

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Harper-Brown, Homer, Rose, et al.

H.B. No. 3391

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Parks and Wildlife Department; changing the elements of an offense.

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

SECTION 1. Section 11.0111, Parks and Wildlife Code, is amended to read as follows:

Sec. 11.0111. SUNSET PROVISION. The Parks and Wildlife Department is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished September 1, 2021 [~~2009~~].

SECTION 2. Section 11.012(c), Parks and Wildlife Code, is amended to read as follows:

(c) Commission [~~Three commission~~] members must be members of the general public and meet the qualifications provided by Section 11.0121 [~~of this code~~].

SECTION 3. Sections 11.0161(a), (b), (c), and (d), Parks and Wildlife Code, are amended to read as follows:

(a) The commission shall prepare information of public interest describing the functions of the commission [~~and describing the commission's procedures by which complaints are filed with and resolved by the commission~~]. The commission shall make the information available to the general public and appropriate state agencies.

(b) The department shall maintain a system to promptly and

1 efficiently act on complaints [~~file on each written complaint~~]  
2 filed with the department that the department has the authority to  
3 resolve. The department shall maintain information about parties  
4 to the complaint, the subject matter of the complaint, [~~file must~~  
5 ~~include:~~

6 [~~(1) the name of the person who filed the complaint,~~  
7 [~~(2) the date the complaint is received by the~~  
8 ~~department,~~

9 [~~(3) the subject matter of the complaint,~~  
10 [~~(4) the name of each person contacted in relation to~~  
11 ~~the complaint,~~

12 [~~(5)] a summary of the results of the review or~~

13 investigation of the complaint, and its disposition [~~and~~

14 [~~(6) an explanation of the reason the file was closed,~~  
15 ~~if the department closed the file without taking action other than~~  
16 ~~to investigate the complaint].~~

17 (c) The department shall make information available  
18 describing its [~~provide to the person filing the complaint and to~~  
19 ~~each person who is a subject of the complaint a copy of the~~  
20 ~~department's policies and] procedures for [~~relating to~~] complaint  
21 investigation and resolution.~~

22 (d) The department [~~at least quarterly until final~~  
23 ~~disposition of the complaint,~~] shall periodically notify the  
24 [~~person filing the] complaint parties [~~and each person who is a~~  
25 ~~subject of the complaint] of the status of the complaint until final  
26 disposition [~~investigation unless the notice would jeopardize an~~  
27 ~~undercover investigation].~~~~~~

1           SECTION 4. Subchapter B, Chapter 11, Parks and Wildlife  
2 Code, is amended by adding Sections 11.0163, 11.0164, and 11.0174  
3 to read as follows:

4           Sec. 11.0163. USE OF TECHNOLOGY. The commission shall  
5 implement a policy requiring the department to use appropriate  
6 technological solutions to improve the department's ability to  
7 perform its functions. The policy must ensure that the public is  
8 able to interact with the department on the Internet.

9           Sec. 11.0164. NEGOTIATED RULEMAKING AND ALTERNATIVE  
10 DISPUTE RESOLUTION PROCEDURES. (a) The commission shall develop  
11 and implement a policy to encourage the use of:

12                   (1) negotiated rulemaking procedures under Chapter  
13 2008, Government Code, for the adoption of department rules; and

14                   (2) appropriate alternative dispute resolution  
15 procedures under Chapter 2009, Government Code, to assist in the  
16 resolution of internal and external disputes under the department's  
17 jurisdiction.

18           (b) The department's procedures relating to alternative  
19 dispute resolution must conform, to the extent possible, to any  
20 model guidelines issued by the State Office of Administrative  
21 Hearings for the use of alternative dispute resolution by state  
22 agencies.

23           (c) The commission shall designate a trained person to:

24                   (1) coordinate the implementation of the policy  
25 adopted under Subsection (a);

26                   (2) serve as a resource for any training needed to  
27 implement the procedures for negotiated rulemaking or alternative

1 dispute resolution; and

2 (3) collect data concerning the effectiveness of those  
3 procedures, as implemented by the department.

4 Sec. 11.0174. INTERNAL AFFAIRS OFFICE. (a) The executive  
5 director shall establish the office of internal affairs.

6 (b) The office of internal affairs has original  
7 departmental jurisdiction over all investigations of cases  
8 alleging criminal conduct:

9 (1) occurring on department property;

10 (2) engaged in by on-duty department employees; or

11 (3) engaged in by officers commissioned by the  
12 department performing off-duty work related to their official  
13 duties.

14 (c) The office of internal affairs shall oversee and review,  
15 but need not conduct, all investigations under this section.

16 (d) An investigation under this section may be initiated  
17 only by the executive director or the commission. The person  
18 assigned to conduct an investigation under this section must be a  
19 licensed peace officer who is not an employee of the department and  
20 has never been employed by the department as a game warden, deputy  
21 game warden, or special game warden.

22 (e) The executive director shall appoint the head of the  
23 office of internal affairs. The head of the office of internal  
24 affairs serves until removed by the executive director.

25 (f) The head of the office of internal affairs shall:

26 (1) report directly to the executive director  
27 regarding performance of and activities related to investigations;

1           (2) report to the executive director for  
2 administrative purposes; and

3           (3) provide the executive director or commission with  
4 information regarding investigations as appropriate.

5           (g) The head of the office of internal affairs shall present  
6 at each regularly scheduled commission meeting and at other  
7 appropriate times a summary of information relating to  
8 investigations conducted under this section that includes analysis  
9 of the number, type, and outcome of investigations, trends in the  
10 investigations, and any recommendations to avoid future  
11 complaints.

12           SECTION 5. Section 11.035, Parks and Wildlife Code, is  
13 amended by adding Subsection (c) to read as follows:

14           (c) The department may deposit to the credit of the state  
15 parks account all revenue, less allowable costs, from the following  
16 sources:

17           (1) private contributions, grants, and donations  
18 received for state parks-related purposes; and

19           (2) federal funds received for state parks-related  
20 purposes.

21           SECTION 6. Section 11.037(b), Parks and Wildlife Code, is  
22 amended to read as follows:

23           (b) The department may ~~shall~~ deposit in the state land and  
24 water conservation account any ~~all~~ revenue received from the  
25 federal government or any other source for the purpose of  
26 administering programs authorized under Sections 13.301 through  
27 13.311 of this code.

1 SECTION 7. Section 12.0011, Parks and Wildlife Code, is  
2 amended by adding Subsections (c) and (d) to read as follows:

3 (c) A local or state agency or private organization that  
4 receives a department recommendation or informational comment  
5 under Subsection (b) shall respond to the department in writing  
6 concerning the recommendation or comment. A response must include  
7 for each recommendation or comment provided by the department:

8 (1) a description of any modification made to the  
9 proposed project, fish and wildlife resource decision, or water  
10 flow schedule resulting from the recommendation or comment;

11 (2) any other disposition of the recommendation or  
12 comment; and

13 (3) as applicable, any reason the agency or  
14 organization disagreed with or did not act on or incorporate the  
15 recommendation or comment.

16 (d) A response under Subsection (c):

17 (1) must be submitted to the department not later than  
18 the 90th day after the date the agency or organization makes a  
19 decision or takes other action related to the recommendation or  
20 informational comment provided by the department; and

21 (2) is public information under Chapter 552,  
22 Government Code.

23 SECTION 8. (a) Subchapter B, Chapter 12, Parks and  
24 Wildlife Code, is amended by adding Section 12.1045 to read as  
25 follows:

26 Sec. 12.1045. PILOT PROGRAM FOR FINGERPRINT IDENTIFICATION.

27 (a) In this section:

1           (1) "Authorized employee" means a deputy game warden,  
2 special game warden, or other law enforcement officer commissioned  
3 by the director.

4           (2) "Pilot program" means the pilot fingerprint  
5 identification program established under this section.

6           (b) The department shall develop and implement a program in  
7 one or more counties of this state to pilot the use by authorized  
8 employees of a mobile fingerprint identification system to perform  
9 fingerprint checks in the field as an aid to the enforcement of this  
10 code, any rules adopted under this code, and other laws in the  
11 jurisdiction of the department.

12           (c) In implementing the pilot program, the department shall  
13 use a mobile fingerprint scanner developed for law enforcement that  
14 is portable, secure, and lightweight, uses encrypted data  
15 transmissions for protection of the public, and does not require an  
16 employee to carry any equipment other than the scanner to receive  
17 the data.

18           (d) The Department of Public Safety shall work  
19 cooperatively with the department as needed and make its existing  
20 automated fingerprint identification system available for use by  
21 the department during the period of the pilot program.

22           (e) The department shall comply with all state procurement  
23 requirements in implementing the pilot program.

24           (f) The department may work with and enter into memoranda of  
25 understanding with municipalities to implement the pilot program.

26           (g) Under the pilot program, an authorized employee may not  
27 check the fingerprint of a person without the verbal consent of that

1 person.

2 (h) The department may extend the pilot program to  
3 additional counties if the department determines that the expansion  
4 would be cost-effective.

