

CHAPTER 54

S.B. No. 503

AN ACT

relating to certain pollution control and to soil and water conservation land improvement measures

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

SECTION 1. Section 201.026, Agriculture Code, is amended to read as follows:

Sec. 201.026. NONPOINT SOURCE POLLUTION. *(a) The state board is the lead agency in this state for activity relating to abating agricultural and silvicultural nonpoint source pollution. The state board shall plan, implement, and manage programs and practices for abating agricultural and silvicultural nonpoint source pollution. Other state agencies with responsibility for abating agricultural and silvicultural nonpoint source pollution shall coordinate any abatement programs and activities with the state board.*

(b) The state board shall represent the state before the federal Environmental Protection Agency or other federal agencies on a matter relating to agricultural or silvicultural nonpoint source pollution. Nothing herein shall impair the ability of the General Land Office to represent the state before any federal agency in matters relating to the state participation in the federal coastal zone management program. Nothing herein shall impair the ability of the Texas Natural Resource Conservation Commission to represent the state before any federal agency in matters relating to the state's overall participation in the Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.).

(c) In an area that the state board identifies as having or having the potential to develop agricultural or silvicultural nonpoint source water quality problems or an area within the

“coastal zone” designated by the Coastal Coordination Council, the state board shall establish a water quality management plan certification program that provides, through local soil and water conservation districts, for the development, supervision, and monitoring of individual water quality management plans for agricultural and silvicultural lands. Each plan must be developed, maintained, and implemented under rules and criteria adopted by the state board and comply with state water quality standards established by the Texas Natural Resource Conservation Commission. The state board shall certify a plan that satisfies the state board’s rules and criteria and complies with state water quality standards established by the Texas Natural Resource Conservation Commission. The Texas Natural Resource Conservation Commission has the sole and exclusive authority to set water quality standards for all water in the state.

(d) Complaints concerning a violation of a water quality management plan or a violation of a law or rule relating to agricultural or silvicultural nonpoint source pollution under the jurisdiction of the state board shall be referred to the state board. The state board, in cooperation with the local soil and water conservation district, shall investigate the complaint. On completion of the investigation, the state board, in consultation with the soil and water conservation district, either shall determine that further action is not warranted or shall develop and implement a corrective action plan to address the complaint. If the person about whom the complaint has been made fails or refuses to take corrective action, the state board shall refer the complaint to the Texas Natural Resource Conservation Commission.

SECTION 2. Chapter 201, Agriculture Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. COST-SHARE ASSISTANCE PROGRAM FOR SOIL AND WATER CONSERVATION LAND IMPROVEMENT MEASURES

Sec. 201.301. **CREATION OF PROGRAM.** The state board shall administer a cost-share assistance program for soil and water conservation land improvement measures.

Sec. 201.302. **USE OF FUNDS.** (a) The state board may provide cost-share assistance to landowners or operators for the installation of soil and water conservation land improvement measures consistent with the purpose of controlling erosion, conserving water, or protecting water quality.

(b) The state board may employ and contract with and provide for the compensation of personnel and may take any other action necessary to implement this subchapter.

(c) The state board may reimburse a conservation district for the reasonable costs the district incurs in administering this subchapter.

Sec. 201.303. **ALLOCATION OF FUNDS.** (a) The state board may allocate funds under this subchapter among particular soil and water conservation land improvement measures or among areas of the state for each of the purposes provided by Section 201.302 of this code.

(b) The state board may allocate funds among conservation districts to pay the state’s share of the costs of installing eligible soil and water conservation land improvement measures on agricultural lands within the districts and may adjust allocations as needs change in order to achieve the most efficient use of funds.

(c) A conservation district may submit a request for an allocation of cost-share assistance funds to the state board. A request must be submitted in the manner provided by the state board.

(d) The state board shall set priorities for allocation of cost-share assistance funds consistent with the purposes provided by Section 201.302 of this code. The state board may consider local priorities and needs in establishing priorities.

Sec. 201.304. **ELIGIBILITY FOR COST-SHARE ASSISTANCE.** As a condition for assistance under this subchapter, the state board may require that a person:

(1) own or operate agricultural land within the boundaries of the conservation district providing cost-share assistance;

(2) have a conservation plan approved by the conservation district covering the land for which a soil and water conservation land improvement measure is proposed; and

(3) include in the conservation plan practices for which cost-share assistance is proposed.

Sec. 201.305. ELIGIBLE SOIL AND WATER CONSERVATION LAND IMPROVEMENT MEASURES. (a) Soil and water conservation land improvement measures eligible for cost-share assistance shall be determined by the state board and must be consistent with the purposes provided by Section 201.302 of this code. The state board may consider local priorities and needs in determining eligible measures.

