

1-1 By: Hilderbran, et al. (Senate Sponsor - Estes) H.B. No. 12
1-2 (In the Senate - Received from the House May 4, 2007;
1-3 May 15, 2007, read first time and referred to Committee on Finance;
1-4 May 21, 2007, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 10, Nays 0; May 21, 2007,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 12 By: Ogden

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the funding, powers, duties, and responsibilities of
1-11 the Parks and Wildlife Department and the Texas Historical
1-12 Commission.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. (a) The legislative task force on the use of the
1-15 sales tax on sporting goods is composed of eight members, as
1-16 follows:

1-17 (1) two members of the House Culture, Recreation and
1-18 Tourism Committee, appointed by the speaker of the house of
1-19 representatives;

1-20 (2) two members of the House Appropriations Committee,
1-21 appointed by the speaker of the house of representatives;

1-22 (3) two members of the Senate Committee on Natural
1-23 Resources, appointed by the lieutenant governor; and

1-24 (4) two members of the Senate Committee on Finance,
1-25 appointed by the lieutenant governor.

1-26 (b) The speaker of the house of representatives shall
1-27 designate one member of the task force to serve as a joint presiding
1-28 officer of the task force, and the lieutenant governor shall
1-29 designate another task force member to serve as the other joint
1-30 presiding officer.

1-31 (c) The task force meets at the call of a joint presiding
1-32 officer.

1-33 (d) The task force shall:

1-34 (1) review the items that are included in the
1-35 definition of "sporting goods" under Section 151.801(e), Tax Code,
1-36 and determine if there is a correlation between each individual
1-37 item included and activities related to state parks, including the
1-38 use of those parks; and

1-39 (2) determine the amount of revenue that must be
1-40 generated to fund the policy decisions made by the 80th Legislature
1-41 regarding state parks.

1-42 (e) Not later than January 15, 2009, the task force shall
1-43 prepare and present to the 81st Legislature a report that describes
1-44 the findings of the task force and includes recommendations
1-45 regarding the specific items that should be included in the
1-46 definition of "sporting goods" under Section 151.801(e), Tax Code.

1-47 (f) Notwithstanding any law to the contrary, no funds
1-48 allocated pursuant to Tax Code Section 151.801(c), not previously
1-49 dedicated by a previous legislature, may be dedicated to a specific
1-50 purpose or account until the task force review is completed and its
1-51 recommendations are delivered to each member of legislature.

1-52 (g) This section expires March 1, 2009.

1-53 SECTION 2. Subchapter A, Chapter 442, Government Code, is
1-54 amended by adding Sections 442.0051, 442.0052, and 442.0053 to read
1-55 as follows:

1-56 Sec. 442.0051. FEES. The commission by rule may establish
1-57 reasonable fees for commission purposes under this chapter,
1-58 including an admission fee appropriate to a historic site under its
1-59 jurisdiction.

1-60 Sec. 442.0052. VOLUNTEER SERVICES. (a) Except as provided
1-61 by Subsection (b), the commission may use the services of
1-62 volunteers to help carry out the duties and responsibilities of the
1-63 commission.

2-1 (b) A volunteer may not enforce this code.
2-2 Sec. 442.0053. ELIGIBILITY CRITERIA FOR INCLUSION OF REAL
2-3 PROPERTY IN STATE HISTORIC SITES SYSTEM. (a) The commission by
2-4 rule shall adopt criteria for determining the eligibility of real
2-5 property donated to the commission for inclusion in the historic
2-6 sites system.

2-7 (b) The commission may accept a donation of real property
2-8 that satisfies the criteria adopted under Subsection (a).

2-9 (c) The commission may renovate or restore donated real
2-10 property, including improvements to the property, or construct
2-11 improvements on the donated real property as necessary and prudent.

