

By: Hilderbran, et al.

H.B. No. 12

Substitute the following for H.B. No. 12:

By: Hilderbran

C.S.H.B. No. 12

A BILL TO BE ENTITLED

AN ACT

relating to the funding, powers, and duties of the Parks and Wildlife Department and the Texas Historical Commission.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 442, Government Code, is amended by adding Sections 442.0051 and 442.0052 to read as follows:

Sec. 442.0051. FEES. The commission by rule may establish reasonable fees for commission purposes under this chapter, including an admission fee appropriate to a historic site under its jurisdiction.

Sec. 442.0052. VOLUNTEER SERVICES. (a) Except as provided by Subsection (b), the commission may use the services of volunteers to help carry out the duties and responsibilities of the commission.

(b) A volunteer may not enforce this code.

SECTION 2. Chapter 442, Government Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. CERTAIN HISTORIC SITES

Sec. 442.071. DEFINITION. In this subchapter, "historic site" means a site or park listed under Section 442.072.

Sec. 442.072. JURISDICTION. (a) The following historic sites and parks formerly under the jurisdiction of the Parks and Wildlife Department are under the commission's jurisdiction:

- 1           (1) Acton State Historic Site;
- 2           (2) Caddoan Mounds State Historic Site;
- 3           (3) Casa Navarro State Historic Site;
- 4           (4) Confederate Reunion Grounds State Historic Site;
- 5           (5) Eisenhower Birthplace State Historic Site;
- 6           (6) Fannin Battleground State Historic Site;
- 7           (7) Fort Griffin State Historic Site;
- 8           (8) Fort Lancaster State Historic Site;
- 9           (9) Fort McKavett State Historic Site;
- 10          (10) Fulton Mansion State Historic Site;
- 11          (11) Landmark Inn State Historic Site;
- 12          (12) Levi Jordan State Historic Site;
- 13          (13) Magoffin Home State Historic Site;
- 14          (14) Sabine Pass Battleground State Historic Site;
- 15          (15) Sam Bell Maxey House State Historic Site;
- 16          (16) San Felipe State Historic Site;
- 17          (17) Starr Family Home State Historic Site;
- 18          (18) Varner-Hogg Plantation State Historic Site.

19           (b) This subsection applies to a historic site that the  
20 state is required to operate in a particular manner or for a  
21 particular purpose, such as a site improved with federal money  
22 subject to federal restrictions on the purposes for which the  
23 improved site may be used or a site donated to the state subject to a  
24 reversion clause providing that the title reverts to the grantor  
25 when the site is not used for the purposes for which it was  
26 acquired. The commission has all powers necessary to operate the  
27 site in the required manner or for the required purpose.

1       (c) The commission may enter into an agreement with a  
2 nonprofit corporation, foundation, association, or other nonprofit  
3 entity for the expansion, renovation, management, operation, or  
4 financial support of a historic site.

5       Sec. 442.073. HISTORIC SITE ACCOUNT. (a) The historic site  
6 account is a separate account in the general revenue fund.

7       (b) The account consists of:

8           (1) credits made to the commission under Section  
9 151.801, Tax Code;

10           (2) transfers to the account;

11           (3) interest earned on the account;

12           (4) fees and other revenue from operation of a  
13 historic site; and

14           (5) grants and donations accepted under Section  
15 442.074.

16       (c) A fee or other revenue generated at a historic site must  
17 be credited to the account.

18       (d) Money in the account may be used only to administer,  
19 operate, preserve, repair, expand, or otherwise maintain a historic  
20 site or to acquire a historical item appropriate to a historic site.

21       (e) Any money in the account not used in a fiscal year  
22 remains in the account. The account is exempt from the application  
23 of Section 403.095.

24       Sec. 442.074. GRANTS; DONATIONS. (a) The commission may  
25 seek and accept grants and donations for a historic site from any  
26 appropriate source.

27       (b) Money accepted under this section shall be deposited to

1 the credit of the historic site account.

2 SECTION 3. Section 442.019, Government Code, as added by  
3 Chapter 1259, Acts of the 79th Legislature, Regular Session, 2005,  
4 is transferred to Subchapter C, Chapter 442, Government Code, as  
5 added by this Act, renumbered as Section 442.075, Government Code,  
6 and amended to read as follows:

7 Sec. 442.075 [~~442.019~~]. TRANSFER OF HISTORIC [~~HISTORICAL~~]  
8 SITES FROM PARKS AND WILDLIFE. (a) Section 442.071 does not apply  
9 to this section.

10 (b) By interagency agreement, a historic [~~historical~~] site  
11 under the jurisdiction of the Parks and Wildlife Department may be  
12 transferred to the commission.

