PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL
Parks and Wildlife Code
Subtitle J, Title 5
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TITLE 5. WILDLIFE AND PLANT MANAGEMENT AND CONSERVATION

SUBTITLE J. WILDLIFE MANAGEMENT AND CONSERVATION AREAS

CHAPTER 5451. GENERAL PROVISIONS

Revised Law

Sec. 5451.0101. TAKING OF WILDLIFE KEPT BY STATE; OFFENSE. (a) A person may not take, injure, or kill:

(1) a fish kept by this state in a state hatchery; or

(2) a bird or animal kept by this state for propagation or exhibition purposes.

(b) A person commits an offense if the person violates this section. An offense under this subsection is a Class C Parks and

Wildlife Code misdemeanor. (Parks & Wild. Code, Secs. 81.001, 81.007.)

Source Law

> Sec. 81.001. TAKING OF WILDLIFE FROM HATCHERIES AND RESERVATIONS PROHIBITED. No person may take, injure, or kill any fish kept by the state in its hatcheries, or any bird or animal kept by the state on its reservation grounds or elsewhere for propagation or exhibition purposes.
>
> Sec. 81.007. PENALTY. A person who violates a provision of this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

Revisor's Note

Section 81.001, Parks and Wildlife Code, prohibits a person from taking, injuring, or killing any bird or animal kept by the state "on its reservation grounds or elsewhere." The revised law omits the quoted language as unnecessary because the phrase encompasses each place at which birds or animals are kept by the state and does not limit or expand the prohibition.

Revised Law

Sec. 5451.0102. TAKING OR POSSESSING SPECIES FROM WILDLIFE MANAGEMENT AREA; OFFENSE. (a) A person may not take or possess any wildlife or fish from a wildlife management area except in the manner and during the times authorized by the department under Chapter 5452.

(b) A person commits an offense if the person violates this section. An offense under this subsection is a Class C Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Secs. 81.006, 81.007.)

Source Law

> Sec. 81.006. TAKING OR POSSESSING SPECIES FROM WILDLIFE MANAGEMENT AREAS. No person may take or attempt to take or possess any wildlife or fish from a wildlife management area except in the manner and during the times permitted by the department under Subchapter E of this chapter.
>
> Sec. 81.007. PENALTY. A person who violates a provision of this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

Revisor's Note

(1) Section 81.006, Parks and Wildlife Code, provides that a person may not "take or attempt to take" certain wildlife or fish. The revised law omits "attempt to take" as included in the meaning of "take" because Section 1.101(5), Parks and Wildlife Code, revised as Section 1001.0104(9), defines "take" for purposes of the code to include an "attempt to take."

(2) Section 81.006, Parks and Wildlife Code, provides that a person may not take or possess certain wildlife or fish except in the manner and during the times permitted by the Parks and Wildlife Department under Subchapter E, Chapter 81, of that code. Subchapter E is revised in Chapter 5452 of this code. Although Chapter 5452 also includes the revision of Section 12.005, Parks and Wildlife Code, throughout this subtitle, the revised law substitutes a reference to Chapter 5452 in its entirety for references to Subchapter E because the subject of Section 12.005 is by its own terms inapplicable to the substance of the provision of the revised law that includes the reference to Subchapter E.

Revised Law

Sec. 5451.0103. TRESPASS ON STATE HATCHERIES AND CERTAIN OTHER GROUNDS; OFFENSE. (a) A person may not, without the permission of the department, enter:

(1) the grounds of a state fish hatchery; or

(2) grounds set apart by this state for the propagation and keeping of birds and animals.

(b) A person commits an offense if the person violates this section. An offense under this subsection is a Class C Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Secs. 81.003, 81.007.)

Source Law

Sec. 81.003. TRESPASS ON STATE HATCHERIES AND RESERVATIONS. No person may enter without the permission of the department on the grounds of a state fish hatchery or on grounds set apart by the state for the propagation and keeping of birds and animals.

Sec. 81.007. PENALTY. A person who violates a provision of this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

Revised Law

Sec. 5451.0104. COMPLIANCE IN FISHERY MANAGEMENT. The department may cooperate and contract with the Gulf of Mexico Fishery Management Council or the National Marine Fisheries Service for work necessary to comply with requirements of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. Section 1801 et seq.). (Parks & Wild. Code, Sec. 13.314.)

Source Law

Sec. 13.314. COMPLIANCE IN FISHERY MANAGEMENT. The department may cooperate and contract with the Gulf of Mexico Fishery Management Council or the National Marine Fisheries Service for conduct of such work as may be necessary in complying with requirements of the Fishery Conservation and Management Act of 1976 (16 U.S.C.A. Section 1801 et seq.).

Revisor's Note

Section 13.314, Parks and Wildlife Code, refers to the "Fishery Conservation and Management Act of 1976" (16 U.S.C.A. Section 1801 et seq.). The revised law substitutes "Magnuson-Stevens Fishery Conservation and Management Act" for the quoted language because that is the proper short title of that act.

Revised Law

Sec. 5451.0105. FISH AND WILDLIFE RESTORATION PROJECTS. (a) The department shall establish and conduct:

(1) cooperative fish restoration projects under Pub. L. No. 81-681; and

(2) cooperative wildlife restoration projects under Pub. L. No. 75-415.

(b) The department shall comply with the acts described by Subsection (a) and rules adopted under those acts by the United States secretary of the interior. (Parks & Wild. Code, Secs. 83.001, 83.003.)

Source Law

Sec. 83.001. FISH RESTORATION PROJECTS. The department shall conduct and establish cooperative fish restoration projects under an Act of Congress entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects" (Public Law No. 681, 81st Congress). The department shall comply with the act and rules and regulations promulgated under the act by the secretary of the interior.

Sec. 83.003. WILDLIFE-RESTORATION PROJECTS. The department shall establish and conduct cooperative wildlife-restoration projects under an Act of Congress entitled "An Act to provide that the United States shall aid the States in wildlife-restoration projects, and for other purposes" (Public Law No. 415, 75th Congress). The department shall comply with the act and rules and regulations promulgated under the act by the United States secretary of the interior.

Revisor's Note

Sections 83.001 and 83.003, Parks and Wildlife Code, refer to certain "rules and regulations promulgated" by the United States secretary of the interior. The revised law omits "regulations" for the reasons stated in Revisor's Note (2) to Section 5053.0108. Additionally, the revised law substitutes "adopted" for "promulgated" for the reasons stated in Revisor's Note (2) to Section 5054.0302.

Revisor's Note
(End of Chapter)

Section 13.313, Parks and Wildlife Code, authorizes the Parks and Wildlife Department to conduct and establish cooperative fish and wildlife restoration projects under Pub. L. Nos. 81-681 and 75-415, respectively. Sections 83.001 and 83.003, Parks and Wildlife Code, revised as Section 5451.0105, require the department to conduct and establish cooperative fish and wildlife restoration projects in

accordance with those acts. The revised law omits Section 13.313 as duplicative of Sections 83.001 and 83.003 because the requirement to conduct and establish cooperative fish and wildlife restoration projects under those sections implies the authorization to conduct and establish those projects.

The omitted law reads:

> Sec. 13.313. FISH AND WILDLIFE RESTORATION PROJECTS. The department may conduct and establish cooperative fish and wildlife restoration projects under the provisions of Public Law No. 415, Acts of the 75th Congress, and Public Law No. 681, Acts of the 81st Congress, as amended.

CHAPTER 5452. WILDLIFE MANAGEMENT AREAS AND PUBLIC HUNTING LAND

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 5452.0101. DEFINITION. In this chapter, "public hunting land" means land:

(1) owned, leased, or managed by the department, including a wildlife management area; and

(2) designated by the executive director as public hunting land. (Parks & Wild. Code, Sec. 81.4011.)

Source Law

> Sec. 81.4011. DEFINITION. In this subchapter, "public hunting land" means land:
> (1) owned, leased, or managed by the department, including a wildlife management area; and
> (2) designated by the director as public hunting land.

Revised Law

Sec. 5452.0102. APPLICABILITY OF CHAPTER TO STATE PARKS. This chapter applies to a state park only:

(1) on public hunting land in the park; and

(2) on specific dates designated by the department for public hunting activities. (Parks & Wild. Code, Sec. 81.4012.)

Source Law

> Sec. 81.4012. APPLICABILITY TO STATE PARK LAND. This subchapter applies to a state park only:
> (1) on public hunting land in the park; and
> (2) on specific dates designated by the

department for public hunting activities.

Revised Law

Sec. 5452.0103. COMMISSION RULES. The commission may adopt rules governing recreational activities in wildlife management areas. (Parks & Wild. Code, Sec. 81.405.)

Source Law

> Sec. 81.405. REGULATION OF RECREATIONAL ACTIVITIES. The commission may adopt rules governing recreational activities in wildlife management areas.

Revised Law

Sec. 5452.0104. COMPLIANCE WITH HUNTING LICENSE LAWS. This chapter does not exempt a person from hunting license laws. (Parks & Wild. Code, Sec. 81.403(d).)

Source Law

> (d) This subchapter does not exempt any person from compliance with hunting license laws.

SUBCHAPTER B. ACQUISITION, DEVELOPMENT, MAINTENANCE, AND OPERATION

Revised Law

Sec. 5452.0201. ACQUISITION. The department may acquire wildlife management areas and public hunting land by any method, including by donation, purchase, or lease. (Parks & Wild. Code, Sec. 81.401(a) (part).)

Source Law

> Sec. 81.401. ACQUISITION AND MANAGEMENT OF AREAS. (a) The department may acquire by donation, purchase, lease, or otherwise, and . . . wildlife management areas and public hunting lands.

Revised Law

Sec. 5452.0202. DEVELOPMENT, MAINTENANCE, AND OPERATION. The department may develop, maintain, and operate wildlife management areas and public hunting land. (Parks & Wild. Code, Sec. 81.401(a) (part).)

Source Law

> Sec. 81.401. ACQUISITION AND MANAGEMENT OF AREAS. (a) The department may . . . develop, maintain, and operate, wildlife management areas and public hunting lands.

Revised Law

Sec. 5452.0203. MANAGEMENT OF WILDLIFE AND FISH. (a) The department may manage wildlife and fish found on any land the department has acquired or may acquire as a wildlife management area.

(b) The department must manage wildlife and fish under Subsection (a) according to sound biological management practices. (Parks & Wild. Code, Sec. 81.401(b).)

Source Law

> (b) The department may manage, along sound biological lines, wildlife and fish found on any land the department has or may acquire as a wildlife management area.

Revisor's Note

Section 81.401(b), Parks and Wildlife Code, authorizes the Parks and Wildlife Department to manage wildlife and fish found on certain land "along sound biological lines." The revised law substitutes "according to sound biological management practices" for the quoted language because, in context, the phrases are synonymous and "sound biological management practices" is the phrase used elsewhere in this chapter.

Revised Law

Sec. 5452.0204. SOURCE OF MONEY TO ACCOMPLISH PURPOSES. The department may use money from the game, fish, and water safety account to accomplish the purposes of this subchapter. (Parks & Wild. Code, Sec. 81.401(c).)

Source Law

> (c) The department may use money from the game, fish, and water safety account to accomplish the purposes of this section.

SUBCHAPTER C. PERMITS

Revised Law

Sec. 5452.0301. COMMISSION RULES. The commission by rule shall prescribe the conditions for the issuance and use of a permit

under this subchapter. (Parks & Wild. Code, Sec. 81.403(a) (part).)

Source Law

> (a) . . . The commission by rule shall prescribe the conditions for the issuance and use of a permit under this section.

Revisor's Note

Section 81.403(a), Parks and Wildlife Code, refers to Section 81.403 of that code. Section 81.403 is revised in pertinent part as this subchapter, and the revised law is drafted accordingly.

Revised Law

Sec. 5452.0302. AUTHORITY TO ISSUE PERMITS. The department may issue a permit authorizing:

(1) access to public hunting land; or

(2) use of a wildlife management area or public hunting land for specific hunting, fishing, recreational, or other use. (Parks & Wild. Code, Sec. 81.403(a) (part).)

Source Law

> Sec. 81.403. PERMITS; FEES. (a) The department may issue a permit authorizing access to public hunting land or for specific hunting, fishing, recreational, or other use of public hunting land or a wildlife management area. . . .

Revised Law

Sec. 5452.0303. PERMIT ISSUANCE. (a) Except as provided by this section, the department must issue permits under this subchapter to applicants by means of a fair method of distribution.

(b) The maximum number of permits issued may be limited.

(c) The department may implement a system of issuing special permits that gives preference to applicants who applied previously but were not selected to receive a permit.

(d) The department may authorize and accept multiple applications for special hunting permits, programs, packages, or events. (Parks & Wild. Code, Secs. 81.403(a-1), (b), (e).)

Source Law

> (a-1) Except as provided by this section,

permits for hunting of wildlife or for any other use in wildlife management areas or public hunting lands shall be issued by the department to applicants by means of a fair method of distribution subject to limitations on the maximum number of permits to be issued.

(b) The department may implement a system of issuing special permits that gives preference to those applicants who have applied previously but were not selected to receive a permit.

(e) The department may authorize and accept multiple applications for special hunting permits, programs, packages, or events.

Revisor's Note

(1) Section 81.403(a-1), Parks and Wildlife Code, requires the Parks and Wildlife Department to issue certain permits by means of a fair method of distribution except as provided by Section 81.403 of that code. The pertinent part of Section 81.403 is revised as this section, and the revised law is drafted accordingly.

(2) Section 81.403(a-1), Parks and Wildlife Code, provides that permits "for hunting of wildlife or for any other use in wildlife management areas or public hunting lands" shall be issued by means of a fair method. For consistency in terminology used in this subchapter, the revised law substitutes "under this subchapter" for the quoted language because it is clear from the context that Section 81.403(a-1) refers to the permit authorized by Section 81.403(a), Parks and Wildlife Code, revised in pertinent part as Section 5452.0302 of this subchapter.

Revised Law

Sec. 5452.0304. PERMIT FEE. The department shall charge a fee for a permit issued under this subchapter in the amount set by the commission by rule. (Parks & Wild. Code, Sec. 81.403(c) (part).)

Source Law

(c) The department shall charge a permit fee in the amount set by the commission by rule. . . .

Revised Law

Sec. 5452.0305. DISPOSITION OF PERMIT FEE. Money received from a fee for a permit issued under this subchapter shall be deposited to the credit of:

(1) the state parks account, if the permit is for access to a state park; or

(2) the game, fish, and water safety account, if the permit is for a purpose other than the purpose described by Subdivision (1). (Parks & Wild. Code, Sec. 81.403(c) (part).)

Source Law

> (c) . . . Revenue from permit fees for access to state parks must be deposited to the credit of the state parks account. Revenue from other permit fees under this section must be deposited to the game, fish, and water safety account.

Revisor's Note

(1) Section 81.403(c), Parks and Wildlife Code, refers to "revenue" received from certain permit fees. The revised law substitutes "money" for "revenue" for the reasons stated in the revisor's note to Section 5052.0105.

(2) Section 81.403(c), Parks and Wildlife Code, refers to Section 81.403 of that code. Section 81.403 is revised in pertinent part as this subchapter, and the revised law is drafted accordingly.

SUBCHAPTER D. REGULATION OF HUNTING AND FISHING

Revised Law

Sec. 5452.0401. REGULATION OF HUNTING AND FISHING. (a) The executive director may:

(1) prohibit hunting and fishing in wildlife management areas or on public hunting land to protect any species of wildlife or fish;

(2) prescribe the number, kind, sex, and size of game or fish that may be taken during an open season in wildlife management areas or on public hunting land; and

(3) prescribe the means, methods, and conditions for

the taking of game or fish during an open season in wildlife management areas or on public hunting land.

(b) As sound biological management permits, the commission may prescribe an open season for hunting after the commission has established a classification system for such areas in accordance with Section 3001.0101. (Parks & Wild. Code, Sec. 81.402.)

Source Law

> Sec. 81.402. REGULATION OF HUNTING AND FISHING. (a) The executive director may prohibit hunting and fishing in wildlife management areas or public hunting lands to protect any species of wildlife or fish.
>
> (b) During an open season in wildlife management areas or public hunting lands, the executive director may prescribe the number, kind, sex, and size of game or fish that may be taken.
>
> (c) The executive director may prescribe the means, methods, and conditions for the taking of game or fish during an open season in wildlife management areas or public hunting lands.
>
> (d) As sound biological management permits, the commission may prescribe an open season for hunting after it has established a classification system for such areas in accordance with Section 13.001(b).

SUBCHAPTER E. REMOVAL OF FUR-BEARING ANIMALS AND REPTILES IN WILDLIFE MANAGEMENT AREA

Revised Law

Sec. 5452.0501. AUTHORITY TO CONTRACT FOR REMOVAL. The department may contract for the removal of fur-bearing animals and reptiles in a wildlife management area. (Parks & Wild. Code, Sec. 81.404(a) (part).)

