

By: Hilderbran, Keffer, Dukes,  
Cook of Navarro, et al.

H.B. No. 6

Substitute the following for H.B. No. 6:

By: Hilderbran

C.S.H.B. No. 6

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the allocation and use of the sporting goods sales tax  
3 revenue to fund state and local parks.

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

5 SECTION 1. Section 11.035(b), Parks and Wildlife Code, is  
6 amended to read as follows:

7 (b) The department shall deposit to the credit of the state  
8 parks account all revenue, less allowable costs, received from the  
9 following sources:

10 (1) grants or operation of concessions in state parks  
11 or fishing piers;

12 (2) publications on state parks, state historic sites,  
13 or state scientific areas;

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

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

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

22 (6) any other source provided by law.

23 SECTION 2. Section 11.043(b), Parks and Wildlife Code, is  
24 amended to read as follows:

1 (b) The account consists of:

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

4 (A) the state parks account;

5 (B) the large county and municipality recreation  
6 and parks account; and

7 (C) the Texas recreation and parks account;

8 (2) [~~τ~~] proceeds of revenue bonds issued under Section  
9 13.0045; [~~τ~~] or

10 (3) any other source authorized by law.

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

14 SUBCHAPTER A. LOCAL PARKS FOR SMALLER COUNTIES AND MUNICIPALITIES  
15 AND OTHER POLITICAL SUBDIVISIONS

16 SECTION 4. Section 24.001, Parks and Wildlife Code, is  
17 amended to read as follows:

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

19 (1) "Political subdivision" means a county,  
20 municipality [~~city~~], special district, river authority, or other  
21 governmental entity created under the authority of the state or a  
22 county or municipality [~~city~~].

23 (2) "Urban area" means the area within a standard  
24 metropolitan statistical area (SMSA) in this state used in the last  
25 preceding federal census.

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

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

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

7           (6) "Parks, recreational, and open space area plan"  
8 means a comprehensive plan that includes information on and  
9 analyses of parks, recreational, and open space area objectives,  
10 needs, resources, environment, and uses, and that identifies the  
11 amounts, locations, characteristics, and potentialities of areas  
12 for adequate parks, recreational, and open space opportunities.

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

19           (8) "Account" means the Texas recreation and parks  
20 account.

21           (9) "Rural area" means any area not included in an  
22 urban area.

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

26           (11) "Nonprofit corporation" means a nonpolitical  
27 legal entity incorporated under the laws of this state that has been

1 granted an exemption from federal income tax under Section 501(c),  
2 Internal Revenue Code of 1986, as amended.

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

7 SECTION 5. Section 24.002, Parks and Wildlife Code, is  
8 amended to read as follows:

9 Sec. 24.002. TEXAS RECREATION AND PARKS ACCOUNT. The Texas  
10 recreation and parks account is a separate account in the general  
11 revenue fund. Money in the account may be used only as provided by  
12 this subchapter for grants to:

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

15 (2) any other political subdivision that is not a  
16 county or municipality.

17 SECTION 6. Section 24.003, Parks and Wildlife Code, is  
18 amended to read as follows:

19 Sec. 24.003. ACCOUNT REVENUE SOURCE; REVENUE DEDICATION.  
20 The department shall deposit to the credit of the Texas recreation  
21 and parks account:

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

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

27 SECTION 7. Section 24.005(e), Parks and Wildlife Code, is

1 amended to read as follows:

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

5 SECTION 8. Section 24.008(a), Parks and Wildlife Code, is  
6 amended to read as follows:

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

11 SECTION 9. Section 24.009, Parks and Wildlife Code, is  
12 amended to read as follows:

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

19 (b) Each recipient of assistance under this subchapter  
20 [~~chapter~~] shall keep records as required by the department,  
21 including records which fully disclose the amount and the  
22 disposition of the proceeds by the recipient, the total cost of the  
23 acquisition, a copy of the title and deed for the property acquired,  
24 the amount and nature of that portion of the cost of the acquisition  
25 supplied by other funds, and other records that facilitate  
26 effective audit. The director and the comptroller, or their  
27 authorized representatives, may examine any book, document, paper,

1 and record of the recipient that are pertinent to assistance  
2 received under this subchapter [~~chapter~~].

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

10 SECTION 10. Section 24.011, Parks and Wildlife Code, is  
11 amended to read as follows:

12 Sec. 24.011. NONCOMPLIANCE WITH SUBCHAPTER [~~ACT~~]. The  
13 attorney general shall file suit in a court of competent  
14 jurisdiction against a political subdivision or nonprofit  
15 corporation that fails to comply with the requirements of this  
16 subchapter [~~chapter~~] to recover the full amount of the grant plus  
17 interest on that amount of five percent a year accruing from the  
18 time of noncompliance or for injunctive relief to require  
19 compliance with this subchapter [~~chapter~~]. If the court finds that  
20 the political subdivision or nonprofit corporation has not complied  
21 with the requirements of this subchapter [~~chapter~~], it is not  
22 eligible for further participation in the program for three years  
23 following the finding for noncompliance.

24 SECTION 11. Section 24.013, Parks and Wildlife Code, is  
25 amended to read as follows:

26 Sec. 24.013. AUTHORITY OF POLITICAL SUBDIVISIONS TO HAVE  
27 PARKS. This subchapter [~~chapter~~] does not authorize a political

1 subdivision to acquire, develop, maintain, or operate a park,  
2 recreational area, open space area, or natural area.

3 SECTION 12. Chapter 24, Parks and Wildlife Code, is amended  
4 by adding Subchapter B to read as follows:

5 SUBCHAPTER B. PARKS FOR LARGE COUNTIES AND MUNICIPALITIES

6 Sec. 24.051. DEFINITIONS. In this subchapter:

7 (1) "Account" means the large county and municipality  
8 recreation and parks account.

