

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

H.B. No. 3391

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

By: King of Zavala

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 13.310(c), Parks and Wildlife Code, is  
20 amended to read as follows:

21 (c) The department shall deposit all funds received for the  
22 development of outdoor recreation resources in the state treasury  
23 to the credit of the state land and water conservation account, the  
24 Texas recreation and parks account, the large county and  
25 municipality recreation and parks account, or the state parks  
26 account.

27 SECTION 9. Sections 24.002, 24.003, 24.006, 24.052, 24.053,

1 and 24.056, Parks and Wildlife Code, are amended to read as follows:

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

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

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

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

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

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

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

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

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

22           (1) private contributions, grants, and donations  
23 received in connection with this subchapter or Subchapter D,  
24 Chapter 13; and

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

27           Sec. 24.006. FUNDS FOR GRANTS TO LOCAL GOVERNMENTS. When

1 state revenues to the Texas recreation and parks account exceed \$14  
2 million per year, an amount not less than 15 percent shall be made  
3 available for grants to local governments for up to 50 percent of  
4 the cost of acquisition or development of indoor public recreation  
5 facilities for indoor recreation programs, sports activities,  
6 nature programs, or exhibits.

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

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

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

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

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

20               (1) private contributions, grants, and donations  
21 received in connection with this subchapter or Subchapter D,  
22 Chapter 13; and

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

25       Sec. 24.056. FUNDS FOR GRANTS TO LARGE COUNTIES AND  
26 MUNICIPALITIES. When state revenue to the large county and  
27 municipality recreation and parks account exceeds \$14 million per

1 year, an amount not less than 15 percent shall be made available for  
2 grants to large counties and municipalities for up to 50 percent of  
3 the cost of acquisition or development of indoor public recreation  
4 facilities for indoor recreation programs, sports activities,  
5 nature programs, or exhibits.

6 SECTION 10. Section 66.007, Parks and Wildlife Code, is  
7 amended by amending Subsections (b), (c), and (e) and adding  
8 Subsections (m), (n), (o), (p), (q), (r), and (s) to read as  
9 follows:

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

11 (1) exotic fish and exotic~~[r]~~ shellfish~~[, and aquatic~~  
12 ~~plants]~~ for which a permit under Subsection (a) ~~[of this section]~~ is  
13 required; and

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

17 (c) The department shall make rules to carry out the  
18 provisions of this section. In adopting rules that relate to exotic  
19 aquatic plants, the department shall strive to ensure that the  
20 rules are as permissive as possible without allowing the  
21 importation or possession of plants that pose environmental,  
22 economic, or health problems.

23 (e) In this section:

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

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

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

7           (4) "Exotic shellfish" means a nonindigenous  
8 shellfish that is not normally found in the public water of this  
9 state.

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

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

13           (2) the person has an exotic species permit issued by  
14 the department.

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

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

21           (2) published scientific research findings;

22           (3) findings from regulatory agencies; or

23           (4) scientific analyses from third-party  
24 laboratories.

25          (o) The approved list must include an exotic aquatic plant  
26 that:

27           (1) is widespread in this state; and

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

3           (p) The department shall develop an expedited process for  
4 obtaining approval for inclusion on the approved list of a  
5 previously unknown exotic aquatic plant. The commission may remove  
6 an exotic aquatic plant from the approved list if the results of  
7 further analysis conducted under Subsection (n) indicate that the  
8 plant should not be on the list. The department may enact an  
9 emergency rule as provided by Chapter 2001, Government Code, to  
10 remove an exotic aquatic plant from the approved list if the plant  
11 is determined to cause environmental, economic, or health problems.

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

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

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

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

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

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

27           SECTION 11. Section 66.0071, Parks and Wildlife Code, is

1 amended to read as follows:

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

8                   (1) vessel or watercraft; or

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

11           SECTION 12. Title 6, Parks and Wildlife Code, is amended by  
12 adding Chapter 92 to read as follows:

13                   CHAPTER 92. INTERSTATE WILDLIFE VIOLATOR COMPACT

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

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

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

23           SECTION 13. (a) The department and the Texas Youth  
24 Commission jointly shall seek representation by the attorney  
25 general to pursue a modification of the terms and purposes of the  
26 Parrie Haynes Trust.

27                   (b) The legislature intends that a modification of the terms

1 and purposes of the Parrie Haynes Trust be pursued so that:

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

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

7 (3) the purposes of the trust may be appropriately  
8 expanded to include benefiting disadvantaged and other youths of  
9 this state.

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

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

13 (2) September 1, 2021.

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

26 SECTION 15. The change in law made by this Act to Section  
27 11.0161, Parks and Wildlife Code, applies only to a complaint filed

1 with the Parks and Wildlife Commission or the Parks and Wildlife  
2 Department on or after September 1, 2009. A complaint filed before  
3 September 1, 2009, is governed by the law in effect at the time the  
4 complaint was filed, and the former law is continued in effect for  
5 that purpose.

6 SECTION 16. Section 12.0011(c), Parks and Wildlife Code, as  
7 added by this Act, applies only to a recommendation or  
8 informational comment received by a local or state governmental  
9 agency from the Parks and Wildlife Department on or after September  
10 1, 2009. A recommendation or informational comment received by a  
11 local or state governmental agency from the Parks and Wildlife  
12 Department before September 1, 2009, is governed by the law in  
13 effect at the time the recommendation or informational comment was  
14 received, and the former law is continued in effect for that  
15 purpose.

16 SECTION 17. (a) Not later than December 31, 2010, the Parks  
17 and Wildlife Department shall publish the initial list of approved  
18 exotic aquatic plants as provided by Section 66.007(b), Parks and  
19 Wildlife Code, as amended by this Act.

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

25 (c) The department shall continue to publish a list of  
26 harmful or potentially harmful exotic aquatic plants for which a  
27 permit under Section 66.007(a), Parks and Wildlife Code, is

1 required until the date on which the initial list of approved exotic  
2 aquatic plants is published. The department is not required to  
3 maintain or publish the list of harmful or potentially harmful  
4 exotic aquatic plants after the date on which the list of approved  
5 exotic aquatic plants is published.

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

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

23 SECTION 18. This Act takes effect September 1, 2009.