Source Law

> Sec. 81.404. CONTRACTS FOR REMOVAL OF FUR-BEARING ANIMALS AND REPTILES. (a) The department may contract for the removal of fur-bearing animals and reptiles in wildlife management areas under the control of the department. . . .

Revisor's Note

Section 81.404(a), Parks and Wildlife Code, refers to wildlife management areas "under the control of the department." The revised law omits the quoted language as unnecessary because all wildlife management areas are under the control of the Parks and Wildlife Department.

Revised Law

Sec. 5452.0502. LIMITATION ON AUTHORITY TO REMOVE. (a) The removal of fur-bearing animals and reptiles authorized by this subchapter must be in accordance with sound biological management practices.

(b) Fur-bearing animals may be removed only during the open season provided for in a commission proclamation issued under Chapter 5205.

(c) Except as provided by Subsection (d), reptiles may be removed at any time.

(d) A species of reptile included in a commission proclamation issued under Chapter 5051 or 5204 may be removed only during the open season provided for in the proclamation. (Parks & Wild. Code, Secs. 81.404(a) (part), (c).)

Source Law

> (a) . . . The removal of fur-bearing animals and reptiles shall be according to sound biological management practices.
>
> (c) Fur-bearing animals may be removed only during the open season provided by proclamation of the commission under Chapter 71 of this code. Reptiles may be removed at any time unless there is a proclamation relating to a specific species of reptiles in effect under Chapter 65 or Chapter 67 of this code, in which case that species of reptiles may be removed only during the open season provided for in the proclamation.

Revised Law

Sec. 5452.0503. CONTRACTS FOR REMOVAL. (a) Except as provided by Subsections (b) and (c), the department must enter into a contract authorized by this subchapter:

(1) under the direction of the comptroller; and

(2) in the manner provided by law for the sale of state property.

(b) The department shall determine the means, methods, and quantities of fur-bearing animals and reptiles to be taken under a contract authorized by this subchapter.

(c) The department may accept or reject any bid received by the comptroller for a contract authorized by this subchapter.

(Parks & Wild. Code, Sec. 81.404(b).)

Source Law

(b) Contracts for the removal of fur-bearing animals and reptiles shall be entered into under the direction of the comptroller in the manner provided by general law for the sale of state property, except that the department shall determine the means, methods, and quantities of fur-bearing animals and reptiles to be taken, and the department may accept or reject any bid received by the comptroller.

SUBCHAPTER Y. MISCELLANEOUS PROVISIONS

Revised Law

Sec. 5452.9801. PAYMENT TO COUNTY OR SCHOOL DISTRICT IN LIEU OF TAXES. (a) The department shall pay an assessment to a county or school district in lieu of property taxes on a wildlife management area purchased with federal money or grants authorized by the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. Section 669 et seq.) or Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. Section 777 et seq.).

(b) Money in the general revenue fund may not be used to pay an assessment to a county or school district in lieu of taxes on a wildlife management area under this section.

(c) Money in a special fund may be used to pay an assessment to a county or school district in lieu of taxes on a wildlife management area under this section if reimbursement or matching from the federal government is available at a federal ratio of two to one or better. (Parks & Wild. Code, Sec. 12.005.)

Source Law

Sec. 12.005. FUNDS IN LIEU OF TAXES. (a) The department shall expend funds to counties and school districts for assessments in lieu of property taxes on wildlife management areas purchased from federal funds or grants authorized by the Pittman-Robertson Act or Dingell-Johnson Act.

(b) No general revenue funds may be expended in lieu of taxes for wildlife management areas; however, special funds may be expended for this purpose provided reimbursement or matching from the federal government is available at a federal ratio of two to one or better.

Revisor's Note

(1) Section 12.005, Parks and Wildlife Code, refers to "federal funds," "general revenue funds,"

and "special funds." The revised law substitutes "federal money," "money in the general revenue fund," and "money in a special fund" for the quoted language because, in this context, those terms have the same meanings and the substituted language reflects the more commonly used terms.

(2) Section 12.005(a), Parks and Wildlife Code, refers to the "Pittman-Robertson Act" and the "Dingell-Johnson Act." For the reader's convenience, the revised law substitutes the full citation to those acts for the quoted language.

CHAPTER 5453. WILDLIFE MANAGEMENT ON FEDERAL LAND

Revised Law

Sec. 5453.0101. DEFINITION. In this chapter, "wildlife resources" means all wild birds, wild animals, and aquatic animal life. (Parks & Wild. Code, Sec. 23.042.)

Source Law

Sec. 23.042. WILDLIFE RESOURCES DEFINED. In this subchapter, "wildlife resources" means all wild birds, wild animals, and aquatic animal life.

Revised Law

Sec. 5453.0102. WILDLIFE MANAGEMENT AGREEMENTS AUTHORIZED. The department may enter into an agreement with the proper agency of the United States for:

(1) the protection and management of wildlife resources on federal land in this state; and

(2) the restocking of desirable species of wildlife on federal land in this state. (Parks & Wild. Code, Sec. 23.041.)

Source Law

Sec. 23.041. AGREEMENTS FOR WILDLIFE MANAGEMENT. The department may agree with the proper agency of the United States for the protection and management of wildlife resources and for restocking desirable species of wildlife on federal lands in the state.

Revised Law

Sec. 5453.0103. OPEN SEASONS. The commission, under

Chapter 5101 or 5452, may provide for open seasons for hunting and fishing on federal land for which the department has entered into a wildlife management agreement under this chapter. (Parks & Wild. Code, Sec. 23.043.)

Source Law

> Sec. 23.043. HUNTING AND FISHING REGULATIONS. The commission, under Chapter 61 or Subchapter E, Chapter 81, may provide for open seasons for hunting and fishing on federal lands for which the department has entered into a wildlife management agreement under this subchapter.

Revised Law

Sec. 5453.0104. CRIMINAL PENALTY. (a) A person commits an offense if the person:

(1) violates a commission rule adopted under this chapter; or

(2) hunts or fishes on federal land included in a wildlife management agreement under this chapter at any time other than an open season described by Section 5453.0103.

(b) An offense under this section is a Class C Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Sec. 23.044.)

Source Law

> Sec. 23.044. PENALTY. A person who violates any rule or regulation of the commission adopted under this subchapter or who hunts or fishes on federal lands included in a wildlife management agreement under this subchapter at any time other than the open season commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

CHAPTER 5454. WILDLIFE MANAGEMENT ASSOCIATION AREAS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 5454.0101. COMMISSION RULES. The commission may adopt rules necessary to implement this chapter. (Parks & Wild. Code, Sec. 81.303.)

Source Law

> Sec. 81.303. RULES. The commission may adopt rules necessary to implement this subchapter.

SUBCHAPTER B. WILDLIFE MANAGEMENT ASSOCIATION AREAS

Revised Law

Sec. 5454.0201. DESIGNATION OF WILDLIFE MANAGEMENT ASSOCIATION AREA; APPLICATION. (a) The department may designate two or more contiguous or proximate tracts of land as a wildlife management association area if:

(1) each owner of the land applies for the designation;

(2) the land is inhabited by wildlife;

(3) the department determines that observing wildlife and collecting information on the wildlife will serve the purpose of wildlife management in this state; and

(4) the landowners agree to provide the department with information regarding the wildlife under Section 5454.0202.

(b) The department shall prescribe the form and content of an application under this section. (Parks & Wild. Code, Sec. 81.301.)

Source Law

Sec. 81.301. WILDLIFE MANAGEMENT ASSOCIATION AREAS. (a) The department may designate two or more contiguous or proximate tracts of land as a wildlife management association area if:

(1) each owner of the land applies for the designation;

(2) the land is inhabited by wildlife;

(3) the department determines that observing wildlife and collecting information on the wildlife will serve the purpose of wildlife management in the state; and

(4) the landowners agree to provide the department with information regarding the wildlife under Section 81.302 of this code.

(b) The department shall prescribe the form and content of an application under this section.

Revised Law

Sec. 5454.0202. WILDLIFE MANAGEMENT PLAN. (a) Before the department may approve an application for designation of a wildlife management association area under this subchapter, the applicants must prepare a wildlife management plan according to department guidelines for wildlife management plans.

(b) The department's guidelines must require the collection

of information on the wildlife that is in a wildlife management association area.

(c) Activities prescribed in the wildlife management plan must be conducted annually to maintain the designation of a wildlife management association area. (Parks & Wild. Code, Sec. 81.302.)

Source Law

Sec. 81.302. WILDLIFE MANAGEMENT PLAN; COLLECTION OF INFORMATION. (a) Before the department may approve an application for designation of a wildlife management association area under this subchapter, the applicants must prepare a wildlife management plan according to department guidelines for wildlife management plans.

(b) The department's guidelines shall require the collection of information on the wildlife that is in a wildlife management association area.

(c) Activities prescribed in the wildlife management plan must be conducted annually to maintain the designation of a wildlife management association.

Revisor's Note

Section 81.302(a), Parks and Wildlife Code, refers to Subchapter D, Chapter 81, of that code. Subchapter D is revised in pertinent part as this subchapter, and the revised law is drafted accordingly.

CHAPTER 5455. MIGRATORY GAME BIRD RESERVATIONS

Revised Law

Sec. 5455.0101. ACQUISITION OF MIGRATORY GAME BIRD RESERVATIONS. The United States may acquire by purchase, gift, devise, or lease an area of land or water in this state necessary for the establishment of a migratory bird reservation as authorized by the Migratory Bird Conservation Act (16 U.S.C. Section 715 et seq.). (Parks & Wild. Code, Sec. 83.004(a).)

Source Law

Sec. 83.004. MIGRATORY GAME BIRD RESERVATIONS. (a) The United States of America may acquire by purchase, gift, devise, or lease areas of land or water in this state necessary for the establishment of migratory bird reservations under an Act of Congress entitled "An Act to more effectively meet the obligations of the United States under the Migratory Bird Treaty with Great Britain by lessening the dangers threatening migratory game birds from drainage

and other causes by the acquisition of areas of land and of water to furnish in perpetuity reservations for the adequate protection of such birds; and authorizing appropriations for the establishment of such areas, their maintenance and improvement and for other purposes."

Revisor's Note

Section 83.004(a), Parks and Wildlife Code, refers to "an Act of Congress entitled 'An Act to more effectively meet the obligations of the United States under the Migratory Bird Treaty with Great Britain by lessening the dangers threatening migratory game birds from drainage and other causes by the acquisition of areas of land and of water to furnish in perpetuity reservations for the adequate protection of such birds; and authorizing appropriations for the establishment of such areas, their maintenance and improvement and for other purposes.'" For brevity, the revised law substitutes for the quoted language the short title of and the United States Code citation for the act referenced by that language.

Revised Law

Sec. 5455.0102. STATE JURISDICTION RETAINED. This state retains jurisdiction and authority over an area acquired as provided by Section 5455.0101 compatible with the administration, maintenance, protection, and control of the area by the United States under the Migratory Bird Conservation Act (16 U.S.C. Section 715 et seq.). (Parks & Wild. Code, Sec. 83.004(b).)

Source Law

(b) The state retains jurisdiction and authority over the areas which are not incompatible with the administration, maintenance, protection, and control of the areas by the United States under the act.

CHAPTER 5456. FISH HATCHERIES

Revised Law

Sec. 5456.0101. SALTWATER HATCHERIES AND PROPAGATION FARMS. (a) The commission may construct and maintain saltwater hatcheries and propagation farms for fish, oysters, and game on

islands owned by this state in coastal water.

(b) The commission may use money available to the department for the enforcement of game, fish, and oyster laws for costs and expenses authorized by this section. (Parks & Wild. Code, Sec. 81.101.)

Source Law

> Sec. 81.101. SALTWATER AREAS. The commission may construct and maintain saltwater hatcheries and propagation farms for fish, oysters, and game on islands owned by the state in coastal water. Funds available to the department for the enforcement of game, fish, and oyster laws may be used for costs and expenses authorized under this section.

Revisor's Note

Section 81.101, Parks and Wildlife Code, refers to the "[f]unds" that the Parks and Wildlife Department may use for certain purposes. Throughout this chapter, the revised law substitutes "money" for "funds" for the reason stated in Revisor's Note (3) to Section 5054.0302.

Revised Law

Sec. 5456.0102. FRESHWATER HATCHERIES. (a) The department may purchase land for the construction, maintenance, enlargement, and operation of freshwater fish hatcheries.

(b) From money appropriated to the department, the department may purchase land under this section after approval by the attorney general of the title to the land. (Parks & Wild. Code, Sec. 81.102 (part).)

Source Law

> Sec. 81.102. FRESHWATER AREAS. The department may purchase land for the construction, maintenance, enlargement, and operation of freshwater fish hatcheries, and . . . . On approval of the title by the attorney general, purchases may be made from funds appropriated to the department.

Revised Law

Sec. 5456.0103. CONDEMNATION AUTHORITY AND PROCEDURE. (a) The department may enter on, condemn, and appropriate land, easements, rights-of-way, and other property of a person in this

state for the purpose of erecting, constructing, enlarging, and maintaining fish hatcheries, buildings, equipment, roads, and passageways to the hatcheries.

(b) The method of condemnation, assessment, and payment of damages is the same as the method provided for railroads. (Parks & Wild. Code, Sec. 81.103 (part).)

Source Law

> Sec. 81.103. PROPERTY ACQUISITION; MANNER AND MEANS. The department may enter on, condemn, and appropriate land, easements, rights-of-way, and property of any person or corporation in the state for the purpose of erecting, constructing, enlarging, and maintaining fish hatcheries, buildings, equipment, roads, and passageways to the hatcheries. . . . The manner and method of condemnation, assessment, and payment of damages is the same as is provided for railroads.

Revisor's Note

(1) Section 81.103, Parks and Wildlife Code, refers to any "person or corporation." The revised law omits "corporation" for the reason stated in the revisor's note to Section 5054.0307.

(2) Section 81.103, Parks and Wildlife Code, refers to the "manner and method" to be used for certain condemnations, assessments, and payments of damages. The revised law omits "manner" because, in context, "manner" is included in the meaning of "method."

Revised Law

Sec. 5456.0104. CONDEMNATION SUIT. (a) A condemnation suit under this chapter must be brought by the attorney general at the request of the department.

(b) The attorney general must bring the suit:

(1) in the name of this state; and

(2) in Travis County.

(c) All costs in the proceedings must be paid by this state or by the person against whom the proceedings are brought, to be determined as costs are determined in the case of railroad

condemnation proceedings.

(d) The comptroller must pay all damages and payment or compensation for property awarded in the proceedings from any fund or account in the state treasury that is:

(1) limited to use for fish or wildlife purposes; and

(2) appropriated to the department. (Parks & Wild. Code, Sec. 81.104.)

Source Law

Sec. 81.104. CONDEMNATION SUITS. Condemnation suits under this subchapter shall be brought in the name of the State of Texas by the attorney general at the request of the department and shall be held in Travis County. All costs in the proceedings shall be paid by the state or by the person against whom the proceedings are had, to be determined as in the case of railroad condemnation proceedings. All damages and pay or compensation for property awarded in the proceedings shall be paid by the comptroller against any fund or account in state treasury that is limited in use for fish or wildlife purposes and that is appropriated to the department.

Revisor's Note

Section 81.104, Parks and Wildlife Code, refers to condemnation suits brought under Subchapter B, Chapter 81, of that code. Subchapter B is revised in pertinent part as this chapter, and the revised law is drafted accordingly.

CHAPTER 5457. FISH SANCTUARIES

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 5457.0101. APPLICABILITY OF CHAPTER TO CERTAIN COUNTIES. This chapter does not apply to Wichita, Clay, Baylor, or Wilbarger County. (Parks & Wild. Code, Sec. 81.209.)

Source Law

Sec. 81.209. EXCLUDED COUNTIES. This subchapter does not apply to Wichita, Clay, Baylor, and Wilbarger counties.

Revisor's Note

Section 81.209, Parks and Wildlife Code, refers to "this subchapter," meaning Subchapter C, Chapter 81, of that code. Throughout this chapter, the revised

law substitutes "this chapter" for "this subchapter" because Subchapter C is revised in this chapter. Although this chapter also includes the revision of other provisions, it is appropriate to refer to this chapter in its entirety because the additional provisions revised in this chapter are applicable only to conduct related to a fish sanctuary designated under Subchapter C.

SUBCHAPTER B. DESIGNATION

Revised Law

Sec. 5457.0201. COMMISSION PROCLAMATION. (a) Fish sanctuaries shall be set aside and designated by proclamation of the commission signed by the presiding officer.

(b) The proclamation must contain:

(1) the area to be included in the fish sanctuary;

(2) the reason for creation of the sanctuary;

(3) the date the proclamation takes effect;

(4) the duration of the proclamation; and

(5) a statement that the sanctuary is set aside and designated under the authority of this chapter, which must include a citation to this chapter.