5 (b) The Parks and Wildlife Department shall begin  
6 implementation of the pilot program established under Section  
7 12.1045, Parks and Wildlife Code, as added by this section, not  
8 later than January 1, 2010, and shall conduct the pilot program for  
9 at least 12 months. Not later than February 1, 2011, the department  
10 shall report to the governor, the lieutenant governor, the speaker  
11 of the house of representatives, and the Sunset Advisory Commission  
12 regarding the pilot program. The report must include the  
13 department's recommendations for continuation or expansion of the  
14 pilot program and an evaluation of the department's use of the  
15 mobile fingerprint identification system, including:

16 (1) the appropriateness of conducting remote  
17 fingerprint checks;

18 (2) the value of remote fingerprint checking in  
19 combating crime and enforcing department rules and other laws of  
20 this state;

21 (3) the impact of using remote fingerprint checks on  
22 the efficiency of authorized employees;

23 (4) the impact of using remote fingerprint checks on  
24 the safety of authorized employees; and

25 (5) any reduction in inconvenience to a person who  
26 does not have a required license.

27 (c) The Parks and Wildlife Department shall implement the



1 pilot program established under Section 12.1045, Parks and Wildlife  
2 Code, as added by this section, only if sufficient funds are  
3 available and have been allocated for that purpose.

4 SECTION 9. Section 13.310(c), Parks and Wildlife Code, is  
5 amended to read as follows:

6 (c) The department shall deposit all funds received for the  
7 development of outdoor recreation resources in the state treasury  
8 to the credit of the state land and water conservation account, the  
9 Texas recreation and parks account, the large county and  
10 municipality recreation and parks account, or the state parks  
11 account.

12 SECTION 10. Sections 24.002, 24.003, 24.006, 24.052,  
13 24.053, and 24.056, Parks and Wildlife Code, are amended to read as  
14 follows:

15 Sec. 24.002. TEXAS RECREATION AND PARKS ACCOUNT. The Texas  
16 recreation and parks account is a separate account in the general  
17 revenue fund. Money in the account may be used only [~~as provided by~~  
18 ~~this subchapter~~] for [~~grants to~~]:

19 (1) grants under this subchapter to a county or  
20 municipality with a population of less than 500,000; [~~or~~]

21 (2) grants under this subchapter to any other  
22 political subdivision that is not a county or municipality; or

23 (3) planning for, and acquisition, operation, and  
24 development of, outdoor recreation and conservation resources of  
25 this state and the administrative expenses incident to the projects  
26 or programs authorized under Subchapter D, Chapter 13.

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

1 (a) The department shall deposit to the credit of the Texas  
2 recreation and parks account:

3 (1) an amount of money equal to 15 percent of the  
4 credits made to the department under Section 151.801, Tax Code; and

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

6 (b) The department may deposit to the credit of the Texas  
7 recreation and parks account:

8 (1) private contributions, grants, and donations  
9 received in connection with this subchapter or Subchapter D,  
10 Chapter 13; and

11 (2) federal funds received in connection with this  
12 subchapter or Subchapter D, Chapter 13.

13 Sec. 24.006. FUNDS FOR GRANTS TO LOCAL GOVERNMENTS. When  
14 state revenues to the Texas recreation and parks account exceed \$14  
15 million per year, an amount not less than 15 percent shall be made  
16 available for grants to local governments for up to 50 percent of  
17 the cost of acquisition or development of indoor public recreation  
18 facilities for indoor recreation programs, sports activities,  
19 nature programs, or exhibits.

20 Sec. 24.052. LARGE COUNTY AND MUNICIPALITY RECREATION AND  
21 PARKS ACCOUNT. The large county and municipality recreation and  
22 parks account is a separate account in the general revenue fund.  
23 Money in the account may be used only as provided by this subchapter  
24 or Subchapter D, Chapter 13.

25 Sec. 24.053. ACCOUNT REVENUE SOURCE; DEDICATION. (a) The  
26 department shall deposit to the credit of the large county and  
27 municipality recreation and parks account:

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

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

4 (b) The department may deposit to the credit of the large  
5 county and municipality recreation and parks account:

6 (1) private contributions, grants, and donations  
7 received in connection with this subchapter or Subchapter D,  
8 Chapter 13; and

9 (2) federal funds received in connection with this  
10 subchapter or Subchapter D, Chapter 13.

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

19 SECTION 11. Section 62.0031, Parks and Wildlife Code, is  
20 amended by amending Subsection (b) and adding Subsection (c) to  
21 read as follows:

22 (b) This section does not apply to:

23 (1) the trapping of a raptor for educational or  
24 sporting purposes as provided by Chapter 49; or

25 (2) the capture, trapping, or hunting of a reptile,  
26 amphibian, or insect.

27 (c) The commission may adopt rules governing the safe

1 participation in activities described by Subsection (b).

2 SECTION 12. Section 62.014, Parks and Wildlife Code, is  
3 amended by adding Subsection (n) to read as follows:

4 (n) A person who is a member of the United States armed  
5 forces on active duty or an honorably discharged veteran of those  
6 forces is exempt from any requirement to complete a hunter  
7 education course under this section.

8 SECTION 13. Section 62.021(c), Parks and Wildlife Code, is  
9 amended to read as follows:

10 (c) This section does not prohibit the sale of:

11 (1) a live game animal, a dead or live game bird, or  
12 the feathers of a game bird if the sale is conducted under authority  
13 of a license or permit issued under this code; or

14 (2) the following inedible parts:

15 (A) an inedible part, including the feathers,  
16 bones, or feet, of a game bird other than a migratory game bird that  
17 was lawfully taken or is lawfully possessed;

18 (B) the hair, hide, antlers, bones, horns, skull,  
19 hooves, or sinew, as applicable, of a deer, pronghorn antelope,  
20 desert bighorn sheep, collared peccary or javelina, red squirrel,  
21 or gray squirrel; or

22 (C) the feathers of a migratory game bird in  
23 accordance with federal law.

24 SECTION 14. Section 66.007, Parks and Wildlife Code, is  
25 amended by amending Subsections (b), (c), and (e) and adding  
26 Subsections (m), (n), (o), (p), (q), (r), and (s) to read as  
27 follows:

1 (b) The department shall publish a list of:

2 (1) exotic fish and exotic~~[,]~~ shellfish~~[, and aquatic~~  
3 ~~plants]~~ for which a permit under Subsection (a) ~~[of this section]~~ is  
4 required; and

5 (2) exotic aquatic plants, as provided by this  
6 section, that are approved for importation into or possession in  
7 this state without a permit.

8 (c) The department shall make rules to carry out the  
9 provisions of this section. In adopting rules that relate to exotic  
10 aquatic plants, the department shall strive to ensure that the  
11 rules are as permissive as possible without allowing the  
12 importation or possession of plants that pose environmental,  
13 economic, or health problems.

14 (e) In this section:

15 (1) "Approved list" means the list published by the  
16 department under Subsection (b)(2) of exotic aquatic plants that a  
17 person may import into or possess in this state without an exotic  
18 species permit issued by the department.

19 (2) "Exotic [~~, exotic fish, shellfish, or~~ aquatic  
20 plant" means a nonindigenous [~~fish, shellfish, or~~] aquatic plant  
21 that is not normally found in aquatic or riparian areas [~~the public~~  
22 ~~water]~~ of this [~~the~~] state.

23 (3) "Exotic fish" means a nonindigenous fish that is  
24 not normally found in the public water of this state.

25 (4) "Exotic shellfish" means a nonindigenous  
26 shellfish that is not normally found in the public water of this  
27 state.

1       (m) A person may not import into or possess in this state an  
2 exotic aquatic plant unless:

- 3               (1) the plant is on the approved list; or  
4               (2) the person has an exotic species permit issued by  
5 the department.

6       (n) In compiling the approved list, the department shall  
7 develop a process to evaluate the potential harm that may be caused  
8 by the importation or possession of exotic aquatic plant species  
9 into this state. The process must include the use of:

- 10               (1) a risk assessment model to help determine the  
11 potential harm of a species to the aquatic environment;  
12               (2) published scientific research findings;  
13               (3) findings from regulatory agencies; or  
14               (4) scientific analyses from third-party  
15 laboratories.

16       (o) The approved list must include an exotic aquatic plant  
17 that:

- 18               (1) is widespread in this state; and  
19               (2) is not, as determined by the department, a cause of  
20 environmental, economic, or health problems.

21       (p) The department shall develop an expedited process for  
22 obtaining approval for inclusion on the approved list of a  
23 previously unknown exotic aquatic plant. The commission may remove  
24 an exotic aquatic plant from the approved list if the results of  
25 further analysis conducted under Subsection (n) indicate that the  
26 plant should not be on the list. The department may enact an  
27 emergency rule as provided by Chapter 2001, Government Code, to

1 remove an exotic aquatic plant from the approved list if the plant  
2 is determined to cause environmental, economic, or health problems.

3 (q) The commission shall exercise final approval for the  
4 inclusion of each plant on the approved list.