(b) Each conservation district receiving an allocation of cost-share assistance funds shall designate the soil and water conservation land improvement measures that are eligible for cost-share assistance within its boundaries, subject to approval by the state board.

Sec. 201.306. APPLICATION FOR COST-SHARE ASSISTANCE. An application for cost-share assistance may be made on forms provided by the state board or by other means approved by the state board.

Sec. 201.307. APPROVAL OF APPLICATION. (a) A conservation district may approve an application for cost-share assistance if the soil and water conservation land improvement measure is consistent with the purposes provided by Section 201.302 of this code and the priorities established by the state board under Section 201.303 of this code.

(b) A conservation district may not approve applications for cost-share assistance funds in excess of the funds allocated to the conservation district by the state board.

Sec. 201.308. COST-SHARE RATES. (a) The state board shall establish the cost-share rates for all eligible soil and water conservation land improvement measures.

(b) The state board may not bear more than 75 percent of the cost of a soil and water conservation land improvement measure.

(c) A person may not receive cost-share assistance for a soil and water conservation land improvement measure if the person is simultaneously receiving cost-share assistance for the measure from another source.

(d) The state board may grant an exception to Subsection (b) of this section if the state board finds the higher share is necessary to obtain adequate implementation of a certain soil and water conservation land improvement measure.

(e) The state board may grant an exception to Subsection (c) of this section if the state board finds that participation with another cost-share assistance program will:

- (1) enhance the efficiency and effectiveness of a soil and water conservation land improvement measure; and
- (2) lessen the state's financial commitment to the soil and water conservation land improvement measure.

Sec. 201.309. STANDARDS AND SPECIFICATIONS. The state board shall establish standards and specifications for soil and water conservation land improvement measures eligible for cost-share assistance.

Sec. 201.310. COST-SHARE PAYMENTS. (a) The state board shall make each cost-share assistance payment directly to an eligible person.

(b) Before making a payment to an eligible person for a soil and water conservation land improvement measure, the state board may require certification by the conservation district in which the measure has been installed to determine if the measure has been completely installed and satisfies the standards and specifications established by the state board.

Sec. 201.311. DESIGNATION OF LOCAL DISTRICTS. The state board may designate one or more conservation districts to administer this subchapter locally.

SECTION 3. Subsection (a), Section 26.121, Water Code (effective until delegation of NPDES permit authority to the Texas Natural Resource Conservation Commission), is amended to read as follows:

(a) Except as authorized by a rule, permit, or order issued by the commission, no person may:

- (1) discharge sewage, municipal waste, recreational waste, agricultural waste, or industrial waste into or adjacent to any water in the state;

(2) discharge other waste into or adjacent to any water in the state which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any of the water in the state, *unless the discharge complies with the person's certified water quality management plan approved by the State Soil and Water Conservation Board as provided by Section 201.026, Agriculture Code; or*

(3) commit any other act or engage in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any of the water in the state, unless the activity is under the jurisdiction of the Parks and Wildlife Department, the General Land Office, or the Railroad Commission of Texas, in which case this subdivision does not apply.

SECTION 4. Subsection (a), Section 26.121, Water Code (effective upon delegation of NPDES permit authority to the Texas Natural Resource Conservation Commission), is amended to read as follows:

(a) Except as authorized by the commission, no person may:

(1) discharge sewage, municipal waste, recreational waste, agricultural waste, or industrial waste into or adjacent to any water in the state;

(2) discharge other waste into or adjacent to any water in the state which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any of the water in the state, *unless the discharge complies with a person's certified water quality management plan approved by the State Soil and Water Conservation Board as provided by Section 201.026, Agriculture Code; or*

(3) commit any other act or engage in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any of the water in the state, unless the activity is under the jurisdiction of the Parks and Wildlife Department, the General Land Office, or the Railroad Commission of Texas, in which case this subdivision does not apply.

SECTION 5. Subchapter D, Chapter 26, Water Code, is amended by adding Section 26.1311 to read as follows:

Sec. 26.1311. DUTY OF STATE SOIL AND WATER CONSERVATION BOARD. The State Soil and Water Conservation Board and its authorized agents are responsible for the abatement and prevention of pollution resulting from agricultural or silvicultural nonpoint source pollution as provided by Section 201.026, Agriculture Code.

SECTION 6. 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 March 17, 1993: Yeas 31, Nays 0; passed the House on April 19, 1993: Yeas 129, Nays 0, one present not voting.

Approved April 29, 1993.

Effective April 29, 1993.