(c) The proclamation takes effect on the day the department last publishes the summary required by Section 5457.0202(2). (Parks & Wild. Code, Secs. 81.206, 81.208.)

Source Law

Sec. 81.206. PROCLAMATION. (a) Sanctuaries shall be set aside and designated by proclamation of the commission signed by the presiding officer.

(b) The proclamation must contain:

(1) the area to be included in the sanctuary;

(2) the reason for creation of the sanctuary;

(3) the date on which the proclamation takes effect;

(4) the duration of the proclamation; and

(5) a statement that the sanctuary is set aside and designated under the authority of this subchapter, the citation of which must be included.

Sec. 81.208. EFFECTIVE DATE OF PROCLAMATION. The proclamation takes effect on the day of the last

publication of the notice required by Section 81.207(2) of this code.

Revised Law

Sec. 5457.0202. NOTICE OF CREATION. The department must give notice of the creation of a fish sanctuary by:

(1) posting a copy of the proclamation on the courthouse door of each county in which the sanctuary is located;

(2) publishing a brief summary of the proclamation once each week for five consecutive weeks in a newspaper in:

(A) the county in which the sanctuary is located; or

(B) an adjoining county if the county in which the sanctuary is located does not have a newspaper; and

(3) posting at least six signs around the boundary of the sanctuary with the conspicuous inscription "State Fish Sanctuary--No Fishing". (Parks & Wild. Code, Sec. 81.207.)

Source Law

Sec. 81.207. NOTICE. The department shall give notice of the creation of a sanctuary by each of the following methods:

(1) by posting copies of the proclamation on the courthouse door of each county in which the sanctuary is located;

(2) by publishing a brief summary of the proclamation in a newspaper in the county in which the sanctuary is located, or in a newspaper of an adjoining county if the county where the sanctuary is located has no newspaper, once each week for five consecutive weeks; and

(3) by posting at least six signs bearing the conspicuous inscription "State Fish Sanctuary--No Fishing" around the boundary of the sanctuary.

SUBCHAPTER C. PROHIBITED ACTS

Revised Law

Sec. 5457.0301. FISHING IN FISH SANCTUARY; OFFENSE. (a) A person may not fish or attempt to take fish from a fish sanctuary designated under this chapter.

(b) A person commits an offense if the person violates this section. An offense under this subsection is a Class C Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Secs. 81.004, 81.007.)

Source Law

Sec. 81.004. FISHING IN SANCTUARY. No person may fish or attempt to take fish from a fish sanctuary designated under Subchapter C of this chapter.

Sec. 81.007. PENALTY. A person who violates a provision of this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

CHAPTER 5458. FISH PASSES

SUBCHAPTER A. ACQUISITION, CONSTRUCTION, AND MAINTENANCE

Revised Law

Sec. 5458.0101. FISH PASSES. (a) The department may purchase land for the construction and maintenance of passes leading from one body of tidewater to another.

(b) From money appropriated to the department, the department may purchase land under this section after approval by the attorney general of the title to the land. (Parks & Wild. Code, Sec. 81.102 (part).)

Source Law

Sec. 81.102. FRESHWATER AREAS. The department may purchase land . . . for the construction and maintenance of passes leading from one body of tidewater to another. On approval of the title by the attorney general, purchases may be made from funds appropriated to the department.

Revisor's Note

Section 81.102, Parks and Wildlife Code, refers to the "funds" that the Parks and Wildlife Department may use for certain purposes. The revised law substitutes "money" for "funds" for the reason stated in Revisor's Note (3) to Section 5054.0302.

Revised Law

Sec. 5458.0102. CONDEMNATION AUTHORITY AND PROCEDURE. (a) The department may enter on, condemn, and appropriate land, easements, rights-of-way, and other property of a person in this state for the purpose of constructing, enlarging, and maintaining passes or channels from one body of tidewater to another body of tidewater in this state.

(b) The method of condemnation, assessment, and payment of

damages is the same as the method provided for railroads. (Parks & Wild. Code, Sec. 81.103 (part).)

Source Law

> Sec. 81.103. . . . The department may also enter on, condemn, and appropriate land, easements, rights-of-way, and property of any person or corporation in the state for the purpose of constructing, enlarging, and maintaining passes or channels from one body of tidewater to another body of tidewater in the state. The manner and method of condemnation, assessment, and payment of damages is the same as is provided for railroads.

Revisor's Note

(1) Section 81.103, Parks and Wildlife Code, refers to any "person or corporation." The revised law omits "corporation" for the reason stated in the revisor's note to Section 5054.0307.

(2) Section 81.103, Parks and Wildlife Code, refers to the "manner and method" to be used for certain condemnations, assessments, and payments of damages. The revised law omits the term "manner" for the reason stated in Revisor's Note (2) to Section 5456.0103.

Revised Law

Sec. 5458.0103. CONDEMNATION SUIT. (a) A condemnation suit under this subchapter must be brought by the attorney general at the request of the department.

(b) The attorney general must bring the suit:

(1) in the name of this state; and

(2) in Travis County.

(c) All costs in the proceedings must be paid by this state or by the person against whom the proceedings are brought, to be determined as costs are determined in the case of railroad condemnation proceedings.

(d) The comptroller must pay all damages and payment or compensation for property awarded in the proceedings from any fund or account in the state treasury that is:

(1) limited to use for fish or wildlife purposes; and

(2) appropriated to the department. (Parks & Wild. Code, Sec. 81.104.)

Source Law

Sec. 81.104. CONDEMNATION SUITS. Condemnation suits under this subchapter shall be brought in the name of the State of Texas by the attorney general at the request of the department and shall be held in Travis County. All costs in the proceedings shall be paid by the state or by the person against whom the proceedings are had, to be determined as in the case of railroad condemnation proceedings. All damages and pay or compensation for property awarded in the proceedings shall be paid by the comptroller against any fund or account in state treasury that is limited in use for fish or wildlife purposes and that is appropriated to the department.

Revisor's Note

Section 81.104, Parks and Wildlife Code, refers to condemnation suits brought under Subchapter B, Chapter 81, of that code. Subchapter B is revised in pertinent part as this subchapter, and the revised law is drafted accordingly.

SUBCHAPTER B. REGULATION OF VESSELS AND OBSTRUCTIONS

Revised Law

Sec. 5458.0201. AUTHORITY OF UNITED STATES TO REGULATE NAVIGATION NOT RESTRICTED. This subchapter does not restrict the power of the United States to regulate navigation. (Parks & Wild. Code, Sec. 66.204(c).)

Source Law

(c) This section does not restrict the power of the United States to regulate navigation.

Revised Law

Sec. 5458.0202. REGULATION BY PROCLAMATION. The commission by proclamation may regulate:

(1) the placement of obstructions, traps, and mooring in fish passes; and

(2) the marking of restricted areas in any natural or artificial pass that is opened, reopened, dredged, excavated, constructed, or maintained by the department as a fish pass between the Gulf of Mexico and an inland bay. (Parks & Wild. Code, Sec.

66.204(a).)

Source Law

> Sec. 66.204. VESSELS AND OBSTRUCTIONS IN FISH PASSES. (a) The commission by proclamation may regulate the placement of obstructions, traps, and mooring in fish passes and the marking of restricted areas in any natural or artificial pass that is opened, reopened, dredged, excavated, constructed, or maintained by the department as a fish pass between the Gulf of Mexico and an inland bay.

Revised Law

Sec. 5458.0203. CERTAIN ACTS PROHIBITED. (a) This section applies only to the portion of a natural or artificial pass opened, reopened, dredged, excavated, constructed, or maintained by the department as a fish pass between the Gulf of Mexico and an inland bay that is located between:

(1) the mouth of the pass where it empties into the Gulf of Mexico; and

(2) a marker or sign erected by the department indicating the restricted area.

(b) A person may not, in the area described by Subsection (a):

(1) operate, possess, or moor a vessel or other floating device; or

(2) place any piling, wire, rope, cable, net, trap, or other obstruction. (Parks & Wild. Code, Sec. 66.204(b).)

Source Law

> (b) No person may operate, possess, or moor a vessel or other floating device, or may place any piling, wire, rope, cable, net, trap, or other obstruction, in a natural or artificial pass opened, reopened, dredged, excavated, constructed, or maintained by the department as a fish pass between the Gulf of Mexico and an inland bay within the distance inside the pass from the mouth of the pass where it empties into the Gulf of Mexico to a marker or sign erected by the department indicating the restricted area.

Revised Law

Sec. 5458.0204. CRIMINAL PENALTY. (a) A person commits an offense if the person violates this subchapter or a proclamation issued under this subchapter.

(b) An offense under this section is a Class C Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Sec. 66.218(a) (part).)

Source Law

> (a) . . . a person who violates a provision of this subchapter or a proclamation adopted under this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

CHAPTER 5459. SCIENTIFIC AREAS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 5459.0101. DEPARTMENT RULES. To the extent necessary to carry out the purposes of this chapter, the department may adopt rules necessary for the management and protection of scientific areas. (Parks & Wild. Code, Sec. 81.502(2).)

Source Law

> Sec. 81.502. POWERS AND DUTIES. To the extent necessary to carry out the purposes of this subchapter, the department may:
>
> . . .
>
> (2) make and publish all rules and regulations necessary for the management and protection of scientific areas;
>
> . . .

Revisor's Note

Section 81.502(2), Parks and Wildlife Code, authorizes the Parks and Wildlife Department to make and "publish all rules and regulations" necessary for the management and protection of scientific areas. The revised law omits "publish" as unnecessary because Chapter 2001, Government Code, prescribes the procedure each agency must follow in adopting rules, including the publication requirement imposed by Section 81.502(2). Additionally, the revised law omits "regulations" for the reasons stated in Revisor's Note (2) to Section 5053.0108.

SUBCHAPTER B. SCIENTIFIC AREAS

Revised Law

Sec. 5459.0201. SYSTEM OF SCIENTIFIC AREAS. The department

may establish and promote a state system of scientific areas for the purposes of education, scientific research, and preservation of flora and fauna of scientific or educational value. (Parks & Wild. Code, Sec. 81.501.)

Source Law

> Sec. 81.501. CREATION OF SCIENTIFIC AREAS. The department may promote and establish a state system of scientific areas for the purposes of education, scientific research, and preservation of flora and fauna of scientific or educational value.

Revised Law

Sec. 5459.0202. POWERS OF DEPARTMENT. To the extent necessary to carry out the purposes of this chapter, the department may:

(1) formulate policies for the selection, acquisition, management, and protection of state scientific areas;

(2) accept or reject the inclusion of a proposed state scientific area into the state system of scientific areas;

(3) negotiate for and approve the dedication of a state scientific area as part of the state system;

(4) acquire an interest in real property by purchase;

(5) hold and manage land in the state system;

(6) cooperate and contract with an agency, organization, or individual;

(7) accept a gift, grant, devise, or bequest of money, a security, or other property to be used in accordance with the tenor of the gift, grant, devise, or bequest; and

(8) advocate research, investigations, interpretive programs, and publication and dissemination of information relating to state scientific areas and related areas of scientific value. (Parks & Wild. Code, Secs. 81.502(1), (3), (4), (5), (6), (7), (8), (9).)

Source Law

> Sec. 81.502. POWERS AND DUTIES. To the extent necessary to carry out the purposes of this subchapter, the department may:
>
> (1) determine the acceptance or rejection of state scientific areas proposed for incorporation

into a state system of scientific areas;

. . .

(3) cooperate and contract with any agencies, organizations, or individuals for the purposes of this subchapter;

(4) accept gifts, grants, devises, and bequests of money, securities, or property to be used in accordance with the tenor of such gift, grant, devise, or bequest;

(5) formulate policies for the selection, acquisition, management, and protection of state scientific areas;

(6) negotiate for and approve the dedication of state scientific areas as part of the system;

(7) advocate research, investigations, interpretive programs, and publication and dissemination of information pertaining to state scientific areas and related areas of scientific value;

(8) acquire interests in real property by purchase; and

(9) hold and manage lands within the system.

Revisor's Note

(1) Section 81.502(1), Parks and Wildlife Code, provides that the Parks and Wildlife Department may determine the acceptance or rejection of state scientific areas proposed for "incorporation" into the state system. The revised law substitutes "inclusion" for "incorporation" because, in context, the terms are synonymous and "inclusion" is more commonly used.

(2) Section 81.502(3), Parks and Wildlife Code, authorizes the Parks and Wildlife Department, "[t]o the extent necessary to carry out the purposes of this subchapter," to cooperate and contract with any agencies, organizations, or individuals "for the purposes of this subchapter." The revised law omits "for the purposes of this subchapter" as duplicative of "[t]o the extent necessary to carry out the purposes of this subchapter."

Revised Law

Sec. 5459.0203. PARTICIPATION OF PUBLIC ENTITIES. Each public entity and agency of the entity is authorized and urged to acquire, administer, and dedicate land as a state scientific area in the state system of scientific areas under the policies of the

commission authorized by this chapter. (Parks & Wild. Code, Sec. 81.503.)

Source Law

> Sec. 81.503. LAND OF PUBLIC ENTITIES. All public entities and their agencies are authorized and urged to acquire, administer, and dedicate land as state scientific areas within the system under the policies of the commission authorized by this subchapter.

Revised Law

Sec. 5459.0204. EFFECT ON EXISTING AREAS. (a) Except as provided by Subsection (b), the inclusion of a state or local park, preserve, wildlife refuge, or other area in the state system of scientific areas does not cancel, supersede, or otherwise interfere with another law or instrument that relates to the use, management, or development of the area for another purpose.

(b) An agency administering an area in the state system is responsible for preserving the natural character of the area under the policies of the commission. (Parks & Wild. Code, Sec. 81.504.)

Source Law

> Sec. 81.504. EFFECT ON EXISTING AREAS. Inclusion of a state or local park, preserve, wildlife refuge, or other area within the system established under this subchapter does not cancel, supersede, or interfere with any other law or provision of an instrument relating to the use, management, or development of the area for other purposes except that any agency administering an area within the system is responsible for preserving the natural character of the area under the policies of the commission.

Revisor's Note

Section 81.504, Parks and Wildlife Code, refers to the "system established under this subchapter." For clarity and consistency in terminology used in this subchapter, the revised law substitutes "state system of scientific areas" for the quoted language because it is clear from the context that the referenced system is the state system of scientific areas established by the Parks and Wildlife Department under Section 81.501, Parks and Wildlife Code, revised as Section 5459.0201 of this subchapter.

Revised Law

Sec. 5459.0205. PROTECTED STATUS OF AREA. The protected status under law of an area in the state system of scientific areas that the area would have had if the area were not included in the state system is not voided or replaced by:

(1) the designation of the area as a scientific area in the state system; or

(2) an intrusion, easement, or taking allowed by the commission under this chapter. (Parks & Wild. Code, Sec. 81.505.)

Source Law

Sec. 81.505. PROTECTED STATUS. Neither the designation of an area as a scientific area within the state system nor an intrusion, easement, or taking allowed by the commission under this subchapter voids or replaces a protected status under the law which the area would have if it were not included within the system.

Revised Law

Sec. 5459.0206. SOURCE OF MONEY TO ACQUIRE SCIENTIFIC AREA. The commission may use only money specifically appropriated for use under this chapter to acquire a scientific area. (Parks & Wild. Code, Sec. 81.506.)

Source Law

Sec. 81.506. FUNDS TO BE SPECIFICALLY APPROPRIATED. The commission may not use any funds for the acquisition of scientific areas other than those specifically appropriated for use under this subchapter.

Revisor's Note

Section 81.506, Parks and Wildlife Code, refers to the "funds" that the Parks and Wildlife Commission may use for certain purposes. The revised law substitutes "money" for "funds" for the reason stated in Revisor's Note (3) to Section 5054.0302.

CHAPTER 5460. HABITAT PROTECTION BY POLITICAL SUBDIVISIONS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 5460.0101. DEFINITIONS. In this chapter:

(1) "Endangered species" means a species listed by the

United States Department of the Interior as endangered or threatened under the Endangered Species Act.

(2) "Endangered Species Act" means the Endangered Species Act of 1973 (16 U.S.C. Section 1531 et seq.).

(3) "Federal permit" means a permit issued under Section 7 or 10(a) of the Endangered Species Act.

(4) "Habitat conservation plan" means a plan or program to protect an endangered species by a habitat preserve or other protection strategy developed to obtain a federal permit:

(A) that does not require the regulation of non-habitat preserve land; and

(B) for which the land to be used as a habitat preserve, at the time of application for the federal permit, is:

(i) owned by a plan participant; or

(ii) subject to a contract agreed to by each owner of land in the habitat preserve or proposed habitat preserve providing that all or part of the owner's land be used or managed as a habitat preserve.