13 (c) [~~(b)~~] If jurisdiction over a historic [~~historical~~] site  
14 is transferred under this section, all rights, powers, duties,  
15 obligations, functions, activities, property, and programs of the  
16 Parks and Wildlife Department relating to the [~~historical~~] site are  
17 transferred to the commission.

18 (d) [~~(c)~~] On or after the transfer of jurisdiction over a  
19 historic [~~historical~~] site, the commission may enter into an  
20 agreement with a nonprofit corporation, including the Admiral  
21 Nimitz Foundation, for the expansion, renovation, management,  
22 operation, or financial support of the site.

23 SECTION 4. Section 651.004, Government Code, is amended by  
24 adding Subsection (f) to read as follows:

25 (f) The Parks and Wildlife Department is not required to  
26 comply with management-to-staff ratio requirements of this section  
27 with respect to employees located in field-based operations.

1 SECTION 5. Section 11.0262(a), Parks and Wildlife Code, is  
2 amended to read as follows:

3 (a) An employee of the state parks division of the  
4 department may accept a gratuity if:

5 (1) the employee, as a primary job duty, serves food or  
6 beverages in a restaurant, cafeteria, or other food service  
7 establishment located within a state park and owned and operated by  
8 the department;

9 (2) the employee, as an auxiliary duty in performance  
10 of a regular duty renders a special customer service to an  
11 individual or group;

12 (3) the gratuity is offered by a customer:

13 (A) of the restaurant, cafeteria, ~~[or other]~~ food  
14 service establishment, or hospitality unit of the state parks  
15 division in appreciation of being served food or beverages by the  
16 employee; or

17 (B) of a hospitality unit of the state parks  
18 division, in appreciation of receiving some other customer service  
19 from the employee;

20 (4) ~~[(3)]~~ the department has designated the employee  
21 as an employee authorized to accept a gratuity; and

22 (5) ~~[(4)]~~ the employee reports the gratuity in  
23 accordance with commission rules.

24 SECTION 6. Section 11.035(b), Parks and Wildlife Code, is  
25 amended to read as follows:

26 (b) The department shall deposit to the credit of the state  
27 parks account all revenue, less allowable costs, received from the

1 following sources:

2 (1) grants or operation of concessions in state parks  
3 or fishing piers;

4 (2) publications on state parks, state historic sites,  
5 or state scientific areas;

6 (3) fines or penalties received from violations of  
7 regulations governing parks issued pursuant to Subchapter B,  
8 Chapter 13~~[, of this code]~~;

9 (4) fees and revenue collected under Section 11.027(b)  
10 or (c) ~~[of this code]~~ that are associated with state park lands;

11 (5) an amount of money equal to 74 ~~[\$1,125,000 per~~  
12 ~~month and 40]~~ percent of the ~~[amount above \$27 million per year of]~~  
13 credits made to the department under Section 151.801, Tax Code; and

14 (6) any other source provided by law.

15 SECTION 7. Section 11.043(b), Parks and Wildlife Code, is  
16 amended to read as follows:

17 (b) The account consists of:

18 (1) the amount of credits made to the department under  
19 Section 151.801, Tax Code, after allocations to:

20 (A) the state parks account;

21 (B) the large county and municipality recreation  
22 and parks account; and

23 (C) the Texas recreation and parks account;

24 (2) [7] proceeds of revenue bonds issued under Section  
25 13.0045; and

26 (3) money from ~~[7 or]~~ any other source authorized by  
27 law.

1 SECTION 8. Chapter 11, Parks and Wildlife Code, is amended  
2 by adding Subchapter K to read as follows:

3 SUBCHAPTER K. MANAGEMENT AND EFFICIENCY REVIEWS

4 Sec. 11.251. MAINTENANCE EQUIPMENT REVIEW SYSTEM. (a) In  
5 this section:

6 (1) "Maintenance equipment" means personal property  
7 owned by the department that is used to administer, operate,  
8 preserve, repair, expand, or otherwise maintain real property,  
9 including improvements and fixtures, owned or operated by the  
10 department.

11 (2) "Outdated equipment" means equipment:

12 (A) that has a fair market value that is less than  
13 the annual cost of maintaining the equipment in working order;

14 (B) that is not operational and cannot reasonably  
15 be made operational; or

16 (C) that no longer serves a department purpose.

17 (b) The commission by rule shall establish an equipment  
18 review system through which the department annually determines  
19 whether any of the department's maintenance equipment has become  
20 outdated equipment since the last date the department conducted an  
21 equipment review under this section.

22 (c) The equipment review system established under  
23 Subsection (b) must require the department to sell any outdated  
24 equipment in the manner and at the time specified by the commission  
25 by rule.

26 (d) The department shall deposit proceeds from the sale of  
27 equipment under this section to the credit of the appropriate parks

1 and wildlife account.