2-12 SECTION 3. The Historical Commission and the Parks and
2-13 Wildlife Department shall assist in a joint interim study of the
2-14 need for and the terms and conditions of any transfer of certain
2-15 state historic sites by the legislative audit committee and the
2-16 legislative committees of each house with jurisdiction over the
2-17 Historical Commission and the Parks and Wildlife Department and
2-18 submission of that report to the Governor, the Lieutenant Governor,
2-19 the members of the Legislature, and the members of the governing
2-20 boards and the executive directors of the commission and the
2-21 department by January 1, 2009. At a minimum, the study shall include
2-22 a public hearing component that includes one or more hearings at or
2-23 near affected historical sites. In addition, the Historical
2-24 Commission shall develop a base operating plan for each historic
2-25 site proposed for transfer to the commission. The base operating
2-26 plan for each site shall be completed by the commission on or before
2-27 September 1, 2008. The base operating plan for each site shall
2-28 include:

2-29 (1) a mission statement outlining the goals for the
2-30 site;

2-31 (2) an interpretive plan showing how the mission is to
2-32 be accomplished;

2-33 (3) an operational plan, including:

2-34 (A) facilities, documents, records, and other
2-35 assets to be transferred;

2-36 (B) parties responsible for daily site
2-37 management, including staff that will be transferred;

2-38 (C) off-site support structure;

2-39 (D) plans for artifact and archival curation;

2-40 (E) signed memoranda of understanding or
2-41 memoranda of agreement with appropriate friends groups and
2-42 volunteer organizations; and

2-43 (F) emergency plans;

2-44 (4) a maintenance plan, including maintenance and
2-45 repair needs;

2-46 (5) a marketing plan;

2-47 (6) a business plan, including revenue and visitation
2-48 goals;

2-49 (7) a plan for compliance with:

2-50 (A) Chapter 191, Natural Resources Code (the
2-51 Antiquities Code of Texas); and

2-52 (B) the National Historic Preservation Act (16
2-53 U.S.C. Section 470 et seq.); and

2-54 (8) fiscal plans and budgets associated with
2-55 Subdivisions (1) through (7) of this subsection.

2-56 SECTION 4. Chapter 11, Parks and Wildlife Code, is amended
2-57 by adding Subchapter K to read as follows:

2-58 SUBCHAPTER K. MANAGEMENT AND EFFICIENCY REVIEWS

2-59 Sec. 11.251. MAINTENANCE EQUIPMENT REVIEW SYSTEM. (a) In
2-60 this section:

2-61 (1) "Maintenance equipment" means personal property
2-62 owned by the department that is used to administer, operate,
2-63 preserve, repair, expand, or otherwise maintain real property,
2-64 including improvements and fixtures, owned or operated by the
2-65 department.

2-66 (2) "Outdated equipment" means equipment:

2-67 (A) that has a fair market value that is less than
2-68 the annual cost of maintaining the equipment in working order;

2-69 (B) that is not operational and cannot reasonably

3-1 be made operational; or

3-2 (C) that no longer serves a department purpose.

3-3 (b) The commission by rule shall establish an equipment
3-4 review system through which the department annually determines
3-5 whether any of the department's maintenance equipment has become
3-6 outdated equipment since the last date the department conducted an
3-7 equipment review under this section.

3-8 (c) The equipment review system established under
3-9 Subsection (b) must require the department to sell any outdated
3-10 equipment in the manner and at the time specified by the commission
3-11 by rule.

3-12 (d) The department shall deposit proceeds from the sale of
3-13 equipment under this section to the credit of the appropriate parks
3-14 and wildlife account.

3-15 Sec. 11.252. MAINTENANCE PROVIDER REVIEW SYSTEM. (a) In
3-16 this section, "maintenance" includes the administration,
3-17 operation, preservation, repair, and expansion of personal
3-18 property owned by the department and real property owned or
3-19 operated by the department.

3-20 (b) The commission by rule shall establish a maintenance
3-21 provider review system through which the department annually
3-22 determines whether a maintenance task performed by the department
3-23 could be performed by a third-party contractor in a manner that:

3-24 (1) is more cost-effective than the department's
3-25 manner of performing the maintenance task; and

3-26 (2) yields a result that is equal to or greater than
3-27 the quality of the result produced by the department performing the
3-28 task.

3-29 (c) The maintenance provider review system established
3-30 under Subsection (b) must require the department to contract with a
3-31 third party for the performance of any maintenance task performed
3-32 by the department that could be performed by a third-party
3-33 contractor in the manner that meets the criteria described by
3-34 Subsection (b) after the department's cost of administering the
3-35 contract is added to the cost of performance by the third party.