(5) "Habitat preserve" means land set aside or managed for the protection of an endangered species under a federal permit.

(6) "Harm" means, with respect to an endangered species, significant habitat modification or degradation that, by significantly impairing essential behavioral patterns, including breeding, feeding, sheltering, or migrating, is the proximate cause of the death or physical injury of a member of an endangered species.

(7) "Land development standards" means rules or ordinances regulating the development of land, including impervious cover limitations, building setbacks, zoning, floor-to-area ratios, building coverage, water quality controls and regulations, landscaping, building height, development setbacks, compatibility standards, traffic analyses, driveway cuts, impact fees, and transfer of development rights. The term does not include fire or building codes or restrictions on the

withdrawal of groundwater.

(8) "Mitigation fee" means a charge or in-kind contribution that is:

(A) based on the amount of harm; and

(B) paid or provided to a plan participant in exchange for mitigation credit to be used to comply with the Endangered Species Act.

(9) "Plan participant" means a political subdivision that develops, attempts to develop, adopts, approves, or participates in a habitat conservation plan or regional habitat conservation plan.

(10) "Political subdivision" means a municipality, county, or other subdivision of state government.

(11) "Regional habitat conservation plan" means a plan or program:

(A) to protect an endangered species by habitat preserves or other protection strategies developed to obtain a federal permit; and

(B) that requires the acquisition or regulation of land or interests in land not owned by a plan participant at the time of application for a federal permit. (Parks & Wild. Code, Secs. 83.011(2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12).)

Source Law

Sec. 83.011. DEFINITIONS. In this chapter:

(2) "Endangered species" means a species listed by the United States Department of the Interior as endangered or threatened under the federal act.

(3) "Federal act" means the federal Endangered Species Act of 1973 (16 U.S.C. Section 1531 et seq.), as amended.

(4) "Federal permit" means a permit issued under Section 7 or 10(a) of the federal act.

(5) "Governmental entity" means a political subdivision of the state, including:

(A) a municipality; and

(B) a county.

(6) "Habitat conservation plan" means a plan or program to protect endangered species by habitat preserves or other protection strategies developed in order to obtain a federal permit:

(A) that does not require the regulation of non-habitat preserve land; and

(B) for which the land to be used as

habitat preserves, at the time of application for the federal permit:

(i) is owned by a plan participant; or

(ii) is subject to a contract agreed to by each owner of land in the habitat preserve or proposed habitat preserve providing that all or part of the owner's land be used or managed as a habitat preserve.

(7) "Habitat preserve" means land set aside or managed for the protection of endangered species under a federal permit.

(8) "Harm" means significant habitat modification or degradation that, by significantly impairing essential behavioral patterns, including breeding, feeding, sheltering, or migrating, is the proximate cause of:

(A) the death of a member of an endangered species; or

(B) the physical injury of a member of an endangered species.

(9) "Land development standards" means rules or ordinances regulating the development of land, including impervious cover limitations, building setbacks, zoning, floor-to-area ratios, building coverage, water quality controls and regulations, landscaping, building height, development setbacks, compatibility standards, traffic analyses, driveway cuts, impact fees, and transfer of development rights. The term does not include fire or building codes or restrictions on the withdrawal of groundwater.

(10) "Mitigation fee" means a charge or in-kind contribution that is based on the amount of harm and is paid or provided to a plan participant in exchange for mitigation credit to be used to comply with the federal act.

(11) "Plan participant" means a governmental entity that develops, attempts to develop, adopts, approves, or participates in a regional habitat conservation plan or habitat conservation plan.

(12) "Regional habitat conservation plan" means a plan or program to protect endangered species by habitat preserves or other protection strategies developed in order to obtain a federal permit that requires the acquisition or regulation of land or interests in land not owned by a plan participant at the time of application for a federal permit.

Revisor's Note

(1) Section 83.011(3), Parks and Wildlife Code, defines "federal act" to mean the federal Endangered Species Act of 1973. For the convenience of the reader, throughout this chapter, the revised law substitutes "Endangered Species Act" for "federal act."

(2) Section 83.011(3), Parks and Wildlife Code, refers to the federal Endangered Species Act of 1973, "as amended." The revised law omits the quoted

language for the reason stated in Revisor's Note (2) to Section 5002.0103.

(3) Section 83.011(5), Parks and Wildlife Code, defines "governmental entity" to mean a political subdivision of the state, including a municipality and a county. The revised law substitutes a definition of "political subdivision" for the definition of "governmental entity" because, in context, the terms are synonymous and "political subdivision" is the more commonly used term. Throughout this chapter, the revised law substitutes "political subdivision" for "governmental entity" unless the context clearly indicates otherwise.

Revised Law

Sec. 5460.0102. PURPOSES. The purposes of this chapter are to:

(1) establish the requirements for and authority of a political subdivision to regulate wildlife through the development, financing, and implementation of a habitat conservation plan or regional habitat conservation plan;

(2) encourage political subdivisions to use the authority under this chapter to develop and implement habitat conservation plans instead of regional habitat conservation plans;

(3) coordinate, to the greatest extent practicable, habitat preserves with land set aside or to be set aside under a local, state, or federal law or regulation;

(4) prohibit plan participants from devaluing land that contains an endangered species or endangered species habitat through the actions of a plan participant; and

(5) require plan participants of existing regional habitat conservation plans to comply with the requirements of this chapter so that existing regional habitat conservation plans become habitat conservation plans as quickly as possible. (Parks & Wild. Code, Sec. 83.012.)

Source Law

Sec. 83.012. PURPOSE. The purpose of this subchapter is to:

(1) establish the requirements for and authority of a governmental entity to regulate wildlife through the development, financing, and implementation of a regional habitat conservation plan or a habitat conservation plan;

(2) encourage governmental entities to use the authority under this subchapter to develop and implement habitat conservation plans instead of regional habitat conservation plans;

(3) coordinate, to the greatest extent practicable, habitat preserves with lands set aside or to be set aside under local, state, or federal laws or regulations;

(4) prohibit plan participants from devaluing land containing endangered species or endangered species habitat through plan participant actions; and

(5) require plan participants of existing regional habitat conservation plans to comply with the requirements of this subchapter so that existing regional habitat conservation plans become habitat conservation plans as quickly as possible.

SUBCHAPTER B. GENERAL POWERS OF DEPARTMENT AND POLITICAL SUBDIVISIONS

Revised Law

Sec. 5460.0201. AUTHORITY TO STUDY, PREPARE, AND CREATE HABITAT CONSERVATION PLAN. The department or a political subdivision may participate in the study of, preparation for, and creation of a habitat conservation plan. (Parks & Wild. Code, Sec. 83.013(a).)

Source Law

Sec. 83.013. AUTHORITY OF DEPARTMENT OR POLITICAL SUBDIVISION. (a) The department or a political subdivision may participate in the study and preparation for and creation of a habitat conservation plan.

Revised Law

Sec. 5460.0202. AUTHORITY TO STUDY, PREPARE, AND CREATE REGIONAL HABITAT CONSERVATION PLAN. Subject to this chapter, the department or a political subdivision may participate in the study of, preparation for, and creation of a regional habitat conservation plan. (Parks & Wild. Code, Sec. 83.013(b).)

Source Law

(b) Subject to this subchapter, the department or a political subdivision may participate in the

study and preparation for and creation of a regional habitat conservation plan.

Revised Law

Sec. 5460.0203. AUTHORITY TO PURCHASE CERTAIN PROPERTY AND ENTER CERTAIN AGREEMENTS. Subject to this chapter, a political subdivision, including a municipality acting within its corporate limits or extraterritorial jurisdiction, in order to facilitate the creation of a habitat preserve and the setting aside of land to protect a species protected under a conservation agreement, may:

(1) purchase land, easements, or leases; and

(2) enter into an agreement with a landowner to establish alternative land development standards for a tract of land. (Parks & Wild. Code, Sec. 83.013(c).)

Source Law

(c) Subject to this subchapter, a political subdivision, including a municipality acting within its corporate limits or its extraterritorial jurisdiction, in order to facilitate the creation of a habitat preserve and the setting aside of land to protect a species protected under a conservation agreement, may:

(1) purchase land, easements, or leases; and

(2) enter into an agreement with a landowner to establish alternative land development standards for a tract of land.

Revised Law

Sec. 5460.0204. LIMITATION ON AUTHORITY TO IMPOSE ORDINANCES OR RULES RELATED TO ENDANGERED SPECIES. (a) A political subdivision may not impose an ordinance or rule related to an endangered species unless the ordinance or rule is necessary to implement a habitat conservation plan or regional habitat conservation plan for which the political subdivision has been issued a federal permit.

(b) This section does not limit the authority of a political subdivision to adopt an ordinance or rule that restricts the withdrawal of groundwater. (Parks & Wild. Code, Sec. 83.014(a).)

Source Law

Sec. 83.014. LIMITATION OF POWERS. (a) A governmental entity may not impose a regulation, rule, or ordinance related to endangered species unless the regulation, rule, or ordinance is necessary to

implement a habitat conservation plan or regional habitat conservation plan for which the governmental entity was issued a federal permit. This subsection does not limit the authority of a governmental entity to adopt a rule, regulation, or ordinance restricting the withdrawal of groundwater.

Revisor's Note

Section 83.014(a), Parks and Wildlife Code, refers to a "regulation [or] rule" related to endangered species. Throughout this chapter, the revised law omits "regulation" from provisions that include a reference to both "rule" and "regulation" for the reasons stated in Revisor's Note (2) to Section 5053.0108.

Revised Law

Sec. 5460.0205. LIMITATION ON AUTHORITY TO AUTHORIZE CERTAIN MATTERS APPLICABLE TO ENVIRONMENTALLY SENSITIVE LAND. A political subdivision may not discriminate against a permit application, a permit approval, or the provision of utility service for land on the basis that the land:

(1) is or has been designated as habitat preserve or potential habitat preserve in a habitat conservation plan or regional habitat conservation plan;

(2) is designated as critical habitat under the Endangered Species Act; or

(3) has endangered species or endangered species habitat. (Parks & Wild. Code, Sec. 83.014(b).)

Source Law

(b) A governmental entity may not discriminate against a permit application, permit approval, or the provision of utility service for land that:

(1) is or has been designated as habitat preserve or potential habitat preserve in a regional habitat conservation plan or habitat conservation plan;

(2) is designated as critical habitat under the federal act; or

(3) has endangered species or endangered species habitat.

Revised Law

Sec. 5460.0206. LIMITATION ON AUTHORITY TO LIMIT WATER AND WASTEWATER SERVICES TO ENVIRONMENTALLY SENSITIVE LAND. (a) A

political subdivision may not deny or limit available water or wastewater service to land in the service area of the political subdivision that has been designated as habitat preserve or potential habitat preserve in a habitat conservation plan or regional habitat conservation plan.

(b) For purposes of this section, a political subdivision may not remove land from its water or wastewater utility service areas after the date established under Section 5460.0401(3). (Parks & Wild. Code, Sec. 83.014(c).)

Source Law

> (c) A governmental entity may not deny or limit available water or wastewater service to land in the service area of the governmental entity that has been designated as habitat preserve or potential habitat preserve in a regional habitat conservation plan or in a habitat conservation plan. For purposes of this subsection, a governmental entity may not remove land from its water or wastewater utility service areas after the date established under Section 83.018(b).

Revised Law

Sec. 5460.0207. LIMITATION ON AUTHORITY TO CONDITION APPROVAL OR SERVICE ON MITIGATION ACTIVITY. A political subdivision may not, as a condition for the issuance of a permit, approval, or service, require a person to:

(1) pay a mitigation fee to a plan participant;

(2) set aside, lease, or convey land as habitat preserve; or

(3) pay a mitigation fee for land set aside or restricted from development under local, state, or federal law or regulation. (Parks & Wild. Code, Sec. 83.014(d).)

Source Law

> (d) A governmental entity may not, as a condition for the issuance of a permit, approval, or service, require a person to:
> (1) pay a mitigation fee to a plan participant;
> (2) set aside, lease, or convey land as habitat preserve; or
> (3) pay a mitigation fee for land set aside or restricted from development under local, state, or federal law or regulation.

SUBCHAPTER C. REGIONAL HABITAT CONSERVATION PLANS

Revised Law

Sec. 5460.0301. CITIZENS ADVISORY COMMITTEE. (a) The plan participants shall appoint a citizens advisory committee to assist in preparing:

(1) the regional habitat conservation plan; and

(2) the application for a federal permit.

(b) At least four members of the citizens advisory committee or 33 percent of the number of committee members, whichever is greater in number, must own undeveloped land or land in agricultural use in the regional habitat conservation plan area. A landowner member may not be an employee or elected official of a plan participant or any other local, state, or federal governmental entity.

(c) Not later than the 90th day after the date of the initial identification of the proposed habitat preserve system for the regional habitat conservation plan, the plan participants shall appoint one additional landowner who owns land within the proposed habitat preserve system to the citizens advisory committee. The additional landowner member must meet the eligibility requirements of Subsection (b).

(d) The commission shall appoint one representative to the citizens advisory committee. The commission's representative is a voting member of the committee.

(e) Meetings of the citizens advisory committee regarding planning, development, and implementation of the regional habitat conservation plan are subject to the requirements of Chapter 551, Government Code. (Parks & Wild. Code, Secs. 83.016, 83.017(a) (part).)

Source Law

Sec. 83.016. CITIZENS ADVISORY COMMITTEE. (a) The plan participants shall appoint a citizens advisory committee to assist in preparing the regional habitat conservation plan and the application for a federal permit.

(b) At least four members or 33 percent of the citizens advisory committee, whichever is greater in

number, must own undeveloped land or land in agricultural use in the regional habitat conservation plan area. A landowner member may not be an employee or elected official of a plan participant or any other local, state, or federal governmental entity.

(c) Not later than the 90th day after the initial identification of the proposed preserve system for the regional habitat conservation plan, the plan participants shall appoint one additional landowner, who owns land within the proposed habitat preserve system, to the citizens advisory committee. The additional landowner member must comply with Subsection (b).

(d) The commission shall appoint one representative to the citizens advisory committee. The commission's representative is a voting member of the committee.

Sec. 83.017. DEVELOPMENT OF REGIONAL HABITAT CONSERVATION PLAN. (a) Meetings of the citizens advisory committee and . . . regarding planning, development, and implementation of the regional habitat conservation plan are subject to the open meetings law, Chapter 551, Government Code.

Revised Law

Sec. 5460.0302. BIOLOGICAL ADVISORY TEAM. (a) The plan participants, commission, and landowner members of the citizens advisory committee shall appoint a biological advisory team composed of three or more professional biologists.

(b) At least one member of the biological advisory team must be appointed by the commission and one member of the team by the landowner members of the citizens advisory committee.

(c) The member of the biological advisory team appointed by the commission serves as presiding officer of the team.

(d) The biological advisory team shall:

(1) provide biological guidance to plan participants;

(2) assist in the calculation of harm to the endangered species; and

(3) assist in the sizing and configuring of the habitat preserves.

(e) Meetings of the biological advisory team are subject to the requirements of Chapter 551, Government Code.

(f) The following are subject to the requirements of Chapter 552, Government Code:

(1) the work product of the biological advisory team; and

(2) all data, reports, and other information regarding the regional habitat conservation plan, including field notes, lab notes, and any other information relied on by the team. (Parks & Wild. Code, Secs. 83.011(1), 83.015(c), (d), 83.017(b).)

Source Law

Sec. 83.011. DEFINITIONS. In this chapter:

(1) "Biological advisory team" means three or more professional biologists retained to provide biological guidance to plan participants.

[Sec. 83.015]

(c) The plan participants, together with the commission and the landowner members of the citizens advisory committee, shall appoint a biological advisory team. At least one member shall be appointed by the commission and one member by the landowner members of the citizens advisory committee. The member appointed by the commission serves as presiding officer of the team. The team shall assist in:

(1) the calculation of harm to the endangered species; and

(2) the sizing and configuring of the habitat preserves.

(d) Meetings of the biological advisory team are subject to the open meetings law, Chapter 551, Government Code, and all work product of the biological advisory team is subject to the open records law, Chapter 552, Government Code.

[Sec. 83.017]

(b) All data, reports, and other information regarding the regional habitat conservation plan, including field notes, lab notes, and any other information relied on by the biological advisory team, are subject to the open records law, Chapter 552, Government Code.

Revised Law

Sec. 5460.0303. APPLICABILITY OF OPEN MEETINGS LAW TO PLAN PARTICIPANTS. Meetings of the plan participants regarding planning, development, and implementation of the regional habitat conservation plan are subject to the requirements of Chapter 551, Government Code. (Parks & Wild. Code, Sec. 83.017(a) (part).)

Source Law

(a) . . . meetings of the plan participants regarding planning, development, and implementation of the regional habitat conservation plan are subject to the open meetings law, Chapter 551, Government Code.