2 Sec. 11.252. MAINTENANCE PROVIDER REVIEW SYSTEM. (a) In  
3 this section "maintenance" includes the administration, operation,  
4 preservation, repair, and expansion of personal property owned by  
5 the department and real property owned or operated by the  
6 department.

7 (b) The commission by rule shall establish a maintenance  
8 provider review system through which the department annually  
9 determines whether a maintenance task performed by the department  
10 could be performed by a third-party contractor in a manner that:

11 (1) is more cost-effective than the department's  
12 manner of performing the maintenance task; and

13 (2) yields a result that is equal to or greater than  
14 the quality of the result produced by the department performing the  
15 task.

16 (c) The maintenance provider review system established  
17 under Subsection (b) must require the department to contract with a  
18 third party for the performance of any maintenance task performed  
19 by the department that could be performed by a third-party  
20 contractor in the manner that meets the criteria described by  
21 Subsection (b) after the department's cost of administering the  
22 contract is added to the cost of performance by the third party.

23 Sec. 11.253. MANAGEMENT PLAN AND PRIORITIES LIST. Not  
24 later than January 15 of each odd-numbered year the department  
25 shall submit to the governor, the speaker of the house of  
26 representatives, the lieutenant governor, and the chair of each  
27 house and senate standing committee having jurisdiction over a



1 matter regulated by the department under this code a management  
2 plan to address the department's maintenance responsibilities  
3 under this subchapter and a priorities list that includes the  
4 following information:

5 (1) a prioritized list of facilities operated by the  
6 department that are most in need of repair, renovation, expansion,  
7 or other maintenance;

8 (2) an itemized list explaining any additional funding  
9 requested by the department to accomplish a task described by  
10 Subdivision (1); and

11 (3) the results of the reviews conducted under  
12 Sections 11.251, 11.252, and 13.019(b).

13 SECTION 9. Section 13.0061(a), Parks and Wildlife Code, is  
14 amended to read as follows:

15 (a) The department may lease grazing rights on any state  
16 park or any area of a state park. The department may harvest and  
17 sell, or sell in place, any timber, hay, livestock, or other product  
18 grown on state park land the department finds to be in excess of  
19 natural resource management, educational, or interpretive  
20 objectives [~~programming needs~~]. Timber may be harvested only for  
21 forest pest management, salvage, or habitat restoration and under  
22 good forestry practices with the advice of the Texas Forest  
23 Service.

24 SECTION 10. Subchapter A, Chapter 13, Parks and Wildlife  
25 Code, is amended by adding Section 13.0075 to read as follows:

26 Sec. 13.0075. ELIGIBILITY CRITERIA FOR INCLUSION OF LAND IN  
27 STATE PARKS SYSTEM. The commission by rule shall adopt criteria for

1 determining the eligibility of land that is donated to the  
2 department for inclusion in the state parks system.

3 SECTION 11. Subchapter A, Chapter 13, Parks and Wildlife  
4 Code, is amended by adding Section 13.0145 to read as follows:

5 Sec. 13.0145. SPEED LIMITS. (a) The department shall set  
6 and enforce speed limits on a road in a state park, wildlife  
7 management area, or other site under the control of the department  
8 as follows:

9 (1) 30 miles per hour on a park road or main drive;

10 (2) 20 miles per hour on a secondary road; or

11 (3) as posted by the department.

12 (b) The department shall:

13 (1) consult with the Texas Department of  
14 Transportation to determine if a speed limit under Subsection (a)  
15 is reasonable and safe based on an engineering and traffic control  
16 study; and

17 (2) amend the limit, if necessary.

18 SECTION 12. Section 13.015, Parks and Wildlife Code, is  
19 amended by amending Subsection (b) and adding Subsections (a-1),  
20 (b-1), (b-2), and (b-3) to read as follows:

21 (a-1) The department may promote visits and enhance revenue  
22 at parks, including amounts necessary for salaries, advertising,  
23 consumable supplies and materials, promotional products, fees, and  
24 related expenses.

25 (b) The department may operate or grant contracts to operate  
26 concessions in state parks or on causeways, beach drives, or other  
27 improvements in connection with state park sites. The department

1 may make regulations governing the granting or operating of  
2 concessions. The department may establish and operate staff  
3 concessions, including salaries, consumable supplies and  
4 materials, operating expenses, rental and other equipment, and  
5 other capital outlays.

6 (b-1) The department may purchase products, including food  
7 items, for resale or rental at a profit.

8 (b-2) The department shall operate any resale concession  
9 program using standard business practice models to generate revenue  
10 and provide quality customer service while adhering to conservation  
11 principles.

12 (b-3) The department may recruit and select private service  
13 providers to enter into leased concession contracts with the  
14 department to provide necessary and appropriate visitor services.