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

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

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

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

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

27 (7) "Open space area" means a land or water area for

1 human use and enjoyment that is relatively free of man-made  
2 structures.

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

5 (9) "Parks, recreational, and open space area plan"  
6 means a comprehensive plan that includes information on and  
7 analyses of parks, recreational, and open space area objectives,  
8 needs, resources, environment, and uses, and that identifies the  
9 amounts, locations, characteristics, and potentialities of areas  
10 for adequate parks, recreational, and open space opportunities.

11 (10) "Political subdivision" means a county,  
12 municipality, special district, river authority, or other  
13 governmental entity created under the authority of the state or a  
14 county or municipality.

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

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

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

27 (1) an amount of money equal to 10 percent of the



1 credits made to the department under Section 151.801, Tax Code; and

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

3 Sec. 24.054. ASSISTANCE GRANTS. (a) The department may  
4 make grants of money from the account to a large county or  
5 municipality for use by the county or municipality as all or part of  
6 the county's or municipality's required share of funds for  
7 eligibility for receiving a federal rehabilitation and recovery  
8 grant.

9 (b) In order to receive a grant under this section, the  
10 county or municipality seeking the federal grant shall apply to the  
11 department for the grant and present evidence that the county or  
12 municipality qualifies for the federal grant.

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

15 Sec. 24.055. DIRECT STATE MATCHING GRANTS. (a) The  
16 department shall make grants of money from the account to a large  
17 county or municipality to provide one-half of the costs of the  
18 planning, acquisition, or development of a park, recreational area,  
19 or open space area to be owned and operated by the county or  
20 municipality.

21 (b) In establishing the program of grants under this  
22 section, the department shall adopt rules and regulations for grant  
23 assistance.

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

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

5           (2) during the period the commission determines to be  
6 necessary to effect the official transfer of the park, site, or  
7 area.

8           (d) The department shall make grants of money from the  
9 account to a large county or municipality or to a nonprofit  
10 corporation for use in a large county or municipality for  
11 recreation, conservation, or education programs for underserved  
12 populations to encourage and implement increased access to and use  
13 of parks, recreational areas, cultural resource sites or areas, and  
14 open space areas by underserved populations.

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

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

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

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

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

8           Sec. 24.058. ACQUISITION OF PROPERTY. (a) No property may  
9 be acquired with grant money made under this subchapter or by the  
10 department under this subchapter if the purchase price exceeds the  
11 fair market value of the property as determined by one independent  
12 appraiser.

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

16           (c) If land or water designated for park, recreational,  
17 cultural resource, or open space use is included in the local and  
18 regional park, recreational, cultural resource, and open space  
19 plans for two or more large counties or municipalities, the two or  
20 more large counties or municipalities may cooperate under state law  
21 to secure assistance from the account to acquire or develop the  
22 property. In those cases, the department may modify the standards  
23 for individual applicants but must be assured that a cooperative  
24 management plan for the land or water can be developed and  
25 effectuated and that one of the counties or municipalities  
26 possesses the necessary qualifications to perform contractual  
27 responsibilities for purposes of the grant.

1       (d) All land or water purchased with assistance from the  
2 account shall be dedicated for park, recreational, cultural  
3 resource, indoor recreation center, and open space purposes in  
4 perpetuity and may not be used for any other purpose, except where  
5 the use is compatible with park, recreational, cultural resource,  
6 and open space objectives, and the use is approved in advance by the  
7 department.

8       Sec. 24.059. PAYMENTS, RECORDS, AND ACCOUNTING. (a) On the  
9 approval of a grant under this subchapter and on the written request  
10 by the director, the comptroller shall issue a warrant drawn  
11 against the large county and municipality recreation and parks  
12 account and payable to the county, municipality, or nonprofit  
13 corporation in the amount specified by the director.

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

24       (c) The recipient of funds under this subchapter shall, on  
25 each anniversary date of the grant for five years after the grant is  
26 made, furnish to the department a comprehensive report detailing  
27 the present and anticipated use of the property, any contiguous

1 additions to the property, and any major changes in the character of  
2 the property, including the extent of park development that may  
3 have taken place.

4 Sec. 24.060. NONCOMPLIANCE WITH SUBCHAPTER. The attorney  
5 general shall file suit in a court of competent jurisdiction  
6 against a county, municipality, or nonprofit corporation that fails  
7 to comply with the requirements of this subchapter to recover the  
8 full amount of the grant plus interest on that amount of five  
9 percent a year accruing from the time of noncompliance or for  
10 injunctive relief to require compliance with this subchapter. If  
11 the court finds that the county, municipality, or nonprofit  
12 corporation has not complied with the requirements of this  
13 subchapter, it is not eligible for further participation in the  
14 program for three years following the finding for noncompliance.

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

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

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

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

27 ~~[(1) For the period beginning September 1, 1993, and~~

1 ~~ending August 31, 1995, an amount equal to 50 cents per 1,000~~  
2 ~~cigarettes shall be deposited to the credit of the general revenue~~  
3 ~~fund, state parks account, and an amount equal to 50 cents per 1,000~~  
4 ~~cigarettes shall be deposited to the credit of the general revenue~~  
5 ~~fund, Texas recreation and parks account, and the balance shall be~~  
6 ~~retained in the general revenue fund.~~

7           ~~[(2) Beginning September 1, 1995, the taxes collected~~  
8 ~~shall be]~~ credited to the Parks and Wildlife Department and  
9 deposited as specified in the Parks and Wildlife Code. ~~[The~~  
10 ~~comptroller shall not credit in excess of \$32 million in sporting~~  
11 ~~goods tax revenue annually to the Parks and Wildlife Department.]~~

12           SECTION 14. This Act takes effect September 1, 2007.