5 (r) In accordance with commission rules, the department may  
6 issue an exotic species permit to a permit applicant for an exotic  
7 aquatic plant not on the approved list if the proposed use of the  
8 plant is:

9 (1) as an experimental organism in a medical or other  
10 scientific research program approved by the department;

11 (2) as part of an exhibit approved by the department in  
12 a public aquarium or public zoo; or

13 (3) for an appropriate use that will not result in  
14 potential environmental, economic, or health problems.

15 (s) Nothing in this subchapter regarding exotic aquatic  
16 plants restricts the department's authority under this code  
17 regarding exotic harmful or potentially harmful fish or shellfish.

18 SECTION 15. Section 66.0071, Parks and Wildlife Code, is  
19 amended to read as follows:

20 Sec. 66.0071. REMOVAL OF HARMFUL AQUATIC PLANTS. On  
21 leaving any public or private body of water in this state, a person  
22 shall immediately remove and lawfully dispose of any exotic  
23 ~~[harmful or potentially harmful]~~ aquatic plant not included on the  
24 approved list published under Section 66.007(b)(2) that is clinging  
25 or attached to the person's:

26 (1) vessel or watercraft; or

27 (2) trailer, motor vehicle, or other mobile device

1 used to transport or launch a vessel or watercraft.

2 SECTION 16. Title 6, Parks and Wildlife Code, is amended by  
3 adding Chapter 92 to read as follows:

4 CHAPTER 92. INTERSTATE WILDLIFE VIOLATOR COMPACT

5 Sec. 92.001. MEMBERSHIP IN INTERSTATE WILDLIFE VIOLATOR  
6 COMPACT. (a) On behalf of this state, the commission may enter  
7 into the Interstate Wildlife Violator Compact.

8 (b) If necessary to protect the interests of this state, the  
9 commission may withdraw from the Interstate Wildlife Violator  
10 Compact in accordance with the terms of the compact.

11 (c) The commission may take all actions necessary to  
12 implement this chapter, including the adoption of rules and the  
13 delegation of authority to the director.

14 SECTION 17. (a) The Parks and Wildlife Department and the  
15 Texas Youth Commission jointly shall seek representation by the  
16 attorney general to pursue a modification of the terms and purposes  
17 of the Parrie Haynes Trust.

18 (b) The legislature intends that a modification of the terms  
19 and purposes of the Parrie Haynes Trust be pursued so that:

20 (1) the department may be designated as the state  
21 agency responsible for the trust, including all trust property and  
22 investments, and rights associated with the trust;

23 (2) control of the Parrie Haynes Ranch may be  
24 transferred to the department; and

25 (3) the purposes of the trust may be appropriately  
26 expanded to include benefiting disadvantaged and other youths of  
27 this state.



1 (c) This section expires on the earlier of:

2 (1) the date a court orders modification of the Parrie  
3 Haynes Trust in accordance with this section; or

4 (2) September 1, 2021.

5 SECTION 18. The change in law made by this Act in the  
6 qualifications of the members of the Parks and Wildlife Commission  
7 does not affect the entitlement of a person serving as a member of  
8 the commission immediately before September 1, 2009, to continue to  
9 carry out the functions of the person's office for the remainder of  
10 the person's term. The change in law applies only to a person  
11 appointed on or after September 1, 2009. This Act does not prohibit  
12 a person who is a member of the Parks and Wildlife Commission  
13 immediately before September 1, 2009, from being reappointed as a  
14 commission member if the person has the qualifications required for  
15 the position under Chapter 11, Parks and Wildlife Code, as amended  
16 by this Act.

17 SECTION 19. The change in law made by this Act to Section  
18 11.0161, Parks and Wildlife Code, applies only to a complaint filed  
19 with the Parks and Wildlife Commission or the Parks and Wildlife  
20 Department on or after September 1, 2009. A complaint filed before  
21 September 1, 2009, is governed by the law in effect at the time the  
22 complaint was filed, and the former law is continued in effect for  
23 that purpose.

24 SECTION 20. Section 12.0011(c), Parks and Wildlife Code, as  
25 added by this Act, applies only to a recommendation or  
26 informational comment received by a local or state governmental  
27 agency from the Parks and Wildlife Department on or after September

1 1, 2009. A recommendation or informational comment received by a  
2 local or state governmental agency from the Parks and Wildlife  
3 Department before September 1, 2009, is governed by the law in  
4 effect at the time the recommendation or informational comment was  
5 received, and the former law is continued in effect for that  
6 purpose.

7 SECTION 21. Conduct prohibited by Section 62.0031, Parks  
8 and Wildlife Code, that involves the capture, trapping, or hunting  
9 of a reptile, amphibian, or insect may not be prosecuted after the  
10 effective date of this Act. If on the effective date of this Act a  
11 criminal action is pending for conduct prohibited by Section  
12 62.0031 and described by this section, the action is dismissed on  
13 that date. However, a final conviction for conduct prohibited by  
14 Section 62.0031 and described by this section that exists on the  
15 effective date of this Act is unaffected by this Act.

16 SECTION 22. Section 62.021(c), Parks and Wildlife Code, as  
17 amended by this Act, applies to any sale of inedible parts of an  
18 animal or bird occurring on or after the effective date of this Act,  
19 regardless of the date the parts were acquired by the seller.

20 SECTION 23. (a) Not later than December 31, 2010, the Parks  
21 and Wildlife Department shall publish the initial list of approved  
22 exotic aquatic plants as provided by Section 66.007(b), Parks and  
23 Wildlife Code, as amended by this Act.

24 (b) The Parks and Wildlife Department may not enforce the  
25 permit requirements or prohibited actions regarding exotic aquatic  
26 plants that are not on the approved list under Section 66.007(b),  
27 Parks and Wildlife Code, as amended by this Act, before the date on

1 which the list is published.

2 (c) The department shall continue to publish a list of  
3 harmful or potentially harmful exotic aquatic plants for which a  
4 permit under Section 66.007(a), Parks and Wildlife Code, is  
5 required until the date on which the initial list of approved exotic  
6 aquatic plants is published. The department is not required to  
7 maintain or publish the list of harmful or potentially harmful  
8 exotic aquatic plants after the date on which the list of approved  
9 exotic aquatic plants is published.

10 (d) The Parks and Wildlife Department may not enforce the  
11 permit requirements or prohibited actions regarding exotic aquatic  
12 plants on the list of harmful or potentially harmful plants under  
13 Section 66.007, Parks and Wildlife Code, as that section existed  
14 before amendment by this Act, after the date on which the list of  
15 approved exotic aquatic plants is published.

16 (e) Section 66.0071, Parks and Wildlife Code, as amended by  
17 this Act, applies only to a person who takes a vessel or watercraft  
18 out of a public or private body of water in this state on or after  
19 the date the Parks and Wildlife Department publishes the initial  
20 list of approved exotic aquatic plants under Section 66.007(b),  
21 Parks and Wildlife Code, as amended by this Act. A person who takes  
22 a vessel or watercraft out of a public or private body of water in  
23 this state before the date the list of approved exotic aquatic  
24 plants is published is governed by the law in effect on the date the  
25 vessel or watercraft is taken out of the water, and the former law  
26 remains in effect for that purpose.

27 SECTION 24. This Act takes effect September 1, 2009.

# ADOPTED

MAY 21 2009

*Atay Shaw*  
Secretary of the Senate

By: \_\_\_\_\_

H.B. No. 3391

Substitute the following for H.B. No. 3391:

By: *F. Lopez*

C.S. H.B. No. 3391

## A BILL TO BE ENTITLED

### AN ACT

1  
2 relating to the continuation and functions of the Parks and  
3 Wildlife Department; changing the elements of an offense.

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

5 SECTION 1. Section 11.0111, Parks and Wildlife Code, is  
6 amended to read as follows:

7 Sec. 11.0111. SUNSET PROVISION. The Parks and Wildlife  
8 Department is subject to Chapter 325, Government Code (Texas Sunset  
9 Act). Unless continued in existence as provided by that chapter,  
10 the department is abolished September 1, 2021 [~~2009~~].

11 SECTION 2. Section 11.012(c), Parks and Wildlife Code, is  
12 amended to read as follows:

13 (c) Commission [~~Three commission~~] members must be members  
14 of the general public and meet the qualifications provided by  
15 Section 11.0121 [~~of this code~~].

16 SECTION 3. Sections 11.0161(a), (b), (c), and (d), Parks  
17 and Wildlife Code, are amended to read as follows:

18 (a) The commission shall prepare information of public  
19 interest describing the functions of the commission [~~and describing~~  
20 ~~the commission's procedures by which complaints are filed with and~~  
21 ~~resolved by the commission~~]. The commission shall make the  
22 information available to the general public and appropriate state  
23 agencies.