15 SECTION 13. Section 13.016, Parks and Wildlife Code, is  
16 amended to read as follows:

17 Sec. 13.016. INMATE [~~PRISON~~] LABOR. (a) The department may  
18 use the labor of an inmate confined in a state, county, or local  
19 correctional facility [~~trustee state convicts~~] on or in connection  
20 with state parks, wildlife management areas, or other property  
21 under the control or jurisdiction of the department.

22 (b) Inmates [~~Convicts~~] working in connection with lands  
23 under the control or jurisdiction of the department remain under  
24 the control of the Texas Department of Criminal Justice or county or  
25 local correctional facility, as appropriate, and are considered as  
26 serving their terms in the Texas Department of Criminal Justice or  
27 other correctional facility [~~penitentiary~~].

1        (c) The department may purchase equipment, meals, supplies,  
2 and materials for an inmate working at a department site as  
3 necessary to facilitate the use of the labor described by this  
4 section.

5        SECTION 14. Section 13.019, Parks and Wildlife Code, is  
6 amended to read as follows:

7        Sec. 13.019. FACILITY RESERVATION SYSTEM AND FEE. (a) The  
8 department may permit the advance reservation of a facility,  
9 lodging, or campsite at a state park and require the payment of a  
10 fee by a person making the reservation.

11        (b) The department shall annually:

12                (1) evaluate whether the reservation system used by  
13 the department for the advance reservation of facilities, lodging,  
14 and campsites is as user-friendly as possible; and

15                (2) make modifications to the system as necessary to  
16 enhance the user-friendliness of the reservation system.

17        SECTION 15. Subchapter A, Chapter 13, Parks and Wildlife  
18 Code, is amended by adding Section 13.0191 to read as follows:

19        Sec. 13.0191. FACILITY AND LODGING FEES. A fee charged by  
20 the department under this subchapter for the use of a facility or  
21 lodging at a state park may vary on a seasonal basis and may be set  
22 in an amount to recover the direct and indirect costs of providing  
23 the facility or lodging and provide a reasonable rate of return to  
24 the department. Items to be considered in setting a fee include the  
25 cost required to provide, maintain, and improve amenities available  
26 at the site and seasonal variables such as the cost of staffing to  
27 meet demand and costs of heating or air conditioning.

1 SECTION 16. Chapter 24, Parks and Wildlife Code, is amended  
2 by designating Sections 24.001 through 24.013 as Subchapter A and  
3 adding a heading for Subchapter A to read as follows:

4 SUBCHAPTER A. LOCAL PARKS FOR SMALLER COUNTIES AND MUNICIPALITIES  
5 AND OTHER POLITICAL SUBDIVISIONS

6 SECTION 17. Section 24.001, Parks and Wildlife Code, is  
7 amended to read as follows:

8 Sec. 24.001. DEFINITIONS. In this subchapter [~~chapter~~]:

9 (1) "Political subdivision" means a county,  
10 municipality [~~city~~], special district, river authority, or other  
11 governmental entity created under the authority of the state or a  
12 county or municipality [~~city~~].

13 (2) "Urban area" means the area within a standard  
14 metropolitan statistical area (SMSA) in this state used in the last  
15 preceding federal census.

16 (3) "Park" includes land and water parks owned or  
17 operated by the state or a political subdivision.

18 (4) "Open space area" means a land or water area for  
19 human use and enjoyment that is relatively free of man-made  
20 structures.

21 (5) "Natural area" means a site having valuable or  
22 vulnerable natural resources, ecological processes, or rare,  
23 threatened, or endangered species of vegetation or wildlife.

24 (6) "Parks, recreational, and open space area plan"  
25 means a comprehensive plan that includes information on and  
26 analyses of parks, recreational, and open space area objectives,  
27 needs, resources, environment, and uses, and that identifies the

1 amounts, locations, characteristics, and potentialities of areas  
2 for adequate parks, recreational, and open space opportunities.

3 (7) "Federal rehabilitation and recovery grants"  
4 means matching grants made by the United States to or for political  
5 subdivisions for the purpose of rebuilding, remodeling, expanding,  
6 or developing existing outdoor or indoor parks, recreational, or  
7 open space areas and facilities, including improvements in park  
8 landscapes, buildings, and support facilities.

9 (8) "Account" means the Texas recreation and parks  
10 account.

11 (9) "Rural area" means any area not included in an  
12 urban area.

13 (10) "Cultural resource site or area" means a site or  
14 area determined by the commission to have valuable and vulnerable  
15 cultural or historical resources.

16 (11) "Nonprofit corporation" means a nonpolitical  
17 legal entity incorporated under the laws of this state that has been  
18 granted an exemption from federal income tax under Section 501(c),  
19 Internal Revenue Code of 1986, as amended.

20 (12) "Underserved population" means any group of  
21 people that is low income, inner city, or rural as determined by the  
22 last census, or minority, physically or mentally challenged youth  
23 at risk, youth, or female.

