

CHAPTER 655

S.B. No. 1083

An Act relating to the creation, implementation, administration, operation, and financing of the Texas Brush Control Program under the jurisdiction of the State Soil and Water Conservation Board and to powers and duties of the board; adding Chapter 203 to Title 7, Agriculture Code.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Title 7, Agriculture Code, as amended, is amended by adding Chapter 203 to read as follows:

“CHAPTER 203. BRUSH CONTROL**“SUBCHAPTER A. GENERAL PROVISIONS**

“Section 203.001. DEFINITIONS. *In this chapter:*

“(1) ‘Board’ means the State Soil and Water Conservation Board.

“(2) ‘District’ means a soil and water conservation district created under Chapter 201 of this code.

“(3) ‘District board’ means the board of directors of a soil and water conservation district created under Chapter 201 of this code.

“(4) ‘Brush control’ means:

“(A) the selective control, removal, or reduction of noxious brush such as mesquite, prickly pear, salt cedar, or other phreatophytes that consume water to a degree that is detrimental to water conservation; and

“(B) the revegetation of land on which this brush has been controlled.

“(5) ‘Critical area’ means an area of critical need designated by the board under the plan for the brush control program.

“Section 203.002. CREATION OF PROGRAM. *The Texas Brush Control Program is created and shall be implemented, administered, operated, and financed as provided by this chapter.*

“[Sections 203.003-203.010 reserved for expansion]

“SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

“Section 203.011. AUTHORITY OF BOARD. *The board has jurisdiction over and shall administer the brush control program under this chapter.*

“Section 203.012. RULES. *The board shall adopt reasonable rules that are necessary to carry out this chapter.*

“Section 203.013. AUTHORITY OF DISTRICTS. *Each district in which all or part of a critical area is located may carry out the responsibilities provided by Subchapter D of this code as delegated by the board in that critical area.*

“Section 203.014. PERSONNEL. *The board may employ or contract with any person necessary to assist the board or a district to carry out this chapter.*

“Section 203.015. EXPENDITURES. *In addition to any other expenditures authorized by this subchapter, the board may make expenditures provided by the General Appropriations Act.*

“Section 203.016. CONSULTATION. *The board shall consult the Parks and Wildlife Department in regard to the effects of the brush control program on fish and wildlife.*

“[Sections 203.017-203.050 reserved for expansion]

“SUBCHAPTER C. GENERAL POWERS AND DUTIES OF BOARD

“Section 203.051. STATE PLAN. *The board shall prepare and adopt a state brush control plan that shall:*

“(1) include a comprehensive strategy for managing brush in areas of the state where brush is contributing to a substantial water conservation problem; and

“(2) designate areas of critical need in the state in which to implement the brush control program.

“Section 203.052. NOTICE AND HEARING. *(a) Before the board adopts the plan under Section 203.051 of this code, the board shall call and hold a hearing to consider a proposed plan.*

“(b) Not less than 30 days before the date the hearing is to be held, the board shall mail written notice of the hearing to each district in the state. The notice must include the date and place for holding the hearing and must state the purpose for holding the hearing.

“(c) At the hearing, representatives of a district and any other person may appear and present testimony including information and suggestions for any changes in the proposed plan.

“(d) After the conclusion of the hearing, the board shall consider the testimony including the information and suggestions made at the hearing and, after making any changes in the proposed plan that it finds necessary, the board shall adopt the plan.

“Section 203.053. CRITERIA FOR DESIGNATING CRITICAL AREAS. *(a) In designating critical areas under the plan, the board shall consider:*

“(1) the location of various brush infestations;

“(2) the type and severity of various brush infestations;

“(3) the various management methods that may be used to control brush; and

“(4) any other criteria that the board considers relevant to assure that the brush control program can be most effectively, efficiently, and economically implemented.

“(b) In designating critical areas, the board shall give priority to areas with the most critical water conservation needs and in which brush control and revegetation projects will be most likely to produce substantial water conservation.

“Section 203.054. **AMENDING PLAN.** At least every two years the board shall review and may amend the plan to take into consideration changed conditions. Amendments to the plan shall be made in the manner provided by this chapter for adopting the original plan.

“Section 203.055. **APPROVED METHODS FOR BRUSH CONTROL.** (a) The board shall study and must approve all methods used to control brush under this Act considering the overall impact the project will have within critical areas.

“(b) The board may approve a method for use under the cost-sharing program provided by Subchapter E of this chapter if the board finds that the proposed method:

“(1) has proven to be an effective and efficient method for controlling brush;

“(2) is cost efficient;

“(3) will have a beneficial impact on the wildlife habitat;

“(4) will maintain topsoil to prevent erosion or silting of any river or stream; and

“(5) will allow the revegetation of the area after the brush is removed with plants that are beneficial to livestock and wildlife.

“Section 203.056. **REPORT.** (a) Before January 31 of each year, the board shall submit to the governor, the speaker of the house, and the lieutenant governor a report of the activities of the brush control program during the immediately preceding calendar year.

“(b) The board may make copies of this report available on request to any person and may charge a fee for each report that will allow the board to recover its costs for printing and distribution.

“[Sections 203.057-203.100 reserved for expansion]

“SUBCHAPTER D. POWERS AND DUTIES OF DISTRICTS

“Section 203.101. **GENERAL AUTHORITY.** Each district may administer the aspects of the brush control program within any critical area located within the jurisdiction of that district.

“Section 203.102. **PROVIDE INFORMATION RELATING TO PROGRAM.** The board shall prepare and distribute information to each district relating generally to the brush control program and concerning the procedures for preparing, filing, and obtaining approval of an application for cost sharing under Subchapter E of this chapter.