24 (b) The department shall maintain a system to promptly and

1 efficiently act on complaints [~~file on each written complaint~~]  
2 filed with the department that the department has the authority to  
3 resolve. The department shall maintain information about parties  
4 to the complaint, the subject matter of the complaint, [~~file must~~  
5 ~~include:~~

6 [~~(1) the name of the person who filed the complaint,~~

7 [~~(2) the date the complaint is received by the~~  
8 ~~department,~~

9 [~~(3) the subject matter of the complaint,~~

10 [~~(4) the name of each person contacted in relation to~~  
11 ~~the complaint,~~

12 [~~(5)] a summary of the results of the review or~~

13 investigation of the complaint, and its disposition [~~and~~

14 [~~(6) an explanation of the reason the file was closed,~~  
15 ~~if the department closed the file without taking action other than~~  
16 ~~to investigate the complaint].~~

17 (c) The department shall make information available  
18 describing its [~~provide to the person filing the complaint and to~~  
19 ~~each person who is a subject of the complaint a copy of the~~  
20 ~~department's policies and] procedures for [~~relating to~~] complaint  
21 investigation and resolution.~~

22 (d) The department [~~at least quarterly until final~~  
23 ~~disposition of the complaint,~~] shall periodically notify the  
24 [~~person filing the~~] complaint parties [~~and each person who is a~~  
25 ~~subject of the complaint] of the status of the complaint until final  
26 disposition [~~investigation unless the notice would jeopardize an~~  
27 ~~undercover investigation].~~~~

1 SECTION 4. Subchapter B, Chapter 11, Parks and Wildlife  
2 Code, is amended by adding Sections 11.0163, 11.0164, and 11.0174  
3 to read as follows:

4 Sec. 11.0163. USE OF TECHNOLOGY. The commission shall  
5 implement a policy requiring the department to use appropriate  
6 technological solutions to improve the department's ability to  
7 perform its functions. The policy must ensure that the public is  
8 able to interact with the department on the Internet.

9 Sec. 11.0164. NEGOTIATED RULEMAKING AND ALTERNATIVE  
10 DISPUTE RESOLUTION PROCEDURES. (a) The commission shall develop  
11 and implement a policy to encourage the use of:

12 (1) negotiated rulemaking procedures under Chapter  
13 2008, Government Code, for the adoption of department rules; and

14 (2) appropriate alternative dispute resolution  
15 procedures under Chapter 2009, Government Code, to assist in the  
16 resolution of internal and external disputes under the department's  
17 jurisdiction.

18 (b) The department's procedures relating to alternative  
19 dispute resolution must conform, to the extent possible, to any  
20 model guidelines issued by the State Office of Administrative  
21 Hearings for the use of alternative dispute resolution by state  
22 agencies.

23 (c) The commission shall designate a trained person to:

24 (1) coordinate the implementation of the policy  
25 adopted under Subsection (a);

26 (2) serve as a resource for any training needed to  
27 implement the procedures for negotiated rulemaking or alternative

1 dispute resolution; and

2 (3) collect data concerning the effectiveness of those  
3 procedures, as implemented by the department.

4 Sec. 11.0174. INTERNAL AFFAIRS OFFICE. (a) The executive  
5 director shall establish the office of internal affairs.

6 (b) The office of internal affairs has original  
7 departmental jurisdiction over all investigations of cases  
8 alleging criminal conduct:

9 (1) occurring on department property;

10 (2) engaged in by on-duty department employees; or

11 (3) engaged in by officers commissioned by the  
12 department performing off-duty work related to their official  
13 duties.

14 (c) The office of internal affairs shall oversee and review,  
15 but need not conduct, all investigations under this section.

16 (d) An investigation under this section may be initiated  
17 only by the executive director or the commission.

18 (e) The executive director shall appoint the head of the  
19 office of internal affairs. The head of the office of internal  
20 affairs serves until removed by the executive director.

21 (f) The head of the office of internal affairs shall:

22 (1) report directly to the executive director  
23 regarding performance of and activities related to investigations;

24 (2) report to the executive director for  
25 administrative purposes; and

26 (3) provide the executive director or commission with  
27 information regarding investigations as appropriate.

1       (g) The head of the office of internal affairs shall present  
2 at each regularly scheduled commission meeting and at other  
3 appropriate times a summary of information relating to  
4 investigations conducted under this section that includes analysis  
5 of the number, type, and outcome of investigations, trends in the  
6 investigations, and any recommendations to avoid future  
7 complaints.

8       SECTION 5. Section 11.035, Parks and Wildlife Code, is  
9 amended by adding Subsection (c) to read as follows:

10       (c) The department may deposit to the credit of the state  
11 parks account all revenue, less allowable costs, from the following  
12 sources:

13               (1) private contributions, grants, and donations  
14 received for state parks-related purposes; and

15               (2) federal funds received for state parks-related  
16 purposes.

17       SECTION 6. Section 11.037(b), Parks and Wildlife Code, is  
18 amended to read as follows:

19       (b) The department may [~~shall~~] deposit in the state land and  
20 water conservation account any [~~all~~] revenue received from the  
21 federal government or any other source for the purpose of  
22 administering programs authorized under Sections 13.301 through  
23 13.311 of this code.

24       SECTION 7. Section 12.0011, Parks and Wildlife Code, is  
25 amended by adding Subsections (c) and (d) to read as follows:

26       (c) A local or state agency or private organization that  
27 receives a department recommendation or informational comment



1 under Subsection (b) shall respond to the department in writing  
2 concerning the recommendation or comment. A response must include  
3 for each recommendation or comment provided by the department:

4 (1) a description of any modification made to the  
5 proposed project, fish and wildlife resource decision, or water  
6 flow schedule resulting from the recommendation or comment;

7 (2) any other disposition of the recommendation or  
8 comment; and

9 (3) as applicable, any reason the agency or  
10 organization disagreed with or did not act on or incorporate the  
11 recommendation or comment.

12 (d) A response under Subsection (c):

13 (1) must be submitted to the department not later than  
14 the 90th day after the date the agency or organization makes a  
15 decision or takes other action related to the recommendation or  
16 informational comment provided by the department; and

17 (2) is public information under Chapter 552,  
18 Government Code.

19 SECTION 8. Section 12.027, Parks and Wildlife Code, is  
20 amended to read as follows:

21 Sec. 12.027. ADOPTION OF EMERGENCY RULES. If the  
22 commission or the executive director finds that there is an  
23 immediate danger to a species authorized to be regulated by the  
24 department, or that strict compliance with existing department  
25 rules would in any way prevent, hinder, or delay necessary action in  
26 coping with a disaster declared by the governor, the commission or  
27 the executive director may adopt emergency rules as provided by

1 Chapter 2001, Government Code.

2 SECTION 9. Section 13.310(c), Parks and Wildlife Code, is  
3 amended to read as follows:

4 (c) The department shall deposit all funds received for the  
5 development of outdoor recreation resources in the state treasury  
6 to the credit of the state land and water conservation account, the  
7 Texas recreation and parks account, the large county and  
8 municipality recreation and parks account, or the state parks  
9 account.

10 SECTION 10. Sections 24.002, 24.003, 24.006, 24.052,  
11 24.053, and 24.056, Parks and Wildlife Code, are amended to read as  
12 follows:

13 Sec. 24.002. TEXAS RECREATION AND PARKS ACCOUNT. The Texas  
14 recreation and parks account is a separate account in the general  
15 revenue fund. Money in the account may be used only [~~as provided by~~  
16 ~~this subchapter~~] for [~~grants to~~]:

17 (1) grants under this subchapter to a county or  
18 municipality with a population of less than 500,000; [~~or~~]

19 (2) grants under this subchapter to any other  
20 political subdivision that is not a county or municipality; or

21 (3) planning for, and acquisition, operation, and  
22 development of, outdoor recreation and conservation resources of  
23 this state and the administrative expenses incident to the projects  
24 or programs authorized under Subchapter D, Chapter 13.

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

26 (a) The department shall deposit to the credit of the Texas  
27 recreation and parks account:

1 (1) an amount of money equal to 15 percent of the  
2 credits made to the department under Section 151.801, Tax Code; and

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

4 (b) The department may deposit to the credit of the Texas  
5 recreation and parks account:

6 (1) private contributions, grants, and donations  
7 received in connection with this subchapter or Subchapter D,  
8 Chapter 13; and

9 (2) federal funds received in connection with this  
10 subchapter or Subchapter D, Chapter 13.

11 Sec. 24.006. FUNDS FOR GRANTS TO LOCAL GOVERNMENTS. When  
12 state revenues to the Texas recreation and parks account exceed \$14  
13 million per year, an amount not less than 15 percent shall be made  
14 available for grants to local governments for up to 50 percent of  
15 the cost of acquisition or development of indoor public recreation  
16 facilities for indoor recreation programs, sports activities,  
17 nature programs, or exhibits.

18 Sec. 24.052. LARGE COUNTY AND MUNICIPALITY RECREATION AND  
19 PARKS ACCOUNT. The large county and municipality recreation and  
20 parks account is a separate account in the general revenue fund.  
21 Money in the account may be used only as provided by this subchapter  
22 or Subchapter D, Chapter 13.