24 SECTION 18. Section 24.002, Parks and Wildlife Code, is  
25 amended to read as follows:

26 Sec. 24.002. TEXAS RECREATION AND PARKS ACCOUNT. The Texas  
27 recreation and parks account is a separate account in the general

1 revenue fund. Money in the account may be used only as provided by  
2 this subchapter for grants to:

3 (1) a county or municipality with a population of less  
4 than 500,000; or

5 (2) any other political subdivision that is not a  
6 county or municipality.

7 SECTION 19. Section 24.003, Parks and Wildlife Code, is  
8 amended to read as follows:

9 Sec. 24.003. ACCOUNT REVENUE SOURCE; REVENUE DEDICATION.

10 The department shall deposit to the credit of the Texas recreation  
11 and parks account:

12 (1) an amount of money equal to 15 [~~\$1,125,000 per~~  
13 ~~month and 40~~] percent of the [~~amount above \$27 million per year of~~]  
14 credits made to the department under Section 151.801, Tax Code; and  
15 [~~or~~]

16 (2) money from any other source authorized by law.

17 SECTION 20. Section 24.005(e), Parks and Wildlife Code, is  
18 amended to read as follows:

19 (e) The department may provide from the account for direct  
20 administrative costs of the programs described by this subchapter  
21 [~~chapter~~].

22 SECTION 21. Section 24.008(a), Parks and Wildlife Code, is  
23 amended to read as follows:

24 (a) No property may be acquired with grant money made under  
25 this subchapter [~~chapter~~] or by the department under this  
26 subchapter [~~chapter~~] if the purchase price exceeds the fair market  
27 value of the property as determined by one independent appraiser.

1 SECTION 22. Section 24.009, Parks and Wildlife Code, is  
2 amended to read as follows:

3 Sec. 24.009. PAYMENTS, RECORDS, AND ACCOUNTING. (a) On the  
4 approval of a grant under this subchapter [~~chapter~~] and on the  
5 written request by the director, the comptroller of public accounts  
6 shall issue a warrant drawn against the Texas recreation and parks  
7 account and payable to the political subdivision or nonprofit  
8 corporation in the amount specified by the director.

9 (b) Each recipient of assistance under this subchapter  
10 [~~chapter~~] shall keep records as required by the department,  
11 including records which fully disclose the amount and the  
12 disposition of the proceeds by the recipient, the total cost of the  
13 acquisition, a copy of the title and deed for the property acquired,  
14 the amount and nature of that portion of the cost of the acquisition  
15 supplied by other funds, and other records that facilitate  
16 effective audit. The director and the comptroller, or their  
17 authorized representatives, may examine any book, document, paper,  
18 and record of the recipient that are pertinent to assistance  
19 received under this subchapter [~~chapter~~].

20 (c) The recipient of funds under this subchapter [~~chapter~~]  
21 shall, on each anniversary date of the grant for five years after  
22 the grant is made, furnish to the department a comprehensive report  
23 detailing the present and anticipated use of the property, any  
24 contiguous additions to the property, and any major changes in the  
25 character of the property, including the extent of park development  
26 which may have taken place.

27 SECTION 23. Section 24.011, Parks and Wildlife Code, is



1 amended to read as follows:

2           Sec. 24.011. NONCOMPLIANCE WITH SUBCHAPTER [~~ACT~~]. The  
3 attorney general shall file suit in a court of competent  
4 jurisdiction against a political subdivision or nonprofit  
5 corporation that fails to comply with the requirements of this  
6 subchapter [~~chapter~~] to recover the full amount of the grant plus  
7 interest on that amount of five percent a year accruing from the  
8 time of noncompliance or for injunctive relief to require  
9 compliance with this subchapter [~~chapter~~]. If the court finds that  
10 the political subdivision or nonprofit corporation has not complied  
11 with the requirements of this subchapter [~~chapter~~], it is not  
12 eligible for further participation in the program for three years  
13 following the finding for noncompliance.

14           SECTION 24. Section 24.013, Parks and Wildlife Code, is  
15 amended to read as follows:

16           Sec. 24.013. AUTHORITY OF POLITICAL SUBDIVISIONS TO HAVE  
17 PARKS. This subchapter [~~chapter~~] does not authorize a political  
18 subdivision to acquire, develop, maintain, or operate a park,  
19 recreational area, open space area, or natural area.

20           SECTION 25. Chapter 24, Parks and Wildlife Code, is amended  
21 by adding Subchapter B to read as follows:

22           SUBCHAPTER B. PARKS FOR LARGE COUNTIES AND MUNICIPALITIES

23           Sec. 24.051. DEFINITIONS. In this subchapter:

24                   (1) "Account" means the large county and municipality  
25 recreation and parks account.

