of the subject property, at the cost of the landowner. Defines "fair market value" and "agricultural value."

(2) Requires the landowner, within 180 days of the appraisal, to repurchase the easement by paying to the fund an amount proportionally equal to the original grant amount, the current value of the development rights.

(3) Prohibits the owner from subsequently requesting termination until the expiration of five years from the last request, if the request for termination is denied, or the owner fails to repurchase the easement within 180 days of the appraisal.

SECTION 10. Amends Title 4, Agriculture Code, by adding [Section 59A.009,] as follows:

Sec. 59A.009 [sic]. PROTECTED LAND; NOTICE OF TAKING. (1) Prohibits a department or an agency of the state or of a county, municipality, or other political subdivision from approving a program or project that requires the use or taking of any private land encumbered by an agricultural conservation easement purchased under this chapter unless the governmental entity makes certain determinations.

(2) Requires a finding required by Subdivision (1) to be made only at a properly noticed public hearing.

(3) Requires the governing body or officer to consider certain factors. Provides that the provisions of this chapter do not constitute a mandatory prohibition against the use of the area if the findings are made that justify the approval of a program or project.

(4) Requires any finding that leads to the condemnation of land encumbered by an agricultural conservation easement purchased under this chapter to include a provision that repayment to the state must be based on the value of the united estate, in addition to any compensation due the landowner under an eminent domain proceeding.

SECTION 11. Effective date: September 1, 2005.