23 Sec. 24.053. ACCOUNT REVENUE SOURCE; DEDICATION. (a) The  
24 department shall deposit to the credit of the large county and  
25 municipality recreation and parks account:

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

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

2 (b) The department may deposit to the credit of the large  
3 county and municipality recreation and parks account:

4 (1) private contributions, grants, and donations  
5 received in connection with this subchapter or Subchapter D,  
6 Chapter 13; and

7 (2) federal funds received in connection with this  
8 subchapter or Subchapter D, Chapter 13.

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

17 SECTION 11. Section 43.071(5), Parks and Wildlife Code, is  
18 amended to read as follows:

19 (5) "Pen-reared birds" means bobwhite quail,  
20 pheasant, pigeons, partridge, and mallard ducks propagated or  
21 acquired under Chapter 45 of this code.

22 SECTION 12. Section 62.021(c), Parks and Wildlife Code, is  
23 amended to read as follows:

24 (c) This section does not prohibit the sale of:

25 (1) a live game animal, a dead or live game bird, or  
26 the feathers of a game bird if the sale is conducted under authority  
27 of a license or permit issued under this code; or

1 (2) the following inedible parts:

2 (A) an inedible part, including the feathers,  
3 bones, or feet, of a game bird other than a migratory game bird that  
4 was lawfully taken or is lawfully possessed;

5 (B) the hair, hide, antlers, bones, horns, skull,  
6 hooves, or sinew, as applicable, of a deer, pronghorn antelope,  
7 desert bighorn sheep, collared peccary or javelina, red squirrel,  
8 or gray squirrel; or

9 (C) the feathers of a migratory game bird in  
10 accordance with federal law.

11 SECTION 13. Section 64.002(b), Parks and Wildlife Code, is  
12 amended to read as follows:

13 (b) European starlings, English sparrows, and feral rock  
14 doves (*Columba livia*) may be killed at any time in any manner and  
15 their nests or eggs may be destroyed, and such conduct does not  
16 constitute an offense under Chapter 42, Penal Code.

17 SECTION 14. Section 66.007, Parks and Wildlife Code, is  
18 amended by amending Subsections (b), (c), and (e) and adding  
19 Subsections (m), (n), (o), (p), (q), (r), and (s) to read as  
20 follows:

21 (b) The department shall publish a list of:

22 (1) exotic fish and exotic~~[7]~~ shellfish~~[7]~~ ~~and aquatic~~  
23 ~~plants~~ for which a permit under Subsection (a) ~~[of this section]~~ is  
24 required; and

25 (2) exotic aquatic plants, as provided by this  
26 section, that are approved for importation into or possession in  
27 this state without a permit.

1 (c) The department shall make rules to carry out the  
2 provisions of this section. In adopting rules that relate to exotic  
3 aquatic plants, the department shall strive to ensure that the  
4 rules are as permissive as possible without allowing the  
5 importation or possession of plants that pose environmental,  
6 economic, or health problems.

7 (e) In this section:

8 (1) "Approved list" means the list published by the  
9 department under Subsection (b)(2) of exotic aquatic plants that a  
10 person may import into or possess in this state without an exotic  
11 species permit issued by the department.

12 (2) "Exotic [~~fish, shellfish, or~~] aquatic  
13 plant" means a nonindigenous [~~fish, shellfish, or~~] aquatic plant  
14 that is not normally found in aquatic or riparian areas [~~the public~~  
15 water] of this [~~the~~] state.

16 (3) "Exotic fish" means a nonindigenous fish that is  
17 not normally found in the public water of this state.

18 (4) "Exotic shellfish" means a nonindigenous  
19 shellfish that is not normally found in the public water of this  
20 state.

21 (m) A person may not import into or possess in this state an  
22 exotic aquatic plant unless:

23 (1) the plant is on the approved list; or

24 (2) the person has an exotic species permit issued by  
25 the department.

26 (n) In compiling the approved list, the department shall  
27 develop a process to evaluate the potential harm that may be caused

1 by the importation or possession of exotic aquatic plant species  
2 into this state. The process must include the use of:

3 (1) a risk assessment model to help determine the  
4 potential harm of a species to the aquatic environment;

5 (2) published scientific research findings;

6 (3) findings from regulatory agencies; or

7 (4) scientific analyses from third-party  
8 laboratories.

9 (o) The approved list must include an exotic aquatic plant  
10 that:

11 (1) is widespread in this state; and

12 (2) is not, as determined by the department, a cause of  
13 environmental, economic, or health problems.

14 (p) The department shall develop an expedited process for  
15 obtaining approval for inclusion on the approved list of a  
16 previously unknown exotic aquatic plant. The commission may remove  
17 an exotic aquatic plant from the approved list if the results of  
18 further analysis conducted under Subsection (n) indicate that the  
19 plant should not be on the list. The department may enact an  
20 emergency rule as provided by Chapter 2001, Government Code, to  
21 remove an exotic aquatic plant from the approved list if the plant  
22 is determined to cause environmental, economic, or health problems.

23 (q) The commission shall exercise final approval for the  
24 inclusion of each plant on the approved list.

25 (r) In accordance with commission rules, the department may  
26 issue an exotic species permit to a permit applicant for an exotic  
27 aquatic plant not on the approved list if the proposed use of the

1 plant is:

2 (1) as an experimental organism in a medical or other  
3 scientific research program approved by the department;

4 (2) as part of an exhibit approved by the department in  
5 a public aquarium or public zoo; or

6 (3) for an appropriate use that will not result in  
7 potential environmental, economic, or health problems.

8 (s) Nothing in this subchapter regarding exotic aquatic  
9 plants restricts the department's authority under this code  
10 regarding exotic harmful or potentially harmful fish or shellfish.

11 SECTION 15. Section 66.0071, Parks and Wildlife Code, is  
12 amended to read as follows:

13 Sec. 66.0071. REMOVAL OF HARMFUL AQUATIC PLANTS. On  
14 leaving any public or private body of water in this state, a person  
15 shall immediately remove and lawfully dispose of any exotic  
16 [~~harmful or potentially harmful~~] aquatic plant not included on the  
17 approved list published under Section 66.007(b)(2) that is clinging  
18 or attached to the person's:

19 (1) vessel or watercraft; or

20 (2) trailer, motor vehicle, or other mobile device  
21 used to transport or launch a vessel or watercraft.

22 SECTION 16. Title 6, Parks and Wildlife Code, is amended by  
23 adding Chapter 92 to read as follows:

24 CHAPTER 92. INTERSTATE WILDLIFE VIOLATOR COMPACT

25 Sec. 92.001. MEMBERSHIP IN INTERSTATE WILDLIFE VIOLATOR  
26 COMPACT. (a) On behalf of this state, the commission may enter  
27 into the Interstate Wildlife Violator Compact.



1           (b) If necessary to protect the interests of this state, the  
2 commission may withdraw from the Interstate Wildlife Violator  
3 Compact in accordance with the terms of the compact.

4           (c) The commission may take all actions necessary to  
5 implement this chapter, including the adoption of rules and the  
6 delegation of authority to the director.

7           SECTION 17. (a) The Parks and Wildlife Department and the  
8 Texas Youth Commission jointly shall seek representation by the  
9 attorney general to pursue a modification of the terms and purposes  
10 of the Parrie Haynes Trust.

11           (b) The legislature intends that a modification of the terms  
12 and purposes of the Parrie Haynes Trust be pursued so that:

13                   (1) the department may be designated as the state  
14 agency responsible for the trust, including all trust property and  
15 investments, and rights associated with the trust;

16                   (2) control of the Parrie Haynes Ranch may be  
17 transferred to the department; and

18                   (3) the purposes of the trust may be appropriately  
19 expanded to include benefiting disadvantaged and other youths of  
20 this state.

21           (c) This section expires on the earlier of:

22                   (1) the date a court orders modification of the Parrie  
23 Haynes Trust in accordance with this section; or

24                   (2) September 1, 2021.

25           SECTION 18. The change in law made by this Act in the  
26 qualifications of the members of the Parks and Wildlife Commission  
27 does not affect the entitlement of a person serving as a member of

1 the commission immediately before September 1, 2009, to continue to  
2 carry out the functions of the person's office for the remainder of  
3 the person's term. The change in law applies only to a person  
4 appointed on or after September 1, 2009. This Act does not prohibit  
5 a person who is a member of the Parks and Wildlife Commission  
6 immediately before September 1, 2009, from being reappointed as a  
7 commission member if the person has the qualifications required for  
8 the position under Chapter 11, Parks and Wildlife Code, as amended  
9 by this Act.

10 SECTION 19. The change in law made by this Act to Section  
11 11.0161, Parks and Wildlife Code, applies only to a complaint filed  
12 with the Parks and Wildlife Commission or the Parks and Wildlife  
13 Department on or after September 1, 2009. A complaint filed before  
14 September 1, 2009, is governed by the law in effect at the time the  
15 complaint was filed, and the former law is continued in effect for  
16 that purpose.