26                   (2) "Cultural resource site or area" means a site or  
27 area determined by the commission to have valuable and vulnerable

1 cultural or historical resources.

2 (3) "Federal rehabilitation and recovery grants"  
3 means matching grants made by the United States to or for political  
4 subdivisions for the purpose of rebuilding, remodeling, expanding,  
5 or developing existing outdoor or indoor parks, recreational, or  
6 open space areas and facilities, including improvements in park  
7 landscapes, buildings, and support facilities.

8 (4) "Large county or municipality" means a county or  
9 municipality with a population of 500,000 or more.

10 (5) "Natural area" means a site having valuable or  
11 vulnerable natural resources, ecological processes, or rare,  
12 threatened, or endangered species of vegetation or wildlife.

13 (6) "Nonprofit corporation" means a nonpolitical  
14 legal entity incorporated under the laws of this state that has been  
15 granted an exemption from federal income tax under Section 501(c),  
16 Internal Revenue Code of 1986, as amended.

17 (7) "Open space area" means a land or water area for  
18 human use and enjoyment that is relatively free of man-made  
19 structures.

20 (8) "Park" includes land and water parks owned or  
21 operated by the state or a political subdivision.

22 (9) "Parks, recreational, and open space area plan"  
23 means a comprehensive plan that includes information on and  
24 analyses of parks, recreational, and open space area objectives,  
25 needs, resources, environment, and uses, and that identifies the  
26 amounts, locations, characteristics, and potentialities of areas  
27 for adequate parks, recreational, and open space opportunities.

1           (10) "Political subdivision" means a county,  
2 municipality, special district, river authority, or other  
3 governmental entity created under the authority of the state or a  
4 county or municipality.

5           (11) "Underserved population" means any group of  
6 people that is low income or inner city, as determined by the last  
7 census, or minority, physically or mentally challenged youth at  
8 risk, youth, or female.

9           Sec. 24.052. LARGE COUNTY AND MUNICIPALITY RECREATION AND  
10 PARKS ACCOUNT. The large county and municipality recreation and  
11 parks account is a separate account in the general revenue fund.  
12 Money in the account may be used only as provided by this  
13 subchapter.

14           Sec. 24.053. ACCOUNT REVENUE SOURCE; DEDICATION. The  
15 department shall deposit to the credit of the large county and  
16 municipality recreation and parks account:

17           (1) an amount of money equal to 10 percent of the  
18 credits made to the department under Section 151.801, Tax Code; and

19           (2) money from any other source authorized by law.

20           Sec. 24.054. ASSISTANCE GRANTS. (a) The department may  
21 make grants of money from the account to a large county or  
22 municipality for use by the county or municipality as all or part of  
23 the county's or municipality's required share of funds for  
24 eligibility for receiving a federal rehabilitation and recovery  
25 grant.

26           (b) In order to receive a grant under this section, the  
27 county or municipality seeking the federal grant shall apply to the

1 department for the grant and present evidence that the county or  
2 municipality qualifies for the federal grant.

3 (c) A grant under this section is conditioned on the county  
4 or municipality qualifying for and receiving the federal grant.

5 Sec. 24.055. DIRECT STATE MATCHING GRANTS. (a) The  
6 department shall make grants of money from the account to a large  
7 county or municipality to provide one-half of the costs of the  
8 planning, acquisition, or development of a park, recreational area,  
9 or open space area to be owned and operated by the county or  
10 municipality.

11 (b) In establishing the program of grants under this  
12 section, the department shall adopt rules and regulations for grant  
13 assistance.

14 (c) Money granted to a county or municipality under this  
15 section may be used for the operation and maintenance of parks,  
16 recreational areas, cultural resource sites or areas, and open  
17 space areas only:

18 (1) if the park, site, or area is owned or operated and  
19 maintained by the department and is being transferred by the  
20 commission for public use to the county or municipality for  
21 operation and maintenance; and

22 (2) during the period the commission determines to be  
23 necessary to effect the official transfer of the park, site, or  
24 area.

25 (d) The department shall make grants of money from the  
26 account to a large county or municipality or to a nonprofit  
27 corporation for use in a large county or municipality for

1 recreation, conservation, or education programs for underserved  
2 populations to encourage and implement increased access to and use  
3 of parks, recreational areas, cultural resource sites or areas, and  
4 open space areas by underserved populations.

5 (e) The department may provide from the account for direct  
6 administrative costs of the programs described by this subchapter.

7 Sec. 24.056. FUNDS FOR GRANTS TO LARGE COUNTIES AND  
8 MUNICIPALITIES. When revenue to the large county and municipality  
9 recreation and parks account exceeds \$14 million per year, an  
10 amount not less than 15 percent shall be made available for grants  
11 to large counties and municipalities for up to 50 percent of the  
12 cost of acquisition or development of indoor public recreation  
13 facilities for indoor recreation programs, sports activities,  
14 nature programs, or exhibits.