3-36 Sec. 11.253. MANAGEMENT PLAN AND PRIORITIES LIST. Not
3-37 later than January 15 of each odd-numbered year the department
3-38 shall submit to the governor, the speaker of the house of
3-39 representatives, the lieutenant governor, and the chair of each
3-40 house and senate standing committee having jurisdiction over a
3-41 matter regulated by the department under this code a management
3-42 plan to address the department's maintenance responsibilities
3-43 under this subchapter and a priorities list that includes the
3-44 following information:

3-45 (1) a prioritized list of facilities operated by the
3-46 department that are most in need of repair, renovation, expansion,
3-47 or other maintenance;

3-48 (2) an itemized list explaining any additional funding
3-49 requested by the department to accomplish a task described by
3-50 Subdivision (1); and

3-51 (3) the results of the reviews conducted under
3-52 Sections 11.251, 11.252, and 13.019(b).

3-53 SECTION 5. Subchapter A, Chapter 13, Parks and
3-54 Wildlife Code, is amended by adding Section 13.0044 to read as
3-55 follows:

3-56 Sec. 13.0044. PREFERENCE FOR CERTAIN PARK PROGRAMS. In
3-57 selecting parks for capital improvements, the department may give a
3-58 preference to programs in which the department matches locally
3-59 raised money on a dollar-for-dollar basis.

3-60 SECTION 6. Section 13.0061(a), Parks and Wildlife Code, is
3-61 amended to read as follows:

3-62 (a) The department may lease grazing rights on any state
3-63 park or any area of a state park. The department may harvest and
3-64 sell, or sell in place, any timber, hay, livestock, or other product
3-65 grown on state park land the department finds to be in excess of
3-66 natural resource management, educational, or interpretive
3-67 objectives [~~programming needs~~]. Timber may be harvested only for
3-68 forest pest management, salvage, or habitat restoration and under
3-69 good forestry practices with the advice of the Texas Forest

4-1 Service.

4-2 SECTION 7. Subchapter A, Chapter 13, Parks and Wildlife
4-3 Code, is amended by adding Section 13.0075 to read as follows:

4-4 Sec. 13.0075. ELIGIBILITY CRITERIA FOR INCLUSION OF REAL
4-5 PROPERTY IN STATE PARKS SYSTEM. (a) The commission by rule shall
4-6 adopt criteria for determining the eligibility of real property
4-7 that is donated to the department for inclusion in the state parks
4-8 system.

4-9 (b) The department may accept a donation of real property
4-10 that satisfies the criteria adopted under Subsection (a).

4-11 (c) The department may renovate or restore donated real
4-12 property, including improvements to the property, or construct
4-13 improvements on the donated real property as necessary and prudent.

4-14 SECTION 8. Subchapter A, Chapter 13, Parks and Wildlife
4-15 Code, is amended by adding Section 13.0145 to read as follows:

4-16 Sec. 13.0145. SPEED LIMITS. (a) The department shall set
4-17 and enforce speed limits on a road in a state park, wildlife
4-18 management area, or other site under the control of the department
4-19 as follows:

4-20 (1) 30 miles per hour on a park road or main drive;

4-21 (2) 20 miles per hour on a secondary road; or

4-22 (3) as posted by the department.

4-23 (b) The department shall:

4-24 (1) consult with the Texas Department of
4-25 Transportation to determine if a speed limit under Subsection (a)
4-26 is reasonable and safe based on an engineering and traffic control
4-27 study; and

4-28 (2) amend the limit, if necessary.

4-29 SECTION 9. Section 13.015, Parks and Wildlife Code, is
4-30 amended by amending Subsection (b) and adding Subsections (a-1),
4-31 (b-1), (b-2), and (b-3) to read as follows:

4-32 (a-1) The department may promote visits and enhance revenue
4-33 at parks, including amounts necessary for salaries, advertising,
4-34 consumable supplies and materials, promotional products, fees, and
4-35 related expenses.