17 SECTION 20. Section 12.0011(c), Parks and Wildlife Code, as  
18 added by this Act, applies only to a recommendation or  
19 informational comment received by a local or state governmental  
20 agency from the Parks and Wildlife Department on or after September  
21 1, 2009. A recommendation or informational comment received by a  
22 local or state governmental agency from the Parks and Wildlife  
23 Department before September 1, 2009, is governed by the law in  
24 effect at the time the recommendation or informational comment was  
25 received, and the former law is continued in effect for that  
26 purpose.

27 SECTION 21. Section 62.021(c), Parks and Wildlife Code, as

1 amended by this Act, applies to any sale of inedible parts of an  
2 animal or bird occurring on or after the effective date of this Act,  
3 regardless of the date the parts were acquired by the seller.

4 SECTION 22. (a) Not later than December 31, 2010, the Parks  
5 and Wildlife Department shall publish the initial list of approved  
6 exotic aquatic plants as provided by Section 66.007(b), Parks and  
7 Wildlife Code, as amended by this Act.

8 (b) The Parks and Wildlife Department may not enforce the  
9 permit requirements or prohibited actions regarding exotic aquatic  
10 plants that are not on the approved list under Section 66.007(b),  
11 Parks and Wildlife Code, as amended by this Act, before the date on  
12 which the list is published.

13 (c) The Parks and Wildlife Department shall continue to  
14 publish a list of harmful or potentially harmful exotic aquatic  
15 plants for which a permit under Section 66.007(a), Parks and  
16 Wildlife Code, is required until the date on which the initial list  
17 of approved exotic aquatic plants is published. The department is  
18 not required to maintain or publish the list of harmful or  
19 potentially harmful exotic aquatic plants after the date on which  
20 the list of approved exotic aquatic plants is published.

21 (d) The Parks and Wildlife Department shall continue to  
22 enforce Section 66.007, Parks and Wildlife Code, with regard to  
23 harmful or potentially harmful exotic aquatic plants that are  
24 included on the list for which a permit is required under that  
25 section as it existed immediately before the effective date of this  
26 Act, and that law is continued in effect until the date on which the  
27 department publishes the initial list of approved exotic aquatic

1 plants.

2 (e) The provisions of Section 66.007, Parks and Wildlife  
3 Code, as amended by this Act, regarding harmful or potentially  
4 harmful exotic aquatic plants apply only to an offense that occurs  
5 on or after the date on which the Parks and Wildlife Department  
6 publishes the initial list of approved exotic aquatic plants. An  
7 offense that occurs before the date on which the initial list of  
8 approved exotic aquatic plants is published is governed by the law  
9 in effect immediately before the effective date of this Act, and  
10 that law is continued in effect for that purpose. For purposes of  
11 this subsection, an offense is committed before the date on which  
12 the initial list of approved exotic aquatic plants is published if  
13 any element of the offense occurs before that date.

14 (f) The Parks and Wildlife Department may not enforce the  
15 permit requirements or prohibited actions regarding exotic aquatic  
16 plants on the list of harmful or potentially harmful plants under  
17 Section 66.007, Parks and Wildlife Code, as that section existed  
18 before amendment by this Act, after the date on which the list of  
19 approved exotic aquatic plants is published.

20 (g) Section 66.0071, Parks and Wildlife Code, as amended by  
21 this Act, applies only to a person who takes a vessel or watercraft  
22 out of a public or private body of water in this state on or after  
23 the date the Parks and Wildlife Department publishes the initial  
24 list of approved exotic aquatic plants under Section 66.007(b),  
25 Parks and Wildlife Code, as amended by this Act. A person who takes  
26 a vessel or watercraft out of a public or private body of water in  
27 this state before the date the list of approved exotic aquatic

1 plants is published is governed by the law in effect on the date the  
2 vessel or watercraft is taken out of the water, and the former law  
3 remains in effect for that purpose.

4 SECTION 23. This Act takes effect September 1, 2009.

# ADOPTED

FLOOR AMENDMENT NO. 1

MAY 21 2009

BY:

*Atay Spaw*  
Secretary of the Senate

*Steve Hegar*

Amend C.S.H.B. 3391 (senate committee report) in SECTION 7 of the bill, in amended Section 12.0011, Parks and Wildlife Code, as follows:

- (1) On page 3, line 7, strike "A local or state agency or private organization" and substitute "An agency with statewide jurisdiction".
- (2) On page 3, lines 17 and 18, strike "or organization".
- (3) On page 3, line 22, strike "or organization".

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 21, 2009**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3391** by Harper-Brown (Relating to the continuation and functions of the Parks and Wildlife Department; changing the elements of an offense.), **As Passed 2nd House**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Parks and Wildlife Code to do the following: 1) Require the Texas Parks and Wildlife Department (TPWD) to create a list of aquatic plants that may be imported and possessed within Texas without a permit; 2) Require state agencies that receive TPWD's comments on proposed projects or permits to respond to TPWD on the disposition of those comments; 3) Establish an Internal Affairs Office in statute, requiring the Office to report to the Texas Parks and Wildlife (TPW) Commission, and granting the Commission authority to initiate cases; 4) Authorize the TPW Commission to join the Interstate Wildlife Violator Compact on behalf of the State; 5) Instruct TPWD and the Texas Youth Commission (TYC) to jointly seek representation by the Office of the Attorney General (OAG) to pursue a modification of the Parrie Haynes Trust to designate TPWD as the state agency responsible for the Parrie Haynes Ranch and Trust; 6) Add emergency rulemaking authority for the TPWD executive director in cases of Governor declared disasters; 7) Clarify that starlings, sparrows, and rock doves may be killed in any manner, and adds pigeons to the definition of 'pen-reared birds' for purposes of private bird hunting areas; 8) Permit the sale of feathers, bones, or feet of game birds other than migratory game birds and the sale of feathers of migratory game birds as permitted by federal law. Also allow the sale of the hair, hide, antlers, bones, hooves, horns, skulls, or sinew of pronghorn antelopes, deer, desert bighorn sheep, javelina, and red and grey squirrels; and 9) Continue TPWD for 12 years. The bill would take effect September 1, 2009.

The bill would have a cost of \$80,107 in fiscal year 2010 and \$22,997 in fiscal year 2011 and each year thereafter from the General Revenue-Dedicated Game, Fish and Water Safety Account No. 9. TPWD indicates it could absorb the costs associated with the bill within its current resources. An analysis of the expected costs to be absorbed is as follows:

**SECTION 5:** Authorizes deposit of private contributions, grants, donations and federal funds into the General Revenue-Dedicated State Parks Account No. 64. This should not have a fiscal impact as it merely authorizes the deposit of funds that TPWD is already receiving.

**SECTION 9:** Provides that money in the General Revenue-Dedicated Texas Recreation and Parks Account No. 467 may be used for planning, acquisition, operation, and development of outdoor recreation and conservation, and administrative expenses related to the management of federal programs. This Section authorizes deposit of private contributions, grants, donations and federal funds into the Texas Recreation and Parks Account No. 467; clarifies that the existing statutory formula regarding the distribution of funds in the Large County and Municipality Recreation and Parks Account applies only to state funds in the account; specifies that money in the Large County and Municipality Recreation and Parks Account may be used for administrative expenses related to the management of federal programs; and authorizes deposit of private contributions, grants, donations and federal funds into the Large County and Municipality Recreation and Parks Account. This Section would not have a fiscal impact as it merely authorizes the use of funds for expenses related to the purpose of the funds and allows deposit of funds into accounts.





SECTION 14: Requires the TPWD to create a list of exotic aquatic plants that may be imported and possessed within Texas without a permit. The Section establishes that a person may not import or possess an exotic aquatic plant that is not on the approved list without a permit. The Section requires TPWD to develop a process to evaluate the potential harm that may be caused by importation of aquatic plants and establishes the parameters of that process. This Section will have a fiscal implication to TPWD which will have a one-time cost of an estimated \$50,000 in fiscal year 2010 to hire a consultant to help compile the list of approved aquatic plants. (Note TPWD has existing fee authority for permits under its prohibited list for exotic aquatic plants that could be used to charge fees for permits under this section.) Also, the Section makes permissive the requirement to deposit federal revenue into the General Revenue-Dedicated State Land and Water Conservation Account No. 223. This Section would not have a fiscal impact as it merely authorizes the deposit of any funds that TPWD is already receiving.

SECTION 16: Authorizes the TPW Commission to join the Interstate Wildlife Violator Compact. The Section provides that the Commission may also withdraw from the Compact if necessary to protect the interests of the State. Authorizing TPWD to join the Interstate Wildlife Violator Compact would have a first year fiscal impact to the State of an estimated \$30,100 in fiscal year 2010, with subsequent annual fiscal costs of about \$23,000 from the General Revenue-Dedicated Game, Fish and Water Safety Account No. 9.