15 Sec. 24.057. ACCOUNT USE TO BE CONSISTENT WITH PLANS. No  
16 grant may be made under Section 24.055 nor may account money be used  
17 under Section 24.056 unless:

18 (1) there is a present or future need for the  
19 acquisition and development of the property for which the grant is  
20 requested or the use is proposed; and

21 (2) a written statement is obtained from the regional  
22 planning commission having jurisdiction of the area in which the  
23 property is to be acquired and developed that the acquisition and  
24 development is consistent with local needs.

25 Sec. 24.058. ACQUISITION OF PROPERTY. (a) No property may  
26 be acquired with grant money made under this subchapter or by the  
27 department under this subchapter if the purchase price exceeds the

1 fair market value of the property as determined by one independent  
2 appraiser.

3 (b) Property may be acquired with provision for a life  
4 tenancy if that provision facilitates the orderly and expedient  
5 acquisition of the property.

6 (c) If land or water designated for park, recreational,  
7 cultural resource, or open space use is included in the local and  
8 regional park, recreational, cultural resource, and open space  
9 plans for two or more large counties or municipalities, the two or  
10 more large counties or municipalities may cooperate under state law  
11 to secure assistance from the account to acquire or develop the  
12 property. In those cases, the department may modify the standards  
13 for individual applicants but must be assured that a cooperative  
14 management plan for the land or water can be developed and  
15 effectuated and that one of the counties or municipalities  
16 possesses the necessary qualifications to perform contractual  
17 responsibilities for purposes of the grant.

18 (d) All land or water purchased with assistance from the  
19 account shall be dedicated for park, recreational, cultural  
20 resource, indoor recreation center, and open space purposes in  
21 perpetuity and may not be used for any other purpose, except where  
22 the use is compatible with park, recreational, cultural resource,  
23 and open space objectives, and the use is approved in advance by the  
24 department.

25 Sec. 24.059. PAYMENTS, RECORDS, AND ACCOUNTING. (a) On the  
26 approval of a grant under this subchapter and on the written request  
27 by the director, the comptroller shall issue a warrant drawn

1 against the large county and municipality recreation and parks  
2 account and payable to the county, municipality, or nonprofit  
3 corporation in the amount specified by the director.

4 (b) Each recipient of assistance under this subchapter  
5 shall keep records as required by the department, including records  
6 that fully disclose the amount and the disposition of the proceeds  
7 by the recipient, the total cost of the acquisition, a copy of the  
8 title and deed for the property acquired, the amount and nature of  
9 that portion of the cost of the acquisition supplied by other funds,  
10 and other records that facilitate effective audit. The director  
11 and the comptroller, or their authorized representatives, may  
12 examine any book, document, paper, and record of the recipient that  
13 are pertinent to assistance received under this subchapter.

14 (c) The recipient of funds under this subchapter shall, on  
15 each anniversary date of the grant for five years after the grant is  
16 made, furnish to the department a comprehensive report detailing  
17 the present and anticipated use of the property, any contiguous  
18 additions to the property, and any major changes in the character of  
19 the property, including the extent of park development that may  
20 have taken place.

21 Sec. 24.060. NONCOMPLIANCE WITH SUBCHAPTER. The attorney  
22 general shall file suit in a court of competent jurisdiction  
23 against a county, municipality, or nonprofit corporation that fails  
24 to comply with the requirements of this subchapter to recover the  
25 full amount of the grant plus interest on that amount of five  
26 percent a year accruing from the time of noncompliance or for  
27 injunctive relief to require compliance with this subchapter. If

1 the court finds that the county, municipality, or nonprofit  
2 corporation has not complied with the requirements of this  
3 subchapter, it is not eligible for further participation in the  
4 program for three years following the finding for noncompliance.

5 Sec. 24.061. ACCOUNT NOT TO BE USED FOR PUBLICITY. No money  
6 credited to the account may be used for publicity or related  
7 purposes.

8 Sec. 24.062. AUTHORITY OF LARGE COUNTY OR MUNICIPALITY TO  
9 HAVE PARKS. This subchapter does not authorize a large county or  
10 municipality to acquire, develop, maintain, or operate a park,  
11 recreational area, open space area, or natural area.