Revised Law

Sec. 5460.0304. BASIS OF REGIONAL HABITAT CONSERVATION PLAN AND HABITAT PRESERVES. (a) In this section, "recovery criteria"

means the criteria developed under a recovery plan in accordance with the Endangered Species Act.

(b) Except as provided by Subsection (c):

(1) a regional habitat conservation plan, including any mitigation fee, must be based on the amount of harm to each endangered species to be protected under the plan; and

(2) the size of proposed habitat preserves must be based solely on the amount of harm to each endangered species to be protected in the regional habitat conservation plan.

(c) After notice and hearing by the plan participants, the following may be based partly on any recovery criteria applicable to each endangered species to be protected under the plan:

(1) a regional habitat conservation plan, including any mitigation fee; or

(2) the size of proposed habitat preserves. (Parks & Wild. Code, Secs. 83.015(a), (b), (e), (f).)

Source Law

> Sec. 83.015. BIOLOGICAL REVIEW; CRITERIA. (a) Except as provided by Subsection (f), a regional habitat conservation plan, including any mitigation fee, shall be based on the amount of harm to each endangered species to be protected under the regional habitat conservation plan.
>
> (b) Except as provided by Subsection (f), the size of proposed habitat preserves shall be based solely on the amount of harm to the endangered species to be protected in the regional habitat conservation plan.
>
> (e) For purposes of this section, "recovery criteria" means the criteria developed under a recovery plan in accordance with the federal act.
>
> (f) After notice and hearing by the plan participants, the following may be based partly on any recovery criteria applicable to each endangered species to be protected under the plan:
>
> (1) a regional habitat conservation plan, including any mitigation fee; or
>
> (2) the size of proposed habitat preserves.

Revisor's Note

Section 83.015(e), Parks and Wildlife Code, provides a definition of "recovery criteria" for purposes of Section 83.015 of that code. Section 83.015 is revised in pertinent part as this section,

and the revised law is drafted accordingly.

Revised Law

Sec. 5460.0305. NOTICE TO POTENTIALLY AFFECTED LANDOWNERS. (a) Not later than the 60th day after the date the plan participants initially identify the proposed habitat preserve system for the federal permit, the plan participants shall notify in writing each owner of land identified by the plan participants as habitat preserve or potential habitat preserve.

(b) The plan participants must use the county tax rolls to identify the owners of land identified as habitat preserve or potential habitat preserve.

(c) The written notice must include at least the following information:

(1) the tax identification and parcel numbers;

(2) the owner's name and address;

(3) an explanation of the designation or possible designation of the tract as habitat preserve or potential habitat preserve under the regional habitat conservation plan;

(4) identification of the citizens advisory committee members, including telephone numbers, addresses, and the group that each committee member represents;

(5) identification of employees or agents of plan participants who can provide information about the regional habitat conservation plan;

(6) the date of the next citizens advisory committee meeting or plan participant meeting regarding the regional habitat conservation plan; and

(7) a description of the status of the regional habitat conservation plan. (Parks & Wild. Code, Sec. 83.017(c).)

Source Law

(c) Not later than the 60th day after the plan participants' initial identification of the proposed habitat preserve system for the federal permit, the plan participants shall notify in writing each owner of land identified by the plan participants as habitat preserve or potential habitat preserve. The plan participants shall use the county tax rolls to

identify the owners of land identified as habitat preserve or potential habitat preserve. The written notice must include at least the following information:

(1) the tax identification and parcel numbers;

(2) the owner's name and address;

(3) an explanation of the designation or possible designation of the tract as habitat preserve or potential habitat preserve under the regional habitat conservation plan;

(4) identification of the citizens advisory committee members, including telephone numbers, addresses, and the group that each committee member represents;

(5) identification of employees or agents of plan participants who can provide information about the regional habitat conservation plan;

(6) the date of the next citizens advisory committee meeting or plan participant meeting regarding the regional habitat conservation plan; and

(7) a description of the status of the regional habitat conservation plan.

Revised Law

Sec. 5460.0306. PUBLIC NOTICE AND HEARING REQUIREMENTS. (a) A plan participant must comply with the requirements of this section before adopting a regional habitat conservation plan, plan amendment, ordinance, budget, fee schedule, rule, or order to implement this chapter.

(b) The plan participant, individually or through interlocal contract, shall publish a notice that includes a brief description of the proposed action and the time and place of a public hearing on the proposed action. The plan participant shall publish the notice:

(1) not later than the 30th day before the date of the public hearing; and

(2) in the newspaper of largest general circulation in the county in which the plan participant is located.

(c) A public hearing on the proposed action must be held at the time and place specified in the notice. (Parks & Wild. Code, Sec. 83.019.)

Source Law

Sec. 83.019. NOTICE AND HEARING REQUIREMENTS. (a) A plan participant must comply with the notice and hearing requirements of this section before adopting any regional habitat conservation plan, plan amendment, ordinance, budget, fee schedule, rule, regulation, or order to implement this subchapter.

(b) The plan participant, individually or through interlocal contract, shall publish a notice, including a brief description of the proposed action and the time and place of a public hearing on the proposed action, not later than the 30th day before the public hearing in the newspaper of largest general circulation in the county in which the plan participant proposing the action is located.

(c) A public hearing on the proposed action shall be held at the time and place specified in the notice.

Revised Law

Sec. 5460.0307. LIMITATION ON AUTHORITY TO ACCEPT FEDERAL PERMIT. A plan participant may accept a federal permit in conjunction with a regional habitat conservation plan only if:

(1) the qualified voters of a plan participant have authorized the issuance of bonds or other debt financing in an amount equal to the estimated cost of acquiring all land for habitat preserves within the time required by this chapter; or

(2) the plan participant demonstrates that adequate sources of funding exist to acquire all land for habitat preserves within the time required by this chapter. (Parks & Wild. Code, Sec. 83.013(d).)

Source Law

(d) A plan participant may accept a federal permit in conjunction with a regional habitat conservation plan only if the qualified voters of a plan participant have authorized the issuance of bonds or other debt financing in an amount equal to the estimated cost of acquiring all land for habitat preserves within the time required by this subchapter or the plan participant has demonstrated that adequate sources of funding exist to acquire all land for habitat preserves within the time required by this subchapter.

Revised Law

Sec. 5460.0308. LIMITATION ON AUTHORITY TO IMPLEMENT PLAN OR APPLY FOR FEDERAL PERMIT. A political subdivision may not implement a regional habitat conservation plan or apply for a federal permit in conjunction with a regional habitat conservation plan if:

(1) the Endangered Species Act is repealed; or

(2) the endangered species that are subject to conservation and protection under the federal permit cease to be

listed by the United States Department of the Interior as endangered or threatened. (Parks & Wild. Code, Sec. 83.013(e).)

Source Law

> (e) A governmental entity may not implement a regional habitat conservation plan or apply for a federal permit in conjunction with a regional habitat conservation plan if:
>
> (1) the federal act is repealed; or
>
> (2) the endangered species that are subject to conservation and protection under the federal permit cease to be listed as endangered or threatened by the United States Department of the Interior.

SUBCHAPTER D. ACQUISITION OF HABITAT PRESERVE

Revised Law

Sec. 5460.0401. DETERMINATION OF FAIR MARKET VALUE. The following may not be considered in determining the fair market value of land for acquisition as a habitat preserve:

(1) the designation of the land as habitat preserve or potential habitat preserve;

(2) the presence of endangered species or endangered species habitat; or

(3) a change to plan participant rules, including land development standards, that occurs after the earliest date that the biological advisory team appointed under Section 5460.0302, the citizens advisory committee, or a plan participant initially identifies the land as habitat preserve or potential habitat preserve. (Parks & Wild. Code, Secs. 83.018(a), (b).)

Source Law

> Sec. 83.018. PRESERVE ACQUISITION. (a) The designation of a tract of land as habitat preserve or potential habitat preserve or the presence of endangered species or endangered species habitat may not be considered in determining the fair market value of the property for acquisition as a habitat preserve.
>
> (b) A change to plan participant rules and regulations, including land development standards, that occurs after the earliest date that the biological advisory team, citizens advisory committee, or plan participant initially identifies a tract of land as habitat preserve or potential habitat preserve may not be considered in determining the fair market value of the land for acquisition as a habitat preserve.

Revised Law

Sec. 5460.0402. ACQUISITION OF LAND DESIGNATED IN REGIONAL HABITAT CONSERVATION PLAN. (a) Except as provided by Subsection (d), the plan participants must make an offer based on fair market value to the landowners for the acquisition of the fee simple or another interest in land designated in the regional habitat conservation plan as proposed habitat preserve not later than the later of:

(1) the fourth anniversary of the date the federal permit was issued; or

(2) the sixth anniversary of the date of the initial application for the federal permit.

(b) Except as provided by Subsection (e), acquisition of all habitat preserves designated as proposed habitat preserves in the regional habitat conservation plan must be completed not later than the sixth anniversary of the date the federal permit was issued.

(c) A plan participant subject to Subsections (a) and (b) who does not meet a deadline prescribed by the applicable subsection shall file an application to amend the federal permit to remove the nonacquired habitat preserve land from the regional habitat conservation plan as a habitat preserve not later than the 60th day after the date the applicable deadline expires.

(d) If the plan participants have not designated a landowner's land as proposed habitat preserve in a regional habitat conservation plan before the date the federal permit is issued but designate the land as proposed habitat preserve in a regional habitat conservation plan on or after that date, the plan participants must make an offer to the landowner based on fair market value for the acquisition of the fee simple or another interest in the land not later than the fourth anniversary of the date the land is identified or designated as proposed habitat preserve.

(e) The plan participants must complete acquisition of land subject to Subsection (d) as habitat preserves not later than the

fifth anniversary of the date the plan participants identified or designated the land as proposed habitat preserves. (Parks & Wild. Code, Secs. 83.018(c), (d), (e).)

Source Law

(c) Except as provided by Subsection (d), the plan participants shall make offers based on fair market value to the landowners for the acquisition of fee simple or other interest in land designated in the regional habitat conservation plan as proposed habitat preserve not later than four years after the issuance of the federal permit or six years after the initial application for the federal permit, whichever is later. Except as provided by Subsection (e), acquisition of all habitat preserves designated as proposed habitat preserves in the regional habitat conservation plan must be completed not later than the sixth anniversary of the date on which the federal permit was issued. A plan participant subject to this subsection who does not meet an applicable deadline shall file an application to amend the federal permit to remove the nonacquired habitat preserve land from the regional habitat conservation plan as a habitat preserve not later than the 60th day after the expiration of the applicable deadline.

(d) If plan participants have not designated a landowner's land as proposed habitat preserve in a regional habitat conservation plan before the date on which the federal permit is issued but designate the land as proposed habitat preserve in a regional habitat conservation plan on or after that date, plan participants shall make an offer to the landowner based on fair market value for the acquisition of fee simple or other interest in the land not later than the fourth anniversary of the date on which the land is identified or designated as proposed habitat preserve.

(e) Plan participants must complete acquisition of land subject to Subsection (d) as habitat preserves not later than the fifth anniversary of the date on which the plan participants identified or designated the land as proposed habitat preserves.

SUBCHAPTER E. GRIEVANCE REGARDING DEVELOPMENT OF REGIONAL HABITAT CONSERVATION PLAN

Revised Law

Sec. 5460.0501. AUTHORITY TO FILE GRIEVANCE. (a) An individual appointed under Section 5460.0301(b) to the citizens advisory committee for a regional habitat conservation plan under this chapter may file a grievance with the commission regarding the development of the plan if the individual believes that the plan is being developed in violation of this chapter.

(b) An individual who files a grievance under this subchapter may not file a subsequent grievance. (Parks & Wild.

Code, Secs. 83.020(a), (f).)

Source Law

Sec. 83.020. GRIEVANCE WITH DEVELOPMENT OF REGIONAL HABITAT CONSERVATION PLAN. (a) An individual appointed to a citizens advisory committee under Section 83.016(b) may file a grievance with the commission regarding the development of a regional habitat conservation plan under this subchapter if the individual believes that the plan is being developed in violation of this subchapter. The individual filing the grievance must have been a member of the citizens advisory committee for the plan named in the grievance.

(f) If an individual files a grievance under this section, that individual may not file a subsequent grievance.

Revised Law

Sec. 5460.0502. FILING AND CONTENTS OF GRIEVANCE. (a) An individual authorized to file a grievance under this subchapter must file the grievance not later than the 60th day after the date the regional habitat conservation plan that is the subject of the grievance is approved by the plan participants.

(b) The grievance must:

(1) cite each provision of this chapter that is alleged to have been violated during the development of the plan; and

(2) describe each act that is alleged to have violated this chapter. (Parks & Wild. Code, Sec. 83.020(b).)

Source Law

(b) A grievance must be filed under this section not later than the 60th day after the date the plan is approved by the plan participants. The grievance must cite each provision of this subchapter alleged to have been violated during the development of the plan and must describe each act alleged to have violated this subchapter.

Revised Law

Sec. 5460.0503. REVIEW OF GRIEVANCE. (a) The commission shall review a grievance filed under this subchapter to determine whether the regional habitat conservation plan that is the subject of the grievance is being developed in compliance with this chapter.

(b) The commission may dismiss the grievance if the

commission finds after reviewing the grievance that the grievance does not have any merit.

(c) The commission must hold a public hearing in accordance with Chapter 551, Government Code, if the commission finds that the grievance has merit. The commission must take testimony from each plan participant and from the individual filing the grievance. On conclusion of testimony, the commission shall vote on whether to:

(1) approve or dismiss the grievance; or

(2) schedule a second public hearing to be held not later than the 30th day after the date of the conclusion of the initial public hearing and to vote after the conclusion of that second hearing on whether to approve or dismiss the grievance.

(d) If the commission approves the grievance, the commission shall instruct each plan participant to amend the plan to comply with this chapter. (Parks & Wild. Code, Secs. 83.020(c), (d).)

Source Law

> (c) The commission shall review a grievance filed under this section to determine whether the plan is being developed in compliance with this subchapter. If after reviewing the grievance the commission finds that the grievance has no merit, the commission may dismiss the grievance. If the commission finds that the grievance does have merit, the commission must hold a public hearing in accordance with Chapter 551, Government Code. The commission shall take testimony from each plan participant and from the individual filing the grievance. On conclusion of testimony, the commission shall vote on whether to approve or dismiss the grievance or to schedule a public hearing not later than the 30th day after the conclusion of the initial public hearing and to vote after the conclusion of that hearing whether to approve or dismiss the grievance.
>
> (d) If the commission approves the grievance, the commission shall instruct the plan participant or participants to amend the plan so that it will comply with this subchapter.

CHAPTER 5461. TEXAS FARM AND RANCH LANDS CONSERVATION PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 5461.0101. DEFINITIONS. In this chapter:

(1) "Agricultural conservation easement" means a conservation easement in qualified land that is designed to

maintain the land's agricultural or timber use and 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 land that are threatened with fragmentation or development.

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

(3) "Council" means the Texas Farm and Ranch Lands Conservation Council established under Subchapter B.

(4) "Fund" means the Texas farm and ranch lands conservation fund established under Section 2052.1002.

(5) "Holder" has the meaning assigned by Section 183.001, Natural Resources Code.

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

(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:

(i) 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

(ii) organized for the purpose of preserving agriculture, open space, or natural resources.

(9) "Qualified land" means qualified open-space land as defined by Section 23.51, Tax Code. (Parks & Wild. Code, Sec.

84.002.)

Source Law

Sec. 84.002. DEFINITIONS. In this chapter:

(1) "Agricultural conservation easement" means a conservation easement in qualified land that is designed to maintain the land's agricultural or timber use and 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.

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

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

(5) "Holder" has the meaning assigned by Section 183.001, Natural Resources Code.

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

(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.

Revisor's Note

(1) Section 84.002, Parks and Wildlife Code, refers to Chapter 84 of that code. Chapter 84 is revised in pertinent part as this chapter, and throughout this chapter the revised law is drafted accordingly.

(2) Section 84.002(1)(D), Parks and Wildlife Code, refers to "qualified open-space land." The

revised law omits "open-space" as unnecessary because "qualified land" is defined for purposes of this chapter to mean "qualified open-space land."

Revised Law

Sec. 5461.0102. EFFECT ON TAX APPRAISAL. An agricultural conservation easement 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. (Parks & Wild. Code, Sec. 84.012.)

Source Law

> Sec. 84.012. EFFECT ON TAX APPRAISAL. An agricultural conservation easement under this chapter 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.

SUBCHAPTER B. ESTABLISHMENT AND ADMINISTRATION OF TEXAS FARM AND RANCH LANDS CONSERVATION COUNCIL

Revised Law

Sec. 5461.0201. ESTABLISHMENT. The Texas Farm and Ranch Lands Conservation Council is established to:

(1) advise and assist the executive director with administration of the program; and

(2) select applicants to receive grants under this chapter using the criteria adopted by the council under Section 5461.0403. (Parks & Wild. Code, Sec. 84.011(a) (part).)