The TPWD would incur these costs from personnel costs to monitor and upload information into the Compact's database. The Board of Wildlife Violator Compact Administrators does not charge a fee to states to join Interstate Wildlife Violator Compact (IWVC), does not make an annual assessment, and member states are not charged to access or upload information into the IWVC database. However, this analysis assumes TPWD would need to redirect the job duties of clerk half-time to monitor the database and may incur minor costs to modify its information technology systems to report violations to the Compact's database and to query the database during issuance of hunting and fishing licenses. TPWD estimates that the half-time base salary for this position is \$17,292 and with benefits, equipment, and other costs, the total first-year cost will be \$30,107 and subsequent years will cost \$23,000. TPWD may incur minor costs to modify its information technology systems to report and query the Compact's database. The TPWD does budget for computer system changes, and could incorporate the changes required by this recommendation into its routine maintenance schedule and reprioritize its existing workload.

SECTION 17: Instructs TPWD and TYC to jointly seek representation by the OAG to pursue a modification of the Trust terms and purposes of the Parrie Haynes Trust to designate TPWD as the state agency responsible for the Parrie Haynes Ranch and Trust. No fiscal impact is expected for this provision since it directs the agencies to pursue a judicial judgment on the disposition of the Ranch and is not binding on the agencies. However, if the court decides to transfer the property to TPWD, then TYC would lose \$48,000 a year in lease payments from TPWD. However, TPWD would not have to expend that money every year, resulting in a revenue neutral fiscal impact to the State. In addition, although some state funds may be expended by the OAG in pursuing a judicial judgment for transfer, the Charitable Trust Section of the OAG's office is charged to work on such cases, and already receives appropriations for this purpose.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 116 Sunset Advisory Commission, 802 Parks and Wildlife Department

**LBB Staff:** JOB, SD, TB, SZ, ZS, KK



**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

May 15, 2009

**TO:** Honorable Rodney Ellis, Chair, Senate Committee on Government Organization

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3391** by Harper-Brown (relating to the continuation and functions of the Parks and Wildlife Department; changing the elements of an offense.), **Committee Report 2nd House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the Parks and Wildlife Code to do the following: 1) Require the Texas Parks and Wildlife Department (TPWD) to create a list of aquatic plants that may be imported and possessed within Texas without a permit; 2) Require state and local agencies that receive TPWD's comments on proposed projects or permits to respond to TPWD on the disposition of those comments; 3) Establish an Internal Affairs Office in statute, requiring the Office to report to the Texas Parks and Wildlife (TPW) Commission, and granting the Commission authority to initiate cases; 4) Authorize the TPW Commission to join the Interstate Wildlife Violator Compact on behalf of the State; 5) Instruct TPWD and the Texas Youth Commission (TYC) to jointly seek representation by the Office of the Attorney General (OAG) to pursue a modification of the Parrie Haynes Trust to designate TPWD as the state agency responsible for the Parrie Haynes Ranch and Trust; 6) Add emergency rulemaking authority for the TPWD executive director in cases of Governor declared disasters; 7) Clarify that starlings, sparrows, and rock doves may be killed in any manner, and adds pigeons to the definition of 'pen-reared birds' for purposes of private bird hunting areas; 8) Permit the sale of feathers, bones, or feet of game birds other than migratory game birds and the sale of feathers of migratory game birds as permitted by federal law. Also allow the sale of the hair, hide, antlers, bones, hooves, horns, skulls, or sinew of pronghorn antelopes, deer, desert bighorn sheep, javelina, and red and grey squirrels; and 9) Continue TPWD for 12 years. The bill would take effect September 1, 2009.

The bill would have a cost of \$80,107 in fiscal year 2010 and \$22,997 in fiscal year 2011 and each year thereafter from the General Revenue-Dedicated Game, Fish and Water Safety Account No. 9. TPWD indicates it could absorb the costs associated with the bill within its current resources. An analysis of the expected costs to be absorbed is as follows:

**SECTION 5:** Authorizes deposit of private contributions, grants, donations and federal funds into the General Revenue-Dedicated State Parks Account No. 64. This should not have a fiscal impact as it merely authorizes the deposit of funds that TPWD is already receiving.

**SECTION 9:** Provides that money in the General Revenue-Dedicated Texas Recreation and Parks Account No. 467 may be used for planning, acquisition, operation, and development of outdoor recreation and conservation, and administrative expenses related to the management of federal programs. This Section authorizes deposit of private contributions, grants, donations and federal funds into the Texas Recreation and Parks Account No. 467; clarifies that the existing statutory formula regarding the distribution of funds in the Large County and Municipality Recreation and Parks Account applies only to state funds in the account; specifies that money in the Large County and Municipality Recreation and Parks Account may be used for administrative expenses related to the management of federal programs; and authorizes deposit of private contributions, grants, donations and federal funds into the Large County and Municipality Recreation and Parks Account. This Section would not have a fiscal impact as it merely authorizes the use of funds for expenses related to the purpose of the funds and allows deposit of funds into accounts.



SECTION 14: Requires the TPWD to create a list of exotic aquatic plants that may be imported and possessed within Texas without a permit. The Section establishes that a person may not import or possess an exotic aquatic plant that is not on the approved list without a permit. The Section requires TPWD to develop a process to evaluate the potential harm that may be caused by importation of aquatic plants and establishes the parameters of that process. This Section will have a fiscal implication to TPWD which will have a one-time cost of an estimated \$50,000 in fiscal year 2010 to hire a consultant to help compile the list of approved aquatic plants. (Note TPWD has existing fee authority for permits under its prohibited list for exotic aquatic plants that could be used to charge fees for permits under this section.) Also, the Section makes permissive the requirement to deposit federal revenue into the General Revenue-Dedicated State Land and Water Conservation Account No. 223. This Section would not have a fiscal impact as it merely authorizes the deposit of any funds that TPWD is already receiving.

SECTION 16: Authorizes the TPW Commission to join the Interstate Wildlife Violator Compact. The Section provides that the Commission may also withdraw from the Compact if necessary to protect the interests of the State. Authorizing TPWD to join the Interstate Wildlife Violator Compact would have a first year fiscal impact to the State of an estimated \$30,100 in fiscal year 2010, with subsequent annual fiscal costs of about \$23,000 from the General Revenue-Dedicated Game, Fish and Water Safety Account No. 9.

The TPWD would incur these costs from personnel costs to monitor and upload information into the Compact's database. The Board of Wildlife Violator Compact Administrators does not charge a fee to states to join Interstate Wildlife Violator Compact (IWVC), does not make an annual assessment, and member states are not charged to access or upload information into the IWVC database. However, this analysis assumes TPWD would need to redirect the job duties of clerk half-time to monitor the database and may incur minor costs to modify its information technology systems to report violations to the Compact's database and to query the database during issuance of hunting and fishing licenses. TPWD estimates that the half-time base salary for this position is \$17,292 and with benefits, equipment, and other costs, the total first-year cost will be \$30,107 and subsequent years will cost \$23,000. TPWD may incur minor costs to modify its information technology systems to report and query the Compact's database. The TPWD does budget for computer system changes, and could incorporate the changes required by this recommendation into its routine maintenance schedule and reprioritize its existing workload.

SECTION 17: Instructs TPWD and TYC to jointly seek representation by the OAG to pursue a modification of the Trust terms and purposes of the Parrie Haynes Trust to designate TPWD as the state agency responsible for the Parrie Haynes Ranch and Trust. No fiscal impact is expected for this provision since it directs the agencies to pursue a judicial judgment on the disposition of the Ranch and is not binding on the agencies. However, if the court decides to transfer the property to TPWD, then TYC would lose \$48,000 a year in lease payments from TPWD. However, TPWD would not have to expend that money every year, resulting in a revenue neutral fiscal impact to the State. In addition, although some state funds may be expended by the OAG in pursuing a judicial judgment for transfer, the Charitable Trust Section of the OAG's office is charged to work on such cases, and already receives appropriations for this purpose.

#### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 116 Sunset Advisory Commission, 802 Parks and Wildlife Department

**LBB Staff:** JOB, TB, SZ, ZS, SD, KK



LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 20, 2009

TO: Honorable Mark Homer, Chair, House Committee on Culture, Recreation & Tourism

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB3391** by Harper-Brown (Relating to the continuation and functions of the Parks and Wildlife Department; changing the elements of an offense.), **Committee Report 1st House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Parks and Wildlife Code to do the following: 1) Require the Texas Parks and Wildlife Department (TPWD) to create a list of aquatic plants that may be imported and possessed within Texas without a permit; 2) Require state and local agencies that receive TPWD's comments on proposed projects or permits to respond to TPWD on the disposition of those comments; 3) Establish an Internal Affairs Office in statute, requiring the Office to report to the Texas Parks and Wildlife (TPW) Commission, and granting the Commission authority to initiate cases; 4) Authorize the TPW Commission to join the Interstate Wildlife Violator Compact on behalf of the State; 5) Instruct TPWD and the Texas Youth Commission (TYC) to jointly seek representation by the Office of the Attorney General (OAG) to pursue a modification of the Parrie Haynes Trust to designate TPWD as the state agency responsible for the Parrie Haynes Ranch and Trust; and 6) Continue TPWD for 12 years. The bill would take effect September 1, 2009.