12 SECTION 26. Section 151.801(c), Tax Code, is amended to  
13 read as follows:

14 (c) The proceeds from the collection of the taxes imposed by  
15 this chapter on the sale, storage, or use of sporting goods shall be  
16 deposited as follows:

17 (1) an amount equal to 94 percent of the proceeds [~~For~~  
18 ~~the period beginning September 1, 1993, and ending August 31, 1995,~~  
19 ~~an amount equal to 50 cents per 1,000 cigarettes shall be deposited~~  
20 ~~to the credit of the general revenue fund, state parks account, and~~  
21 ~~an amount equal to 50 cents per 1,000 cigarettes shall be deposited~~  
22 ~~to the credit of the general revenue fund, Texas recreation and~~  
23 ~~parks account, and the balance shall be retained in the general~~  
24 ~~revenue fund.~~

25 [~~(2) Beginning September 1, 1995, the taxes collected~~]  
26 shall be credited to the Parks and Wildlife Department and  
27 deposited as specified in the Parks and Wildlife Code; and



1           (2) an amount equal to six percent of the proceeds  
2 shall be credited to the Texas Historical Commission and deposited  
3 as specified in Section 442.073, Government Code. [~~The comptroller~~  
4 ~~shall not credit in excess of \$32 million in sporting goods tax~~  
5 ~~revenue annually to the Parks and Wildlife Department.~~]

6           SECTION 27. The Parks and Wildlife Department shall comply  
7 with the recommendations contained in the State Auditor's Office  
8 "An Audit Report on Financial Processes at the Parks and Wildlife  
9 Department Report No. 07-021" in accordance with the dates  
10 specified in the department's management response included as  
11 Appendix 6 to the report and contingent on receiving an  
12 appropriation sufficient to fund the implementation of the  
13 recommendations.

14           SECTION 28. (a) In this section, "historic site" means a  
15 historic site or park listed under Section 442.072, Government  
16 Code, as added by this Act.

17           (b) On or after January 1, 2008, as provided by this  
18 section, the following are transferred to the Texas Historical  
19 Commission:

20           (1) each historic site and all obligations and  
21 liabilities of the Parks and Wildlife Department relating to the  
22 site;

23           (2) all unobligated and unexpended funds appropriated  
24 to the Parks and Wildlife Department designated for the  
25 administration of each site;

26           (3) all equipment and property of the Parks and  
27 Wildlife Department used for the administration of or related to

1 each site; and

2 (4) all files and other records of the Parks and  
3 Wildlife Department kept by the department regarding each site.

4 (c) A rule adopted by the Parks and Wildlife Commission that  
5 is in effect immediately before January 1, 2008, and that relates to  
6 a historic site is, on January 1, 2008, a rule of the Texas  
7 Historical Commission and remains in effect until amended or  
8 repealed by the Texas Historical Commission. A rule that applies to  
9 both a transferred site and park that is not transferred is a rule  
10 of both commissions and applies to the transferred site until  
11 amended or repealed by the Texas Historical Commission.

12 (d) A transfer under this Act does not diminish or impair  
13 the rights of a holder of an outstanding bond or other obligation  
14 issued by the Parks and Wildlife Department in relation to the  
15 support of a historic site.

16 (e) On January 1, 2008, a reference in the Parks and  
17 Wildlife Code or other law to a power, duty, obligation, or  
18 liability of the Parks and Wildlife Department or the Parks and  
19 Wildlife Commission that relates to a historic site is a reference  
20 to the Texas Historical Commission. The Texas Historical  
21 Commission is the successor agency to the Parks and Wildlife  
22 Department and the Parks and Wildlife Commission for the site.

23 (f) The Texas Historical Commission shall prepare a  
24 management plan for each historic site before the site transfer may  
25 take place.

26 (g) Until a historic site is transferred to the Texas  
27 Historical Commission in accordance with this Act, the Parks and

1 Wildlife Department shall continue to operate and maintain the site  
2 under applicable law as it existed on January 1, 2007.

3 (h) The Parks and Wildlife Department and the Texas  
4 Historical Commission shall keep the House Committee on Culture,  
5 Recreation, and Tourism informed of the progress of the transfer of  
6 each historic site under this Act.

7 (i) An employee of the Parks and Wildlife Department whose  
8 job responsibilities are more than 50 percent related to a historic  
9 site transferred to the Texas Historical Commission under this Act  
10 becomes an employee of the Texas Historical Commission on the date  
11 of the transfer of that site. An employee whose job is transferred  
12 may not be dismissed after the transfer except for cause before the  
13 first anniversary of the date of the transfer.

14 SECTION 29. (a) Money from the Texas recreation and parks  
15 account may only be granted to support the funding for a local park  
16 if the procedural requirements under Chapter 24, Parks and Wildlife  
17 Code, have been met.

18 (b) In case of a conflict with any other law, including a  
19 local park appropriation made by the 80th Legislature under the  
20 General Appropriations Act following the appropriations to the  
21 Parks and Wildlife Department or by any other act of the 80th  
22 Legislature, this section prevails.

23 SECTION 30. This Act takes effect immediately if it  
24 receives a vote of two-thirds of all the members elected to each  
25 house, as provided by Section 39, Article III, Texas Constitution.  
26 If this Act does not receive the vote necessary for immediate  
27 effect, this Act takes effect September 1, 2007.