Source Law

> Sec. 84.011. TEXAS FARM AND RANCH LANDS CONSERVATION COUNCIL. (a) The Texas Farm and Ranch Lands Conservation Council is established to advise and assist the director with administration of the program and to select applicants to receive grants under this chapter using the criteria adopted by the council under Section 84.010. . . .

Revised Law

Sec. 5461.0202. MEMBERSHIP. (a) The council consists of the following 12 members:

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

(A) two members who each operate a family farm or ranch in this state;

(B) two members who are the designated representatives of a statewide agricultural organization in existence in this state for at least 10 years;

(C) one member who:

(i) is the designated representative of an agricultural banking or lending organization; and

(ii) has significant experience lending for farms and ranches or land encumbered by conservation easements; and

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

(2) six ex officio members as follows:

(A) the executive director of the State Soil and Water Conservation Board;

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

(C) the chair of the Texas Water Development Board or the chair's designee;

(D) the state conservationist of the Natural Resources Conservation Service of the United States Department of Agriculture or a designee of that person;

(E) the presiding officer of the commission or the presiding officer's designee, who must be a member of the commission; and

(F) the executive director of the Texas A&M Natural Resources Institute.

(b) The ex officio member described by Subsection (a)(2)(D) serves as a nonvoting member. (Parks & Wild. Code, Sec. 84.011(a) (part).)

Source Law

(a) . . . The council consists of 12 members as follows:

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

(A) two members who each operate a family farm or ranch in this state;

(B) one member who is the designated

representative of an agricultural banking or lending organization and who has significant experience lending for farms and ranches or lands encumbered by conservation easements;

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

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

(2) six ex officio members as follows:

(A) the executive director of the State Soil and Water Conservation Board;

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

(C) the chair of the Texas Water Development Board, or the chair's designee;

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

(E) the presiding officer of the commission or the presiding officer's designee, who must be a member of the commission; and

(F) the executive director of the Texas A&M Institute of Renewable Natural Resources.

Revisor's Note

Section 84.011(a)(2)(F), Parks and Wildlife Code, refers to the "Texas A&M Institute of Renewable Natural Resources." The revised law substitutes "Texas A&M Natural Resources Institute" for the quoted language to reflect a change in the name of the institute.

Revised Law

Sec. 5461.0203. DISCRIMINATION PROHIBITED. Appointments to and removal from the council shall be made by the governor without regard to the race, color, disability, sex, religion, age, or national origin of the appointees. (Parks & Wild. Code, Sec. 84.011(c).)

Source Law

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

Revised Law

Sec. 5461.0204. ELIGIBILITY RESTRICTIONS. (a) In this section, "Texas trade association" means a cooperative and

voluntarily joined statewide association of business or professional competitors in this state designed to assist the association's members and the members' industry or profession in dealing with mutual business or professional problems and in promoting the members' common interest.

(b) A person may not be appointed as a council member if:

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

(2) the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of an occupation or profession with an interest in land conservation that is related to that occupation or profession;

(3) the person's spouse is an officer, manager, or paid consultant of a Texas trade association for an occupation or profession with an interest in land conservation that is related to that occupation or profession;

(4) the person or the person's spouse is employed by or participates in the management of a business entity or other organization receiving money under the program;

(5) the person or the person's spouse owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving money under the program; or

(6) the person or the person's spouse uses or receives a substantial amount of tangible goods, services, or money under the program other than reimbursement authorized by law for travel expenses as described by Section 5461.0207. (Parks & Wild. Code, Secs. 84.011(g), (h), (i) (part).)

Source Law

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

(1) is employed by or participates in the

management of a business entity or other organization receiving money under the program;

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

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

(h) In this subsection, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest. A person may not be an appointed member of the council if:

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

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

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

Revised Law

Sec. 5461.0205. TERM OF OFFICE. Appointed council members serve staggered six-year terms, with the terms of two members expiring February 1 of each odd-numbered year. (Parks & Wild. Code, Sec. 84.011(b).)

Source Law

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

Revised Law

Sec. 5461.0206. OFFICERS. (a) The presiding officer of the commission or the presiding officer's designee shall serve as the presiding officer of the council. The presiding officer of the commission may appoint the executive director of the department or another member of the commission to serve as the presiding officer of the council.

(b) The presiding officer of the council shall designate a

council member as the assistant presiding officer of the council. The assistant presiding officer serves in that capacity at the will of the presiding officer of the council.

(c) The members of the council may choose from the appointed council members other officers as the members consider necessary. (Parks & Wild. Code, Sec. 84.011(d).)

Source Law

> (d) The presiding officer of the commission or the presiding officer's designee shall serve as the presiding officer of the council. The presiding officer of the commission may appoint, at that person's discretion, the executive director of the department or another member of the commission to serve as the presiding officer of the council. The presiding officer of the council shall designate from among the members of the council an assistant presiding officer of the council to serve in that capacity at the will of the presiding officer of the council. The council may choose from its appointed members other officers as the council considers necessary.

Revisor's Note

Section 84.011(d), Parks and Wildlife Code, provides that the presiding officer of the Parks and Wildlife Commission may appoint "at that person's discretion" another person to serve as the presiding officer of the Texas Farm and Ranch Lands Conservation Council. The revised law omits the quoted language as unnecessary because the discretionary appointment authority granted to the presiding officer of the commission includes the authority to make such an appointment at the person's discretion.

Revised Law

Sec. 5461.0207. EXPENSES. A council member is not entitled to compensation for service on the council but is entitled to reimbursement of the necessary and reasonable travel expenses incurred by the member while conducting the business of the council, as provided for state employees by the General Appropriations Act. (Parks & Wild. Code, Sec. 84.011(e).)

Source Law

> (e) A member of the council is not entitled to

compensation for service on the council but is entitled to reimbursement of the necessary and reasonable travel expenses incurred by the member while conducting the business of the council, as provided for state employees by the General Appropriations Act.

Revised Law

Sec. 5461.0208. REMOVAL OF MEMBER. (a) It is a ground for removal from the council if a member:

(1) is ineligible for membership under this subchapter;

(2) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

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

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

(c) If the presiding officer of the council has knowledge that a potential ground for removal exists, the presiding officer of the council shall notify the executive director and the governor that a potential ground for removal exists. (Parks & Wild. Code, Secs. 84.011(j), (k), (l).)

Source Law

(j) It is a ground for removal from the council if a member:

(1) is ineligible for membership under this section;

(2) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

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

(k) 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 participating council member exists.

(l) If the presiding officer of the council has knowledge that a potential ground for removal exists, the presiding officer of the council shall notify the director and the governor that a potential ground for removal exists.

Revised Law

Sec. 5461.0209. MEETINGS. The council shall meet at least once each year. (Parks & Wild. Code, Sec. 84.011(f).)

Source Law

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

Revised Law

Sec. 5461.0210. STANDARDS OF CONDUCT INFORMATION. The presiding officer of the council or that person's designee, with the assistance of the department, shall provide information to council members regarding a member's responsibilities under applicable laws relating to standards of conduct for state officers. (Parks & Wild. Code, Sec. 84.011(m).)

Source Law

(m) The presiding officer of the council or that person's designee, with the assistance of staff of the department, shall provide to members of the council information regarding a member's responsibilities under applicable laws relating to standards of conduct for state officers.

Revisor's Note

Section 84.011(m), Parks and Wildlife Code, requires the provision of certain information to the members of the council with the assistance of the "staff of" the Parks and Wildlife Department. The revised law omits the quoted language as unnecessary because the department includes the staff of the department.

Revised Law

Sec. 5461.0211. TRAINING PROGRAM. (a) A person who is appointed to and qualifies for office as a council member may not vote, deliberate, or be counted as a member in attendance at a meeting of the council until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the council;

(2) the program;

(3) the role and functions of the council;

(4) the rules of the council, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the council;

(6) the results of the most recent formal audit of the council;

(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.

(c) 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. (Parks & Wild. Code, Secs. 84.011(n), (o).)

Source Law

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

(1) the legislation that created the council;

(2) the program to be administered under this chapter;

(3) the role and functions of the council;

(4) the rules of the council, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the council;

(6) the results of the most recent formal

audit of the council;

(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.

Revisor's Note

Section 84.011(n), Parks and Wildlife Code, refers to a training program that complies with Section 84.011 of that code. The pertinent part of Section 84.011 providing for a training program is revised as this section, and the revised law is drafted accordingly.

Revised Law

Sec. 5461.0212. LOBBYIST PROHIBITION: GENERAL COUNSEL. A person may not act as the general counsel to the council if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of an occupation or profession with an interest in land conservation that is related to that occupation or profession. (Parks & Wild. Code, Sec. 84.011(i) (part).)

Source Law

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

SUBCHAPTER C. POWERS OF COUNCIL

Revised Law

Sec. 5461.0301. COUNCIL RULES. The council may adopt rules necessary to perform program duties under this chapter. (Parks & Wild. Code, Sec. 84.009(a)(1).)

Source Law

Sec. 84.009. ADMINISTRATION OF FUND. (a) The council may:

(1) adopt rules necessary to perform program duties under this chapter;

. . .

Revised Law

Sec. 5461.0302. POWERS OF COUNCIL. The council may:

(1) request, accept, and use gifts, loans, donations, aid, appropriations, guaranties, subsidies, grants, or contributions of any item of value for the furtherance of a purpose of this chapter;

(2) establish, charge, and collect a fee, charge, or penalty in connection with a program, service, or activity provided for by this chapter;

(3) make, enter into, and enforce a contract or agreement and take other actions as may accomplish a purpose of this chapter;

(4) seek ways to coordinate and leverage public and private sources of funding;

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

(6) establish a protocol for the purchase of agricultural conservation easements and for the distribution of money to approved applicants;

(7) administer grants awarded to successful applicants;

(8) ensure that agricultural conservation easements purchased under this chapter are not inconsistent with:

(A) the preservation of open space;

(B) the maintenance of land's agricultural or timber use; and

(C) the conservation of wildlife habitat or water; and

(9) approve the termination of easements and take any other action necessary to further the goals of the program. (Parks

& Wild. Code, Secs. 84.009(a)(2), (3), (4), (5), (6), (7), (8), (9), (10).)

Source Law

Sec. 84.009. ADMINISTRATION OF FUND. (a) The council may:

. . .

(2) request, accept, and use gifts, loans, donations, aid, appropriations, guaranties, subsidies, grants, or contributions of any item of value for the furtherance of any purposes of this chapter;

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

(4) make, enter into, and enforce contracts and agreements, and take other actions as may accomplish any of the purposes of this chapter;

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

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

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

(8) administer grants awarded to successful applicants;

(9) ensure that agricultural conservation easements purchased under this chapter are not inconsistent with:

(A) the preservation of open space;

(B) the maintenance of the land's agricultural or timber use; and

(C) the conservation of wildlife habitat or water; and

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

Revisor's Note

Section 84.009(a)(7), Parks and Wildlife Code, refers to the distribution of "funds." The revised law substitutes "money" for "funds" for the reason stated in Revisor's Note (3) to Section 5054.0302.

SUBCHAPTER D. TEXAS FARM AND RANCH LANDS CONSERVATION PROGRAM

Revised Law

Sec. 5461.0401. ESTABLISHMENT AND PURPOSES OF PROGRAM. (a) The Texas farm and ranch lands conservation program is established as a program of the department.

(b) The purposes of the program are to:

(1) enable and facilitate the purchase and donation of

agricultural conservation easements; and

(2) administer the assistance to be provided by the fund for the purchase of agricultural conservation easements. (Parks & Wild. Code, Secs. 84.001, 84.003.)

Source Law

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

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

Revised Law

Sec. 5461.0402. GRANT APPLICATION. (a) To receive a grant under this chapter from the fund, an applicant who is qualified to be an easement holder under this chapter must submit an application to the council.

(b) 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. (Parks & Wild. Code, Sec. 84.009(b).)

Source Law

(b) To receive a grant from the fund under this chapter, an applicant who is qualified to be an easement holder under this chapter must submit an application 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.

Revised Law

Sec. 5461.0403. CRITERIA FOR AWARDING GRANTS. (a) The council shall give priority to applications that protect and maintain the agricultural or timber productivity of land that is susceptible to development, including subdivision and fragmentation.

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

(3) potential for leveraging state money allocated to the program with additional public or private money;

(4) proximity of the subject property to other protected land;

(5) the term of the proposed easement;

(6) the land's agricultural or timber productivity; and

(7) a resource management plan agreed to by both parties and approved by the council. (Parks & Wild. Code, Sec. 84.010.)

Source Law

Sec. 84.010. CRITERIA FOR AWARDING GRANTS. The council shall:

(1) give priority to applications that protect and maintain the agricultural or timber productivity of lands that are susceptible to development, including subdivision and fragmentation; and

(2) adopt a scoring process to be used in evaluating applications that considers the following:

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

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

(C) potential for leveraging state

money allocated to the program with additional public or private money;

(D) proximity of the subject property to other protected lands;

(E) the term of the proposed easement, whether perpetual or for a term of 30 years;

(F) the land's agricultural or timber productivity; and

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

Revisor's Note

Section 84.010(2)(E), Parks and Wildlife Code, refers to the term of a proposed easement, "whether perpetual or for a term of 30 years." The revised law omits the quoted language as unnecessary because Section 84.004(a), Parks and Wildlife Code, revised as Section 5461.0405(a), requires that an agricultural conservation easement be either perpetual or for a term of 30 years.

Revised Law

Sec. 5461.0404. DETERMINATION OF AMOUNT OF GRANT. For the purpose of determining the amount of a grant under this chapter, the value of an agricultural conservation easement shall be determined by a site-specific estimate-of-value appraisal performed by a licensed, qualified appraiser. (Parks & Wild. Code, Sec. 84.009(c).)

Source Law

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

Revised Law

Sec. 5461.0405. TERMS OF AGRICULTURAL CONSERVATION EASEMENT. (a) An agricultural conservation easement must be:

(1) perpetual; or

(2) 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 is 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. (Parks & Wild. Code, Sec. 84.004.)

Source Law

> Sec. 84.004. TERMS OF AGRICULTURAL CONSERVATION EASEMENT. (a) An agricultural conservation easement under this chapter 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.

Revised Law

Sec. 5461.0406. TERMINATION OF EASEMENT. (a) Any time after an agricultural conservation easement is acquired with a grant awarded under this chapter, 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 purposes described by Section 5461.0101(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. (Parks & Wild. Code, Sec. 84.005.)

Source Law

> Sec. 84.005. TERMINATION OF EASEMENT. (a) Any time after an agricultural conservation easement is acquired with a grant awarded under this chapter, 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). 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.

Revised Law

Sec. 5461.0407. 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 5461.0406, the executive director shall order an appraisal of the fair market value and the agricultural value of the property subject to the easement. The landowner shall bear the cost of the appraisal.

(c) Not later than the 180th day after the date of the appraisal under Subsection (b), the landowner must pay to the qualified easement holder an amount equal to the difference between

the fair market value and the agricultural value. The qualified easement holder shall pay to the fund any amounts received under this subsection, not to exceed the amount paid by the fund for purchase of the easement.

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

(e) If the request for termination is denied or if the landowner fails to make the payment required by Subsection (c) in the time required by that subsection, the landowner may not submit another request for termination of the easement before the fifth anniversary of the date of the last request. (Parks & Wild. Code, Sec. 84.006.)

Source Law

Sec. 84.006. 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, the director shall order an appraisal of the fair market value and the agricultural value of the property subject to the easement. The landowner shall bear the cost of the appraisal.

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

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

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

Revised Law

Sec. 5461.0408. RESTRICTION ON CONDEMNATION OF LAND ENCUMBERED BY EASEMENT. (a) In this section, "fair market value" has the meaning assigned by Section 5461.0407.

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

(1) there is not a feasible and prudent alternative to the use or taking of the land; and

(2) the program or project includes all reasonable planning to minimize harm to the land resulting from the use or taking.

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

(d) The governing body or officers of the governmental entity or public utility may consider clearly enunciated local preferences, and this chapter does not prohibit the use of the area if the determinations required by Subsection (b) are made.

(e) If, after making the determinations required by Subsection (b), the governmental entity or public utility acquires by eminent domain a fee simple interest in land encumbered by an agricultural conservation easement purchased under this chapter:

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

(2) the governmental entity or public utility shall:

(A) pay for an appraisal of the fair market value of the property subject to condemnation;

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

(C) pay to the landowner an amount equal to the fair market value of the condemned property less the amount paid to the qualified easement holder under Paragraph (B); and

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

(f) If, after making the determinations required by Subsection (b), the governmental entity or public utility acquires by eminent domain an interest other than a fee simple interest in land encumbered by an agricultural conservation easement purchased under this chapter:

(1) the governmental entity or public utility shall pay for an appraisal of the fair market value of the property subject to condemnation; and

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

(g) The qualified easement holder shall pay to the fund any amounts received under Subsection (e) or (f), not to exceed the amount paid by the fund for the purchase of the easement. (Parks & Wild. Code, Sec. 84.007.)