4-36 (b) The department may operate or grant contracts to operate
4-37 concessions in state parks or on causeways, beach drives, or other
4-38 improvements in connection with state park sites. The department
4-39 may make regulations governing the granting or operating of
4-40 concessions. The department may establish and operate staff
4-41 concessions, including salaries, consumable supplies and
4-42 materials, operating expenses, rental and other equipment, and
4-43 other capital outlays.

4-44 (b-1) The department may purchase products, including food
4-45 items, for resale or rental at a profit.

4-46 (b-2) The department shall operate any resale concession
4-47 program using standard business practice models to generate revenue
4-48 and provide quality customer service while adhering to conservation
4-49 principles.

4-50 (b-3) The department may recruit and select private service
4-51 providers to enter into leased concession contracts with the
4-52 department to provide necessary and appropriate visitor services.

4-53 SECTION 10. Section 13.016, Parks and Wildlife Code, is
4-54 amended to read as follows:

4-55 Sec. 13.016. INMATE [~~PRISON~~] LABOR. (a) The department
4-56 may use the labor of an inmate confined in a state, county, or local
4-57 correctional facility [~~trustee state convicts~~] on or in connection
4-58 with state parks, wildlife management areas, or other property
4-59 under the control or jurisdiction of the department.

4-60 (b) Inmates [~~Convicts~~] working in connection with lands
4-61 under the control or jurisdiction of the department remain under
4-62 the control of the Texas Department of Criminal Justice or county or
4-63 local correctional facility, as appropriate, and are considered as
4-64 serving their terms in the Texas Department of Criminal Justice or
4-65 other correctional facility [~~penitentiary~~].

4-66 (c) The department may purchase equipment, meals, supplies,
4-67 and materials for an inmate working at a department site as
4-68 necessary to facilitate the use of the labor described by this
4-69 section.

5-1 (d) The department may not use the labor of an inmate
5-2 convicted of an offense listed in Article 62.001(5), Code of
5-3 Criminal Procedure.

5-4 (e) The department may not use the labor of an inmate
5-5 convicted of any violent offense.

5-6 SECTION 11. Section 13.019, Parks and Wildlife Code, is
5-7 amended to read as follows:

5-8 Sec. 13.019. FACILITY RESERVATION SYSTEM AND FEE. (a) The
5-9 department may permit the advance reservation of a facility,
5-10 lodging, or campsite at a state park and require the payment of a
5-11 fee by a person making the reservation.

5-12 (b) The department shall annually:

5-13 (1) evaluate whether the reservation system used by
5-14 the department for the advance reservation of facilities, lodging,
5-15 and campsites is as user-friendly as possible; and

5-16 (2) make modifications to the system as necessary to
5-17 enhance the user-friendliness of the reservation system.

5-18 SECTION 12. Subchapter A, Chapter 13, Parks and Wildlife
5-19 Code, is amended by adding Section 13.0191 to read as follows:

5-20 Sec. 13.0191. FACILITY AND LODGING FEES. A fee charged by
5-21 the department under this subchapter for the use of a facility or
5-22 lodging at a state park may vary on a seasonal basis and may be set
5-23 in an amount to recover the direct and indirect costs of providing
5-24 the facility or lodging and provide a reasonable rate of return to
5-25 the department. Items to be considered in setting a fee include the
5-26 cost required to provide, maintain, and improve amenities available
5-27 at the site and seasonal variables such as the cost of staffing to
5-28 meet demand and costs of heating or air conditioning.

5-29 SECTION 13. The Parks and Wildlife Department shall comply
5-30 with the recommendations contained in the State Auditor's Office
5-31 "An Audit Report on Financial Processes at the Parks and Wildlife
5-32 Department Report No. 07-021" in accordance with the dates
5-33 specified in the department's management response included as
5-34 Appendix 6 to the report and contingent on receiving an
5-35 appropriation sufficient to fund the implementation of the
5-36 recommendations.

5-37 SECTION 14. The name of the Peach Point Wildlife Management
5-38 Area is changed to the Justin Hurst Wildlife Management Area.

5-39 SECTION 15. This Act takes effect immediately if it
5-40 receives a vote of two-thirds of all the members elected to each
5-41 house, as provided by Section 39, Article III, Texas Constitution.
5-42 If this Act does not receive the vote necessary for immediate
5-43 effect, this Act takes effect September 1, 2007.

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