The bill would have a cost of \$80,107 in fiscal year 2010 and \$22,997 in fiscal year 2011 and each year thereafter from the General Revenue-Dedicated Game, Fish and Water Safety Account No. 9. TPWD indicates it could absorb the costs associated with the bill within its current resources. An analysis of the expected costs to be absorbed is as follows:

SECTION 5: Authorizes deposit of private contributions, grants, donations and federal funds into the General Revenue-Dedicated State Parks Account No. 64. Should not have a fiscal impact as it merely authorizes the deposit of funds that TPWD is already receiving.

SECTION 6: Requires the TPWD to create a list of exotic aquatic plants that may be imported and possessed within Texas without a permit. The Section establishes that a person may not import or possess an exotic aquatic plant that is not on the approved list without a permit. The Section requires TPWD to develop a process to evaluate the potential harm that may be caused by importation of aquatic plants and establishes the parameters of that process. This Section will have a fiscal implication to TPWD which will have a one-time cost of an estimated \$50,000 in fiscal year 2010 to hire a consultant to help compile the list of approved aquatic plants. (Note TPWD has existing fee authority for permits under its prohibited list for exotic aquatic plants that could be used to charge fees for permits under this section.) Also, the Section makes permissive the requirement to deposit federal revenue into the General Revenue-Dedicated State Land and Water Conservation Account No. 223. This Section would not have a fiscal impact as it merely authorizes the deposit of any funds that TPWD is already receiving.

SECTION 8: Authorizes the TPW Commission to join the Interstate Wildlife Violator Compact. The Section provides that the Commission may also withdraw from the Compact if necessary to protect the interests of the State. Authorizing TPWD to join the Interstate Wildlife Violator Compact would have a first year fiscal impact to the State of an estimated \$30,100 in fiscal year 2010, with subsequent annual fiscal costs of about \$23,000 from the General Revenue-Dedicated Game, Fish and Water





Safety Account No. 9.

The TPWD would incur these costs from personnel costs to monitor and upload information into the Compact's database. The Board of Wildlife Violator Compact Administrators does not charge a fee to states to join Interstate Wildlife Violator Compact (IWVC), does not make an annual assessment, and member states are not charged to access or upload information into the IWVC database. However, this analysis assumes TPWD would need to redirect the job duties of clerk half-time to monitor the database and may incur minor costs to modify its information technology systems to report violations to the Compact's database and to query the database during issuance of hunting and fishing licenses. TPWD estimates that the half-time base salary for this position is \$17,292 and with benefits, equipment, and other costs, the total first-year cost will be \$30,107 and subsequent years will cost \$23,000. TPWD may incur minor costs to modify its information technology systems to report and query the Compact's database. The TPWD does budget for computer system changes, and could incorporate the changes required by this recommendation into its routine maintenance schedule and reprioritize its existing workload.

SECTION 9: Instructs TPWD and TYC to jointly seek representation by the OAG to pursue a modification of the Trust terms and purposes of the Parrie Haynes Trust to designate TPWD as the state agency responsible for the Parrie Haynes Ranch and Trust. No fiscal impact is expected for this provision since it directs the agencies to pursue a judicial judgment on the disposition of the Ranch and is not binding on the agencies. However, if the court decides to transfer the property to TPWD, then TYC would lose \$48,000 a year in lease payments from TPWD. However, TPWD would not have to expend that money every year, resulting in a revenue neutral fiscal impact to the State. In addition, although some state funds may be expended by the OAG in pursuing a judicial judgment for transfer, the Charitable Trust Section of the OAG's office is charged to work on such cases, and already receives appropriations for this purpose.

This Section also provides that money in the General Revenue-Dedicated Texas Recreation and Parks Account No. 467 may be used for planning, acquisition, operation, and development of outdoor recreation and conservation, and administrative expenses related to the management of federal programs. This Section authorizes deposit of private contributions, grants, donations and federal funds into the Texas Recreation and Parks Account No. 467; clarifies that the existing statutory formula regarding the distribution of funds in the Large County and Municipality Recreation and Parks Account applies only to state funds in the account; specifies that money in the Large County and Municipality Recreation and Parks Account may be used for administrative expenses related to the management of federal programs; and authorizes deposit of private contributions, grants, donations and federal funds into the Large County and Municipality Recreation and Parks Account. This Section would not have a fiscal impact as it merely authorizes the use of funds for expenses related to the purpose of the funds and allows deposit of funds into accounts.

#### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 116 Sunset Advisory Commission, 802 Parks and Wildlife Department

**LBB Staff:** JOB, SZ, ZS, TB, SD, KK



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**April 6, 2009**

**TO:** Honorable Mark Homer, Chair, House Committee on Culture, Recreation & Tourism

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3391** by Harper-Brown (Relating to the continuation and functions of the Parks and Wildlife Department; changing the elements of an offense.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Parks and Wildlife Code to do the following: 1) Require the Texas Parks and Wildlife Department (TPWD) to create a list of aquatic plants that may be imported and possessed within Texas without a permit; 2) Require state and local agencies that receive TPWD's comments on proposed projects or permits to respond to TPWD on the disposition of those comments; 3) Establish an Internal Affairs Office in statute, requiring the Office to report to the Texas Parks and Wildlife (TPW) Commission, and granting the Commission authority to initiate cases; 4) Authorize the TPW Commission to join the Interstate Wildlife Violator Compact on behalf of the State; 5) Instruct TPWD and the Texas Youth Commission (TYC) to jointly seek representation by the Office of the Attorney General (OAG) to pursue a modification of the Parrie Haynes Trust to designate TPWD as the state agency responsible for the Parrie Haynes Ranch and Trust; and 6) Continue TPWD for 12 years. The bill would take effect September 1, 2009.

The bill would have a cost of \$80,107 in fiscal year 2010 and \$22,997 in fiscal year 2011 and each year thereafter from the General Revenue-Dedicated Game, Fish and Water Safety Account No. 9. TPWD indicates it could absorb the costs associated with the bill within its current resources. An analysis of the expected costs to be absorbed is as follows:

**SECTION 6:** Requires the TPWD to create a list of exotic aquatic plants that may be imported and possessed within Texas without a permit. The Section establishes that a person may not import or possess an exotic aquatic plant that is not on the approved list without a permit. The Section requires TPWD to develop a process to evaluate the potential harm that may be caused by importation of aquatic plants and establishes the parameters of that process. This Section will have a fiscal implication to TPWD which will have a one-time cost of an estimated \$50,000 in fiscal year 2010 to hire a consultant to help compile the list of approved aquatic plants. (Note TPWD has existing fee authority for permits under its prohibited list for exotic aquatic plants that could be used to charge fees for permits under this section.)

**SECTION 8:** Authorizes the TPW Commission to join the Interstate Wildlife Violator Compact. The Section provides that the Commission may also withdraw from the Compact if necessary to protect the interests of the State. Authorizing TPWD to join the Interstate Wildlife Violator Compact would have a first year fiscal impact to the State of an estimated \$30,100 in fiscal year 2010, with subsequent annual fiscal costs of about \$23,000 from the General Revenue-Dedicated Game, Fish and Water Safety Account No. 9.

The TPWD would incur these costs from personnel costs to monitor and upload information into the Compact's database. The Board of Wildlife Violator Compact Administrators does not charge a fee to states to join Interstate Wildlife Violator Compact (IWVC), does not make an annual assessment, and member states are not charged to access or upload information into the IWVC database. However, this analysis assumes TPWD would need to redirect the job duties of clerk half-time to monitor the database and may incur minor costs to modify its information technology systems to report violations



to the Compact's database and to query the database during issuance of hunting and fishing licenses. TPWD estimates that the half-time base salary for this position is \$17,292 and with benefits, equipment, and other costs, the total first-year cost will be \$30,107 and subsequent years will cost \$23,000. TPWD may incur minor costs to modify its information technology systems to report and query the Compact's database. The TPWD does budget for computer system changes, and could incorporate the changes required by this recommendation into its routine maintenance schedule and reprioritize its existing workload.

**SECTION 9:** Instructs TPWD and TYC to jointly seek representation by the OAG to pursue a modification of the Trust terms and purposes of the Parrie Haynes Trust to designate TPWD as the state agency responsible for the Parrie Haynes Ranch and Trust. No fiscal impact is expected for this provision since it directs the agencies to pursue a judicial judgment on the disposition of the Ranch and is not binding on the agencies. However, if the court decides to transfer the property to TPWD, then TYC would lose \$48,000 a year in lease payments from TPWD. However, TPWD would not have to expend that money every year, resulting in a revenue neutral fiscal impact to the State. In addition, although some state funds may be expended by the OAG in pursuing a judicial judgment for transfer, the Charitable Trust Section of the OAG's office is charged to work on such cases, and already receives appropriations for this purpose.

#### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 116 Sunset Advisory Commission, 802 Parks and Wildlife Department

**LBB Staff:** JOB, ZS, TB, SD, KK