Source Law

Sec. 84.007. PROTECTED LAND; NOTICE OF TAKING. (a) A department or agency of this state, a county, a municipality, another political subdivision, or a public utility may not approve any program or project that requires the use or taking through eminent domain of private land encumbered by an agricultural conservation easement purchased under this chapter unless the governmental entity or public utility acting through its governing body or officers determines that:

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

(2) the program or project includes all reasonable planning to minimize harm to the land resulting from the use or taking.

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

(c) The governing body or officers of the governmental entity or public utility may consider clearly enunciated local preferences, and the provisions of this chapter do not constitute a

mandatory prohibition against the use of the area if the determinations required by Subsection (a) are made.

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

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

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

(A) pay for an appraisal of the fair market value, as that term is defined by Section 84.006, of the property subject to condemnation;

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

(C) pay to the landowner an amount equal to the fair market value of the condemned property less the amount paid to the qualified easement holder under Paragraph (B); and

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

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

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

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

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

Revised Law

Sec. 5461.0409. REPORT TO TEXAS DEPARTMENT OF TRANSPORTATION. Not later than the 10th day after the date of the closing of the purchase of an easement under this chapter, the department shall provide to 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. (Parks & Wild. Code, Sec. 84.013.)

Source Law

Sec. 84.013. 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, the department 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.

CHAPTER 5480. SPECIFIC GAME SANCTUARIES

SUBCHAPTER A. GAME SANCTUARIES ON RIVERS

Revised Law

Sec. 5480.0101. CREATION. The following are game sanctuaries:

(1) the land and public water in state-owned riverbeds in LaSalle County, including the Nueces and Frio Rivers;

(2) the land and public water in state-owned riverbeds in McMullen County, including the Nueces and Frio Rivers;

(3) the land and water owned by this state in the Aransas and Poesta Rivers in Bee County; and

(4) the land and public water in the state-owned beds of the Nueces, Frio, and Atascosa Rivers in Live Oak County. (Parks & Wild. Code, Secs. 82.711, 82.721, 82.731, 82.761.)

Source Law

Sec. 82.711. CREATION. All of the land area and public water in state-owned riverbeds in LaSalle County, including the Nueces and Frio rivers, is a game sanctuary.

Sec. 82.721. CREATION. All of the land area and public water in state-owned riverbeds in McMullen County, including the Nueces and Frio rivers, is a game sanctuary.

Sec. 82.731. CREATION. All of the land area and water in the Aransas and Poesta rivers in Bee County, to the extent same are owned by the state, are declared to be a game sanctuary.

Sec. 82.761. CREATION. All of the land area and public water in the state-owned beds of the Nueces, Frio, and Atascosa rivers in Live Oak County is a game sanctuary.

Revised Law

Sec. 5480.0102. WEAPONS PROHIBITED; OFFENSE. (a) Except as provided by Subsections (b) and (c), a person may not possess, shoot, or hunt with a firearm, bow and arrow, or crossbow in a game

sanctuary created under Section 5480.0101.

(b) Subsection (a) does not apply to the following persons while actually discharging an official duty:

(1) a peace officer of this state;

(2) a law enforcement officer of the United States; or

(3) a member of the armed forces of the United States or of this state.

(c) Subsection (a) does not apply to waterfowl hunting on a reservoir that is:

(1) on a river listed in Section 5480.0101; and

(2) owned, operated, or maintained by a governmental entity.

(d) A person commits an offense if the person violates this section. An offense under this subsection is a Class C Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Secs. 82.712, 82.713, 82.722, 82.723, 82.732, 82.733, 82.762, 82.763.)

Source Law

Sec. 82.712. PROHIBITED ACTS. (a) Except as permitted under Subsections (b) and (c) of this section, no person may possess, shoot, or hunt with a firearm, bow and arrow, or crossbow in the game sanctuary created by Section 82.711 of this code.

(b) Subsection (a) of this section does not apply to a peace officer of this state, a law enforcement officer of the United States, or a member of the armed forces of the United States or of this state during the time that the officer or member is in the actual discharge of official duties.

(c) Subsection (a) of this section does not apply to waterfowl hunting on any reservoir owned, operated, or maintained by a governmental entity now existing or to be constructed on said rivers.

Sec. 82.713. PENALTY. A person who violates Section 82.712 of this code commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

Sec. 82.722. PROHIBITED ACTS. (a) Except as permitted under Subsections (b) and (c) of this section, no person may possess, shoot, or hunt with a firearm, bow and arrow, or crossbow in the game sanctuary created by Section 82.721 of this code.

(b) Subsection (a) of this section does not apply to a peace officer of this state, a law enforcement officer of the United States, or a member of the armed forces of the United States or of this state during the time that the officer or member is in the actual discharge of official duties.

(c) Subsection (a) of this section does not apply to waterfowl hunting on any reservoir owned, operated, or maintained by a governmental entity now

existing or to be constructed on said rivers.

Sec. 82.723. PENALTY. A person who violates Section 82.722 of this code commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

Sec. 82.732. PROHIBITED ACTS. (a) Except as permitted by Subsections (b) and (c) of this section, no person may possess, shoot, or hunt with a firearm, bow and arrow, or crossbow in the game sanctuary created by Section 82.731 of this code.

(b) Subsection (a) of this section does not apply to a peace officer of this state, a law enforcement officer of the United States, or a member of the armed forces of the United States or of this state during the time that the officer or member is in the actual discharge of official duties.

(c) Subsection (a) of this section does not apply to waterfowl hunting on any reservoir owned, operated, or maintained by a governmental entity now existing or to be constructed on the listed rivers.

Sec. 82.733. PENALTY. A person who violates Section 82.732 of this code commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

Sec. 82.762. PROHIBITED ACTS. (a) Except as permitted by Subsections (b) and (c) of this section, no person may possess, shoot, or hunt with a firearm, bow and arrow, or crossbow in the game sanctuary created by Section 82.761 of this code.

(b) Subsection (a) of this section does not apply to a peace officer of this state, a law enforcement officer of the United States, or a member of the armed forces of the United States or of this state during the time that the officer or member is in the actual discharge of official duties.

(c) Subsection (a) of this section does not apply to waterfowl hunting on any reservoir owned, operated, or maintained by a governmental entity now existing or to be constructed on the listed rivers.

Sec. 82.763. PENALTY. A person who violates Section 82.762 of this code commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

Revisor's Note

(1) Sections 82.712(c), 82.722(c), 82.732(c), and 82.762(c), Parks and Wildlife Code, refer to waterfowl hunting on certain reservoirs "now existing or to be constructed." The revised law omits the quoted language as unnecessary because hunting on a reservoir requires the existence of the reservoir and will include a reservoir to be constructed when that reservoir is constructed.

(2) Sections 82.712(c), 82.722(c), 82.732(c), and 82.762(c), Parks and Wildlife Code, refer to "said" or "listed" rivers. It is clear from the context of those provisions that the referenced "said"

or "listed" rivers are the rivers listed in Sections 82.711, 82.721, 82.731, and 82.761, Parks and Wildlife Code, revised as Section 5480.0101, and the revised law is drafted accordingly.

SUBCHAPTER B. GAME SANCTUARY ON LAKE CORPUS CHRISTI

Revised Law

Sec. 5480.0201. CREATION. The water of Lake Corpus Christi in San Patricio and Live Oak Counties is a game sanctuary. (Parks & Wild. Code, Sec. 82.701.)

Source Law

> Sec. 82.701. GAME SANCTUARY. All the water of Lake Corpus Christi in San Patricio and Live Oak counties is a game sanctuary.

Revised Law

Sec. 5480.0202. WEAPONS PROHIBITED; OFFENSE. (a) Except as provided by Subsection (b), a person may not:

(1) enter on the portion of Lake Corpus Christi that is a game sanctuary with a firearm; or

(2) attempt to shoot a bird or animal in that game sanctuary.

(b) A person may hunt ducks and geese with a shotgun during the open seasons for ducks and geese in the portion of Lake Corpus Christi in San Patricio County. This subsection does not apply to hunting within one mile of the boy scout camp, the girl scout camp, or Lake Corpus Christi Park.

(c) A person commits an offense if the person violates this section. An offense under this subsection is a Class C Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Secs. 82.702, 82.704.)

Source Law

> Sec. 82.702. PROHIBITED ACTS. (a) Except as provided in Subsection (b) of this section, no person may enter on the portion of Lake Corpus Christi that is a game sanctuary with a gun or rifle, and no person may attempt to shoot a bird or animal in the portion of Lake Corpus Christi that is a game sanctuary.
>
> (b) A person may hunt ducks and geese during the open seasons for ducks and geese with a shotgun in the portion of Lake Corpus Christi in San Patricio County.

This exception does not apply to hunting within one mile of the boy scout camp, the girl scout camp, or Lake Corpus Christi Park.

Sec. 82.704. PENALTY. A person who violates Section 82.702 of this code commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

Revisor's Note

Section 82.702(a), Parks and Wildlife Code, refers to "a gun or rifle." The revised law substitutes "firearm" for "gun or rifle" because, in context, the terms are synonymous and "firearm" is more commonly used.

Revised Law

Sec. 5480.0203. MARKERS. The department shall erect appropriate markers at intervals adequately spaced to warn hunters of the one-mile limit around the boy scout camp, the girl scout camp, and Lake Corpus Christi Park in San Patricio County. (Parks & Wild. Code, Sec. 82.703.)

Source Law

Sec. 82.703. MARKERS. The Parks and Wildlife Department shall erect appropriate markers at intervals adequately spaced to warn hunters of the one-mile limit around the boy scout camp, the girl scout camp, and Lake Corpus Christi Park in San Patricio County.

CHAPTER 5481. SPECIFIC WILDLIFE SANCTUARIES

SUBCHAPTER A. CONNIE HAGAR WILDLIFE SANCTUARY--ROCKPORT

Revised Law

Sec. 5481.0101. AREA OF WILDLIFE SANCTUARY. The Connie Hagar Wildlife Sanctuary--Rockport in Aransas County consists of the area described as follows:

Being all of the water area of Aransas Bay and Little Bay between the shoreline of Live Oak Peninsula and a line described as follows:

BEGINNING at the point where the city limits of the City of Rockport intersects the shoreline of the Aransas Bay;

THENCE, one mile due east to a point in Aransas Bay;

THENCE, in a northeasterly direction approximately 1-3/8 miles to a point which is 1/2 mile due east of Nine Mile Point;

THENCE, in a north by northwesterly direction approximately 2 miles to a point which is 1/2 mile due east of the channel entrance to the Fulton Harbor;

THENCE, due west to the shoreline of Live Oak Peninsula. (Parks & Wild. Code, Sec. 82.101.)

Source Law

> Sec. 82.101. CREATION AND BOUNDARIES. The Connie Hagar Wildlife Sanctuary--Rockport in Aransas County is described as follows:
>
> Being all of the water area of Aransas Bay and Little Bay between the shoreline of Live Oak Peninsula and a line described as follows:
>
> BEGINNING at the point where the city limits of the City of Rockport intersects the shoreline of the Aransas Bay;
>
> THENCE, one mile due east to a point in Aransas Bay;
>
> THENCE, in a northeasterly direction approximately 1-3/8 miles to a point which is 1/2 mile due east of Nine Mile Point;
>
> THENCE, in a north by northwesterly direction approximately 2 miles to a point which is 1/2 mile due east of the channel entrance to the Fulton Harbor;
>
> THENCE, due west to the shoreline of Live Oak Peninsula.

Revised Law

Sec. 5481.0102. BOUNDARY MARKERS. The department shall place suitable markers defining the boundaries of the wildlife sanctuary described by Section 5481.0101. (Parks & Wild. Code, Sec. 82.102.)

Source Law

> Sec. 82.102. BOUNDARY MARKERS. The department shall place suitable markers defining the boundaries of the wildlife sanctuary.

Revisor's Note

> Section 82.102, Parks and Wildlife Code, refers to "the wildlife sanctuary." It is clear from the context of that section that "the wildlife sanctuary" refers to the Connie Hagar Wildlife Sanctuary--Rockport described by Section 82.101, Parks and Wildlife Code, to which Subchapter B, Chapter 82, of that code applies. Section 82.101 is revised as Section 5481.0101, and throughout this

subchapter the revised law adds to the quoted language a reference to that section for clarity.

Revised Law

Sec. 5481.0103. HUNTING PROHIBITED; OFFENSE. (a) A person may not hunt a bird or animal in the wildlife sanctuary described by Section 5481.0101.

(b) A person commits an offense if the person violates this section. An offense under this subsection is a Class C Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Secs. 82.103, 82.104.)

Source Law

> Sec. 82.103. UNLAWFUL ACT. No person may hunt any bird or animal within the wildlife sanctuary.
>
> Sec. 82.104. PENALTIES. A person who violates any provision of this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

SUBCHAPTER B. INGLESIDE COVE WILDLIFE SANCTUARY

Revised Law

Sec. 5481.0201. AREA OF WILDLIFE SANCTUARY. The Ingleside Cove Wildlife Sanctuary consists of the area in San Patricio and Nueces Counties described as follows:

BEGINNING at Kinney Bayou on the east shoreline of Ingleside Cove, also known as North Shore Channel (N 27 50.791, W 97 13.577);

THENCE, in a northwesterly direction along the shoreline to the channel marker at the location commonly known as Donnel Point (N 27 51.593, W 97 14.505);

THENCE, due northwest crossing the Reynolds Channel to the east side of a spoil bank (N 27 51.668, W 97 14.715);

THENCE, following the eastern edge of this spoil bank in a southeasterly direction to its southernmost point (N 27 50.328, W 97 14.302), continuing southeast crossing Ingleside Cut to the north shore of Ingleside Point (N 27 50.231, W 97 14.197);

THENCE, in an easterly and southeasterly direction along the east shoreline following the Reynolds Channel through Ingleside Point to the southernmost portion of this cut (N 27 49.782, W 97 13.782);

THENCE, due east across the Reynolds Channel to the west shoreline of the mainland known as the southernmost portion of Ingleside Cove (N 27 49.834, W 97 13.641);

THENCE, following the shoreline in a northerly direction being the east shoreline of Ingleside Cove to the point of beginning. (Parks & Wild. Code, Sec. 82.501.)

Source Law

> Sec. 82.501. CREATION. The Ingleside Cove Wildlife Sanctuary is composed of an area in San Patricio and Nueces counties described as follows:
>
> BEGINNING at Kinney Bayou on the east shoreline of Ingleside Cove, also known as North Shore Channel (N 27 50.791, W 97 13.577);
>
> THENCE, in a northwesterly direction along the shoreline to the channel marker at the location commonly known as Donnel Point (N 27 51.593, W 97 14.505);
>
> THENCE, due northwest crossing the Reynolds Channel to the east side of a spoil bank (N 27 51.668, W 97 14.715);
>
> THENCE, following the eastern edge of this spoil bank in a southeasterly direction to its southernmost point (N 27 50.328, W 97 14.302), continuing southeast crossing Ingleside Cut to the north shore of Ingleside Point (N 27 50.231, W 97 14.197);
>
> THENCE, in an easterly and southeasterly direction along the east shoreline following the Reynolds Channel through Ingleside Point to the southernmost portion of this cut (N 27 49.782, W 97 13.782);
>
> THENCE, due east across the Reynolds Channel to the west shoreline of the mainland known as the southernmost portion of Ingleside Cove (N 27 49.834, W 97 13.641);
>
> THENCE, following the shoreline in a northerly direction being the east shoreline of Ingleside Cove to the point of beginning.

Revised Law

Sec. 5481.0202. BOUNDARY MARKERS. The department shall place suitable markers defining the boundaries of the wildlife sanctuary described by Section 5481.0201. (Parks & Wild. Code, Sec. 82.502.)

Source Law

> Sec. 82.502. MARKING BOUNDARIES. The department shall place suitable markers defining the boundary of the wildlife sanctuary as described in this subchapter.

Revised Law

Sec. 5481.0203. HUNTING AND FISHING PROHIBITED; OFFENSE.

(a) A person may not:

(1) hunt a bird within the wildlife sanctuary described by Section 5481.0201; or

(2) fish by means other than rod and reel within the sanctuary.

(b) A person commits an offense if the person violates this section. An offense under this subsection is a Class C Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Secs. 82.503, 82.504.)

Source Law

Sec. 82.503. UNLAWFUL ACTS. (a) No person may hunt any bird within the sanctuary.

(b) No person may fish by any means other than rod and reel within the sanctuary.

