

By: Estes

S.B. No. 252

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

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

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

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

(6) any other source provided by law.

SECTION 2. Section 11.043(b), Parks and Wildlife Code, is 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 municipality recreation and parks  
6 account; and

7 (C) the Texas recreation and parks account; [7]

8 (2) proceeds of revenue bonds issued under Section  
9 13.0045; [7] 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 MUNICIPALITIES AND OTHER  
15 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, city,  
20 special district, river authority, or other governmental entity  
21 created under the authority of the state or a county or city.

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

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

27 (4) "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 (5) "Natural area" means a site having valuable or  
4 vulnerable natural resources, ecological processes, or rare,  
5 threatened, or endangered species of vegetation or wildlife.

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

12 (7) "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 (8) "Account" means the Texas recreation and parks  
19 account.

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

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

25 (11) "Nonprofit corporation" means a nonpolitical  
26 legal entity incorporated under the laws of this state that has been  
27 granted an exemption from federal income tax under Section 501(c),

1 Internal Revenue Code of 1986, as amended.

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

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

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

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

14 (2) any other political subdivision that is not a  
15 municipality.

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

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

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

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

26 SECTION 7. Section 24.005(e), Parks and Wildlife Code, is  
27 amended to read as follows:

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

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

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

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

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

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

1 received under this subchapter [~~chapter~~].

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

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

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

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

25 Sec. 24.013. AUTHORITY OF POLITICAL SUBDIVISIONS TO HAVE  
26 PARKS. This subchapter [~~chapter~~] does not authorize a political  
27 subdivision to acquire, develop, maintain, or operate a park,

1 recreational area, open space area, or natural area.

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

4 SUBCHAPTER B. PARKS FOR LARGE MUNICIPALITIES

5 Sec. 24.051. DEFINITIONS. In this subchapter:

6 (1) "Large municipality" means a municipality with a  
7 population of at least 500,000.

8 (2) "Political subdivision" means a county, city,  
9 special district, river authority, or other governmental entity  
10 created under the authority of the state or a county or city.

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

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

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

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

25 (7) "Federal rehabilitation and recovery grants"  
26 means matching grants made by the United States to or for political  
27 subdivisions for the purpose of rebuilding, remodeling, expanding,

1 or developing existing outdoor or indoor parks, recreational, or  
2 open space areas and facilities, including improvements in park  
3 landscapes, buildings, and support facilities.

4 (8) "Account" means the large municipality recreation  
5 and parks account.

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

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

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

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

21 Sec. 24.053. ACCOUNT REVENUE SOURCE; DEDICATION. The  
22 department shall deposit to the credit of the large municipality  
23 recreation and parks account:

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

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

27 Sec. 24.054. ASSISTANCE GRANTS. (a) The department may



1 make grants of money from the account to a large municipality for  
2 use by the municipality as all or part of the municipality's  
3 required share of funds for eligibility for receiving a federal  
4 rehabilitation and recovery grant.

5 (b) In order to receive a grant under this section, the  
6 municipality seeking the federal grant shall apply to the  
7 department for the grant and present evidence that the municipality  
8 qualifies for the federal grant.

9 (c) A grant under this section is conditioned on the  
10 municipality qualifying for and receiving the federal grant.

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

16 (b) In establishing the program of grants under this  
17 section, the department shall adopt rules and regulations for grant  
18 assistance.

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

22 (1) if the park, site, or area is owned or operated and  
23 maintained by the department and is being transferred by the  
24 commission for public use to the municipality for operation and  
25 maintenance; and

26 (2) during the period the commission determines to be  
27 necessary to effect the official transfer of the park, site, or

1 area.

2 (d) The department shall make grants of money from the  
3 account to a large municipality or to a nonprofit corporation for  
4 use in a large municipality for recreation, conservation, or  
5 education programs for underserved populations to encourage and  
6 implement increased access to and use of parks, recreational areas,  
7 cultural resource sites or areas, and open space areas by  
8 underserved populations.

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

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

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

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

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

1       Sec. 24.058. ACQUISITION OF PROPERTY. (a) No property may  
2 be acquired with grant money made under this subchapter or by the  
3 department under this subchapter if the purchase price exceeds the  
4 fair market value of the property as determined by one independent  
5 appraiser.

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

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

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

27       Sec. 24.059. PAYMENTS, RECORDS, AND ACCOUNTING. (a) On the

1 approval of a grant under this subchapter and on the written request  
2 by the director, the comptroller shall issue a warrant drawn  
3 against the large municipality recreation and parks account and  
4 payable to the municipality or nonprofit corporation in the amount  
5 specified by the director.

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

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

23 Sec. 24.060. NONCOMPLIANCE WITH ACT. The attorney general  
24 shall file suit in a court of competent jurisdiction against a large  
25 municipality or nonprofit corporation that fails to comply with the  
26 requirements of this subchapter to recover the full amount of the  
27 grant plus interest on that amount of five percent a year accruing

1 from the time of noncompliance or for injunctive relief to require  
2 compliance with this subchapter. If the court finds that the  
3 municipality or nonprofit corporation has not complied with the  
4 requirements of this subchapter, it is not eligible for further  
5 participation in the program for three years following the finding  
6 for noncompliance.

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

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

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

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

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

26 ~~[(2) Beginning September 1, 1995, the taxes collected~~  
27 ~~shall be] credited to the Parks and Wildlife Department and~~

1 deposited as specified in the Parks and Wildlife Code. [~~The~~  
2 ~~comptroller shall not credit in excess of \$32 million in sporting~~  
3 ~~goods tax revenue annually to the Parks and Wildlife Department.~~]

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