“Section 203.103. **ACCEPTANCE AND COMMENT ON APPLICATION.** (a) Each district may accept for transmission to the board applications for cost sharing under Subchapter E of this chapter and may examine and assist the applicant in assembling the application in proper form before the application is submitted to the board.

“(b) Before a district submits an application to the board, it shall examine the application to assure that it complies with rules of the board and that it includes all information and exhibits necessary for the board to pass on the application.

“(c) At the time that the district examines the application, it shall prepare comments and recommendations relating to the application and the district board may provide comments and recommendations before they are submitted to the board.

“(d) After reviewing the application, the district board shall submit to the board the application and the comments and recommendations.

“Section 203.104. **SUPERVISION OF PROJECTS.** (a) Each district on behalf of the board may inspect and supervise projects within its jurisdiction in which state money is provided under Subchapter E of this chapter.

“(b) Each district board exercising the duties under Subsection (a) of this section shall periodically report to the board relating to this inspection and supervision in the manner provided by board rules.

“(c) The board may direct a district to manage any problem that arises under a cost-sharing contract for brush control in that district and to report to the board.

“[Sections 203.105-203.150 reserved for expansion]

“SUBCHAPTER E. COST SHARING FOR BRUSH CONTROL

“Section 203.151. **CREATION OF COST-SHARING PROGRAM.** As part of the brush control program, a cost-sharing program is created to be administered under this chapter and rules adopted by the board.

“Section 203.152. **BRUSH CONTROL FUND.** (a) The brush control fund is a special fund created in the State Treasury to be used as provided by this subchapter.

“(b) The brush control fund consists of legislative appropriations, money transferred to that fund from other funds by law, and other money required by law to be deposited in the brush control fund.

“Section 203.153. USE OF MONEY IN BRUSH CONTROL FUND. Money deposited to the credit of the brush control fund shall be used by the board to provide the state’s share of the cost of brush control projects approved under this subchapter and other necessary expenditures as provided by the General Appropriations Act.

“Section 203.154. LIMIT ON COST-SHARING PARTICIPATION. (a) Not more than 70 percent of the total cost of a single brush control project may be made available as the state’s share in cost sharing.

“(b) A person is not eligible to participate in the state brush control program or to receive money from the state brush control program if the person is simultaneously receiving any cost-share money for brush control on the same acreage from a federal government program.

“(c) The board may grant an exception to Subsection (b) of this section if the board finds that joint participation of the state brush control program and any federal brush control program will:

“(1) enhance the efficiency and effectiveness of a project; and

“(2) lessen the state’s financial commitment to the project.

“Section 203.155. LIMIT TO CRITICAL AREAS AND APPROVED METHODS. Cost sharing under this subchapter is available only for projects that:

“(1) are implemented in critical areas as designated by the board; and

“(2) use a method of brush control approved under Section 203.055 of this code.

“Section 203.156. APPLICATION FOR COST SHARING. A person who desires to participate with the state in a brush control project and to obtain cost-sharing participation by the state shall file an application with the district board in the district in which the land on which the project is to be accomplished is located. The application must be in the form provided by board rules.

“Section 203.157. CONSIDERATIONS IN PASSING ON APPLICATION. In passing on an application for cost sharing, the board shall consider:

“(1) whether the project is to be carried out in a critical area;

“(2) the method of control that is to be used by the project applicant;

“(3) the plans for revegetation;

“(4) the total cost of the project;

“(5) the amount of land to be included in the project;

“(6) whether the applicant for the project is financially able to provide his share of the money for the project;

“(7) the cost-share percentage, if an applicant agrees to a higher degree of financial commitment;

“(8) any comments and recommendations of the Parks and Wildlife Department; and

“(9) any other pertinent information considered necessary by the board.

“Section 203.158. APPROVAL OF APPLICATION. The board may approve an application if, after considering the factors listed in Section 203.157 of this code and any other relevant factors, the board finds:

“(1) the owner of the land fully agrees to cooperate in the project;

“(2) the method of eradication is a method approved by the board under Section 203.055 of this code; and

“(3) the project is to be carried out in a critical area designated under the board’s plan.

“Section 203.159. PRIORITY OF PROJECTS. (a) If the demand for funds under the cost-sharing program is greater than funds available, the board may establish priorities favoring the areas with the most critical water conservation needs and projects that will be most likely to produce substantial water conservation.

“(b) The board shall give more favorable consideration to a particular project if the applicants individually or collectively agree to increase the percentage share of costs under the cost-share arrangement.

“(c) The amount of land dedicated to the project that will produce significant water conservation from the eradication of brush is a priority.

“Section 203.160. CONTRACT FOR COST SHARING. (a) On approval of an application by the board, the board or the governing board of the designated district shall negotiate contracts with the successful applicants in the project area.

“(b) The board or designated district board shall negotiate a contract with the successful applicant subject to:

“(1) the conditions established by the board in approving the application;

“(2) any specified instructions provided by the board; and

“(3) board rules.

“(c) On completion of the negotiations by the district board, it shall submit the proposed contract to the board for approval.

“(d) The board shall examine the contract and if the board finds that the contract meets all the conditions of the board’s resolution, instructions, and rules, it shall approve the contract and provide to the individual on completion of the project the money that constitutes the state’s share of the project.

“(e) The board may develop guidelines to allow partial payment of the state’s share of a brush control project as certain portions or percentages of contracted work are completed, but state money may not be provided in advance for work remaining to be done.

“Section 203.161. ADMINISTRATION OF EXPENDITURES. The district board may administer expenditure of the state’s share of the money required by a cost-sharing contract and shall report periodically to the board on the expenditure of those funds in the manner required by the board.”

SECTION 2. This Act takes effect immediately.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on May 17, 1985, by a viva-voce vote; passed the House on May 25, 1985, by a non-record vote.

Approved: June 14, 1985

Effective: August 26, 1985