Sec. 82.504. PENALTIES. A person who violates any provision of this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

Revisor's Note

Section 82.503, Parks and Wildlife Code, refers to "the sanctuary." It is clear from the context of that section that "the sanctuary" refers to the Ingleside Cove Wildlife Sanctuary described by Section 82.501, Parks and Wildlife Code, to which Subchapter F, Chapter 82, of that code applies. Section 82.501 is revised as Section 5481.0201, and the revised law adds to the quoted language a reference to that section for clarity.

SUBCHAPTER C. WILDLIFE SANCTUARY: GALVESTON COUNTY

Revised Law

Sec. 5481.0301. CREATION. The group of small islands located in Galveston Bay near Smith's Point and known as Vingt-et-Un Islands are a wildlife sanctuary. (Parks & Wild. Code, Sec. 82.301.)

Source Law

Sec. 82.301. CREATION. The group of small islands located in Galveston Bay near Smith's Point and known as Vingt et Un Islands are a state wildlife sanctuary.

Revised Law

Sec. 5481.0302. CERTAIN ACTS PROHIBITED; OFFENSE. (a) A person may not:

(1) hunt or in any way molest a bird on any of the islands described by Section 5481.0301 or within 50 yards of those islands; or

(2) enter on the islands for any purpose without first obtaining permission from the department.

(b) A person commits an offense if the person violates this section. An offense under this subsection is a Class C Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Secs. 82.302, 82.303.)

Source Law

> Sec. 82.302. UNLAWFUL ACTS. No person may hunt or in any way molest any of the birds on any of the islands or within 50 yards of the islands, nor may any person enter on the islands for any purpose without first obtaining permission from the department.
>
> Sec. 82.303. PENALTIES. A person violating any provision of this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

Revisor's Note

Section 82.302, Parks and Wildlife Code, refers to "the islands." It is clear from the context that "the islands" refers to the islands described by Section 82.301, Parks and Wildlife Code, to which Subchapter D, Chapter 82, of that code applies. Section 82.301 is revised as Section 5481.0301, and the revised law adds to the quoted language a reference to that section for clarity.

CHAPTER 5482. GAME AND FISH RESERVE AND GAME SANCTUARIES: MARION AND HARRISON COUNTIES

Revised Law

Sec. 5482.0101. LAND PRESERVED FOR GAME AND FISH RESERVE. The public land and school land situated in, under, and adjacent to the bed of Caddo Lake in Marion and Harrison Counties are withdrawn from sale and preserved for public use as a game and fish reserve.

(Parks & Wild. Code, Sec. 82.401.)

Source Law

> Sec. 82.401. LAND SET ASIDE. All of the public land and school land situated in, under, and adjacent to the bed of Caddo Lake in the counties of Marion and Harrison are withdrawn from sale and preserved for public use as a state game and fish reserve.

Revised Law

Sec. 5482.0102. ESTABLISHMENT OF GAME SANCTUARIES. (a) The department may establish one or more game sanctuaries in the water of Caddo Lake for the protection of wild ducks, geese, and other migratory birds. The sanctuaries may not include more than 20 percent of the area of the lake.

(b) The sanctuaries shall protect the birds from being pursued, hunted, taken, or disturbed. (Parks & Wild. Code, Secs. 82.402, 82.404.)

Source Law

> Sec. 82.402. CREATION. The department may establish one or more game sanctuaries in the water of Caddo Lake for the protection of wild ducks, geese, and all other migratory birds. The sanctuaries shall protect the birds from being pursued, hunted, taken, or disturbed.
>
> Sec. 82.404. AMOUNT OF AREA SET ASIDE. The sanctuaries shall not include more than 20 percent of the area of the lake.

Revisor's Note

(1) Section 82.404, Parks and Wildlife Code, refers to "[t]he sanctuaries." It is clear from the context that "[t]he sanctuaries" refers to the game sanctuaries authorized to be established by Section 82.402, Parks and Wildlife Code, revised in this section. Throughout this chapter, a reference to "sanctuary" or "sanctuaries" is revised in a manner that indicates that the sanctuaries are sanctuaries established under this section.

(2) Section 82.404, Parks and Wildlife Code, refers to "the lake." It is clear from the context that "the lake" refers to Caddo Lake, to which Subchapter E,

Chapter 82, of that code applies, and throughout this chapter the revised law is drafted accordingly.

Revised Law

Sec. 5482.0103. BOUNDARY MARKERS. (a) The department shall designate and define the boundaries of each sanctuary established under Section 5482.0102 by placing markers or signs around the boundaries of the sanctuary with the words "Game Preserve" on each marker or sign.

(b) The department must place the markers or signs not more than 500 yards apart. (Parks & Wild. Code, Sec. 82.403.)

Source Law

> Sec. 82.403. BOUNDARY MARKERS. The department shall designate and define the boundaries of the sanctuaries by placing markers or signs around the boundaries of each sanctuary with the words "Game Preserve" on each marker or sign. The markers or signs shall be placed not more than 500 yards apart.

Revised Law

Sec. 5482.0104. PUBLIC HUNTING AND FISHING. The public may hunt and fish on the water of Caddo Lake except on the water set aside for a sanctuary established under Section 5482.0102. (Parks & Wild. Code, Sec. 82.405.)

Source Law

> Sec. 82.405. PUBLIC HUNTING AND FISHING. The public may hunt and fish on all of the water of the lake except that water set aside for sanctuaries.

Revised Law

Sec. 5482.0105. MINERAL RIGHTS. The mineral rights under the land reserved for a sanctuary established under Section 5482.0102 are withdrawn from sale and the rights may not be offered for sale until the legislature directs the rights to be sold. (Parks & Wild. Code, Sec. 82.407.)

Source Law

> Sec. 82.407. MINERAL RIGHTS. The mineral rights under the land reserved for the sanctuaries are withdrawn from sale and the rights may not be offered for sale until the legislature directs the rights to be sold.

Revised Law

Sec. 5482.0106. CERTAIN ACTS PROHIBITED. A person may not, on a sanctuary established under Section 5482.0102:

(1) hunt a bird, fowl, or game of any kind; or

(2) pursue, frighten, or attempt to pursue or frighten a bird, fowl, or game of any kind. (Parks & Wild. Code, Sec. 82.408.)

Source Law

Sec. 82.408. UNLAWFUL ACTS. (a) No person may hunt any kind of game on the sanctuaries established under this subchapter.

(b) No person may hunt any birds, fowl, or game of any kind on the sanctuaries established under this subchapter.

(c) No person may pursue or frighten or attempt to pursue or frighten any birds, fowl, or game of any kind on the sanctuaries established under this subchapter.

Revisor's Note

Section 82.408, Parks and Wildlife Code, refers to the sanctuaries established under Subchapter E, Chapter 82, of that code. The pertinent part of Subchapter E, Chapter 82, providing for the establishment of sanctuaries is revised as Section 5482.0102, and the revised law is drafted accordingly.

Revised Law

Sec. 5482.0107. CRIMINAL PENALTY. (a) A person commits an offense if the person violates this chapter.

(b) An offense under this section is a Class B Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Sec. 82.409.)

Source Law

Sec. 82.409. PENALTY. A person who violates any provision of this subchapter commits an offense that is a Class B Parks and Wildlife Code misdemeanor.

Revisor's Note
(End of Chapter)

Section 82.406, Parks and Wildlife Code, requires the Parks and Wildlife Department in conjunction with the director of the Texas Forest Service to investigate the feasibility and desirability of

acquiring certain timbered land. The revised law omits that section as executed. The omitted law reads:

> Sec. 82.406. INVESTIGATION OF FEASIBILITY OF TIMBER LAND PURCHASE. The department, in conjunction with the director of the Texas Forest Service, shall investigate the feasibility and desirability of acquiring title to a block of timbered land adjacent to the lake comprising from 5,000 to 10,000 acres, to be placed under the joint control of the director of the Texas Forest Service and the department, with the view of ultimately preserving a belt of native forest for the future and also for the propagation of game.

CHAPTER 5483. SIERRA DIABLO WILDLIFE MANAGEMENT AREA: CULBERSON AND HUDSPETH COUNTIES

Revised Law

Sec. 5483.0101. CREATION. The department may set aside a fenced game management area in Culberson and Hudspeth Counties for the protection and perpetuation of Texas Bighorn Mountain Sheep (Ovis canadensis texiana). (Parks & Wild. Code, Sec. 82.201.)

Source Law

> Sec. 82.201. CREATION. The department may set aside a fenced game management area in Culberson and Hudspeth counties for the protection and perpetuation of Texas Bighorn Mountain Sheep (Ovis canadensis texiana).

Revised Law

Sec. 5483.0102. SOURCE OF EXPENDITURES. Expenditures under this chapter must be made from the game, fish, and water safety account. (Parks & Wild. Code, Sec. 82.207.)

Source Law

> Sec. 82.207. EXPENDITURES. All expenditures provided under this subchapter shall be made from the game, fish, and water safety account.

Revised Law

Sec. 5483.0103. ACCEPTANCE AND USE OF GIFTS. (a) The department may accept gifts of:

(1) land in Culberson and Hudspeth Counties; and

(2) money.

(b) The department shall deposit money received under this section to the credit of the game, fish, and water safety account.

(c) A gift received under this section must be used for the Texas Bighorn Sheep management unit. (Parks & Wild. Code, Sec. 82.202.)

Source Law

> Sec. 82.202. ACCEPTANCE OF GIFTS. The department may accept gifts of land in Culberson and Hudspeth counties or money to be deposited in the game, fish, and water safety account. The gifts shall be used for the Texas Bighorn Sheep management unit.

Revised Law

Sec. 5483.0104. PURCHASE OF LAND. (a) The department may purchase land in Culberson and Hudspeth Counties as necessary for the operation of the game management area.

(b) The department may pay for the land on approval of the title by the attorney general. (Parks & Wild. Code, Sec. 82.204.)

Source Law

> Sec. 82.204. OTHER LAND; TITLE APPROVAL. The department may purchase other land in Culberson and Hudspeth counties as necessary for the operation of the game management unit. The department may pay for the land out of the game, fish, and water safety account on approval of the title by the attorney general.

Revisor's Note

> Section 82.204, Parks and Wildlife Code, which is part of Subchapter C, Chapter 82, of that code, authorizes the Parks and Wildlife Department to pay for certain land "out of the game, fish, and water safety account." The revised law omits the quoted language as unnecessary because Section 82.207, Parks and Wildlife Code, revised as Section 5483.0102, requires that expenditures under that subchapter be made from the game, fish, and water safety account.

Revised Law

Sec. 5483.0105. CONDEMNATION AUTHORITY AND PROCEDURE. (a) The department may enter on, condemn, and appropriate not more than 12 sections of land belonging to any person in Culberson and Hudspeth Counties for the purpose stated in this chapter.

(b) The method of condemnation, assessment, and payment of

damages is the same as the method provided for railroads. (Parks & Wild. Code, Secs. 82.205, 82.206 (part).)

Source Law

> Sec. 82.205. LAND PURCHASE; PRIVATE. The department may enter on, condemn, and appropriate not more than 12 sections of land belonging to any person or corporation in Culberson and Hudspeth counties for the purpose stated in this subchapter.
>
> Sec. 82.206. CONDEMNATION. The method of condemnation, assessment, and payment of damages is the same as is provided by law for railroads. . . .

Revisor's Note

Section 82.205, Parks and Wildlife Code, refers to any "person or corporation." The revised law omits "corporation" for the reason stated in the revisor's note to Section 5054.0307.

Revised Law

Sec. 5483.0106. CONDEMNATION SUIT. (a) A condemnation suit under this chapter must be brought by the attorney general at the request of the department.

(b) The attorney general must bring the suit in the name of this state.

(c) All costs in the proceedings must be paid by this state or by the person against whom the proceedings are brought, to be determined as costs are determined in the case of railroad condemnation proceedings.

(d) This state must pay all damages and payment or compensation for property awarded in the proceedings. (Parks & Wild. Code, Sec. 82.206 (part).)

Source Law

> Sec. 82.206. . . . Condemnation suits brought under this subchapter shall be brought in the name of the State of Texas by the attorney general at the request of the department. All costs in the proceedings shall be paid by the state or by the person against whom the proceedings are had, to be determined as in the case of railroad proceedings. All damages and pay or compensation for property awarded in the proceedings shall be paid by the state by warrant drawn on the game, fish, and water safety account.

Revisor's Note

(1) Section 82.206, Parks and Wildlife Code,

requires certain payments to be made "by warrant." The revised law omits "by warrant" for the reason stated in Revisor's Note (2) to Section 5404.0107.

(2) Section 82.206, Parks and Wildlife Code, requires certain payments to be "drawn on the game, fish, and water safety account." The revised law omits the quoted language for the reason stated in the revisor's note to Section 5483.0104.

Revisor's Note
(End of Chapter)

Section 82.203, Parks and Wildlife Code, authorizes the Parks and Wildlife Department to purchase certain described tracts of land subject to certain conditions. The tracts of land described by Section 82.203 were transferred to the Game, Fish, and Oyster Commission, a predecessor agency of the Parks and Wildlife Department. The provision of Section 82.203 that authorizes the purchase of the tracts of land is omitted as obsolete. The provision of Section 82.203 pertaining to the reservation and management of the mineral rights to the "land purchased," and the provision of that section limiting the price that may be paid for the land and the source of the money to purchase the land, are omitted as unnecessary because the tracts of land were transferred and not sold to the Game, Fish, and Oyster Commission. The omitted law reads:

> Sec. 82.203. LAND PURCHASE; SCHOOL LANDS. The department may purchase the surface rights in not more than eight sections of public school lands located in Culberson and Hudspeth counties in the following blocks: Blocks 65 and 66, T. & P. Ry. Co. land; Blocks 42-1/2, 43, 54-1/2, Public School Lands. The minerals on the land purchased shall be reserved to the school fund and managed by the school land board. The price to be paid for the land shall not exceed $1 per acre and shall be paid for by the department out of the game, fish, and water safety account.

CHAPTER 5484. FISH HATCHERIES IN SMITH COUNTY

Revised Law

Sec. 5484.0101. CREATION OF FISH HATCHERIES. The department may construct, enlarge, and maintain fish hatcheries in Smith County. (Parks & Wild. Code, Sec. 82.601.)

Source Law

> Sec. 82.601. CREATION. The department may construct, enlarge, and maintain fish hatcheries in Smith County.

Revised Law

Sec. 5484.0102. CONDEMNATION AUTHORITY AND PROCEDURE. (a) The department may enter on, condemn, and appropriate land, water rights, easements, rights-of-way, and other property of a person in Smith County for a purpose described by Section 5484.0101.

(b) The method of condemnation, assessment, and payment of damages is the same as the method provided for railroads. (Parks & Wild. Code, Secs. 82.602, 82.603 (part).)

Source Law

> Sec. 82.602. PROPERTY ACQUISITION. The department may enter on, condemn, and appropriate land, water rights, easements, rights-of-way, and property of any person or corporation in Smith County for the purposes designated in this subchapter.
>
> Sec. 82.603. CONDEMNATION; MANNER AND MEANS. The method of condemnation, assessment, and payment of damages is the same as is provided for railroads. . . .

Revisor's Note

(1) Section 82.602, Parks and Wildlife Code, refers to any "person or corporation." The revised law omits "corporation" for the reason stated in the revisor's note to Section 5054.0307.

(2) Section 82.602, Parks and Wildlife Code, refers to the purposes designated in Subchapter G, Chapter 82, of that code. The pertinent part of Subchapter G, Chapter 82, is revised as Section 5484.0101, and the revised law is drafted accordingly.

Revised Law

Sec. 5484.0103. CONDEMNATION SUIT. (a) A condemnation

suit under this chapter must be brought by the attorney general at the request of the department.

(b) The attorney general must bring the suit in the name of this state.

(c) All costs in the proceedings must be paid by this state or by the person against whom the proceedings are brought, to be determined as costs are determined in the case of railroad condemnation proceedings.

(d) The comptroller must pay all damages and payment or compensation for property awarded in the proceedings from any account in the state treasury that is appropriated to the department for the purpose of constructing and maintaining fish hatcheries. (Parks & Wild. Code, Sec. 82.603 (part).)

Source Law

> Sec. 82.603. . . . Condemnation suits brought under this subchapter shall be brought in the name of the State of Texas by the attorney general at the request of the department. All costs in the proceedings shall be paid by the state or by the person against whom the proceedings are had, to be determined as in the case of railroad condemnation proceedings. All damages and pay or compensation for property awarded in the proceedings shall be paid by the state by warrant drawn by the comptroller against any account in the state treasury appropriated to the department for the use of constructing and maintaining fish hatcheries.

Revisor's Note

Section 82.603, Parks and Wildlife Code, requires certain payments to be made "by warrant." The revised law omits the quoted language for the reason stated in Revisor's Note (2) to Section 5404.0107.