

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 24, 2007

TO: Honorable Tom Craddick, Speaker of the House, House of Representatives

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

IN RE: HB12 by Hilderbran (Relating to the funding, powers, duties, and responsibilities of the Parks and Wildlife Department and the Texas Historical Commission.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would establish a legislative task force on the use of the sporting goods sales tax for which two members would come from the House Cultural, Recreation, and Tourism and two members from House Appropriations Committee, to be appointed by Speaker of the House of Representatives; and, two members from the Senate Natural Resources Committee and two from the Senate Finance Committee, to be appointed by the Lieutenant Governor. The legislative task force would review issues related to the sporting goods sales tax, and the revenue needs of the state park system related to policy decisions of the 80th Legislature. The task force would be required to submit a report, with findings and recommendations, to the 81st Legislature no later than January 15, 2009. The bill would require that no additional sporting goods sales tax funds be dedicated to a specific purpose or account until the task force review is submitted to each member of the legislature.

The bill would require that the Texas Parks and Wildlife Department (TPWD) and the Texas Historical Commission (THC) assist a joint interim study by the legislative audit committee, and legislative committees with jurisdiction over the two agencies, of the need for and terms and conditions of any transfer of certain state historic sites. The report that would result from the review by the interim study must be submitted to the Governor, the Lieutenant Governor, and the members of the Legislature, as well as the governing boards and executive directors of the TPWD and the THC, no later than January 1, 2009. It is anticipated that these studies can be completed within existing resources.

The bill would add certain state park management-related provisions -- such as requirements to create an equipment review system, a maintenance provider review system, and a facility management plan and priorities list. It would also add certain reporting requirements, from the TPWD to the Governor and committees of the Legislature, associated with these provisions.

The equipment review system would involve annual assessments to determine whether maintenance equipment has become outdated. Outdated equipment identified would be sold and the proceeds would be deposited to the appropriate agency account.

The maintenance provider review would entail annual assessments to determine whether maintenance tasks performed by the agency could be done by a third-party contractor in a more cost-effective manner.

The priorities list would provide information on the additional funding needs identified and prioritized by the TPWD for state park facilities most in need of repair, renovation, expansion, or other maintenance.

Finally, the bill would require the TPWD to comply with the recommendations contained in the State Auditor's "An Audit Report on Financial Processes at the Parks and Wildlife Department", Report No.

07-02, contingent on the agency receiving sufficient funding to implement the recommendations.

The aforementioned park management requirements are anticipated to improve the efficiency of the state park system. The fiscal impact resulting from this improved efficiency cannot be quantified at this time.

Other provisions such as the TPWD giving preference to capital projects in state parks in which state funding is matched equally with local funding; increasing park visitation; improving revenue from state park concessions operated by agency staff or private vendors; use of inmate labor; and enhancements to the agency's park reservation system, have the potential to increase the efficiency of the state park system. The fiscal impact resulting from this improved efficiency cannot be quantified at this time.

The bill would amend the Parks and Wildlife code relating to a program to control or eradicate nuisance aquatic vegetation. The bill would direct the TPWD to establish a program to control or destroy harmful aquatic plants including hydrilla and giant sylvania from public waters in Texas. The bill would authorize TPWD to fund this program from its' appropriation from unclaimed refunds on motorboat fuel taxes. According to the agency, TPWD already has a program in place to control harmful aquatic vegetation, therefore, no significant fiscal implication to the State is anticipated.

The bill would amend the Parks and Wildlife Code relating to the use of unexpended income at the end of the biennium at Palo Duro Canyon State Park for operating expenses and other purposes at other parks, state natural areas, and historic sites statewide. According to the TPWD, the cost of operating Palo Duro Canyon State Park (i.e., operating expenses, major and minor repair and direct support costs) exceed the revenues derived from leases, royalties and operations of the park.. Since the Palo Duro Canyon State Park does not at present fully recover its' operating costs with revenue, no unexpended income is estimated to be available at the end of the 2008-09 or future biennia. To the extent the bill would direct the TPWD to monitor disposition of income or revenue loss at Palo Duro Canyon State Park, the fiscal implication to the State is not anticipated to be significant.

The bill would amend the Parks and Wildlife Code to regulate commercially operated party boats on inland waters as defined. The bill would require the Texas Parks and Wildlife Commission to set rules to implement new requirements which would hold a boat operator legally liable for personal injury and property damage as a result of intoxicated individuals. An operator license and part boat safety inspection would be required, together with accompanying fees.

According to the TPWD, the bill would generate revenue from new fees in an amount estimated to be \$56,250 per year, for approximately 250 boats affected (annual license fees estimated at \$125 per unit and inspection fees at \$100 per unit). TPWD reports the bill could cost as much as \$150,000 in fiscal year 2008 to program the agency's license system to accommodate new license and inspection fees; however, this estimate assumes implementation of the bill could be absorbed within the agency's existing resources. To the extent the bill would create new regulations for commercially operated boats; no significant fiscal implication to the State is anticipated.

The bill would continue the Texas Historical Commission (THC) for 12 years. The bill requires the THC to adopt rules and develop guidelines governing the relationship between the agency and associated nonprofit organizations. It is anticipated that the agency could accomplish this requirement of the bill using existing resources.

The bill would require the THC to develop statewide themes for the historical marker program, limit the number of markers awarded each year, and establish rules for the marker application process. A limit in the number of historical makers awarded could result in a reduction in appropriated receipts received by the agency for the marker program. However, no significant fiscal impact to the state is anticipated as these appropriated receipts are used to cover the costs of awarded markers. It is anticipated that the agency could accomplish required changes to the historical marker program using existing resources.

Currently, funds in GR Account 0664—Texas Preservation Trust are subject to the State Funds Reform Act, limiting the earnings potential to that of the General Revenue Fund 0001. Because the

rate of return under expanded investment authority is unknown, the fiscal impact on the state cannot be estimated. The bill would amend Section 442.015 of the Government Code to allow the Comptroller to manage the assets in GR Account 0664—Texas Preservation Trust under the provisions commonly referred to as the "prudent investor rule."

The bill would specify that the amount of a distribution would be determined by the Comptroller in a manner intended to provide a stable and predictable stream of annual distributions and to maintain over time the purchasing power of account investments and annual distributions from the account.

The bill would provide that if the purchasing power of account investments for any 10-year period was not preserved, the Comptroller could not increase annual distributions from the account until the purchasing power of account investments had been restored. The bill would also specify that an annual distribution made by the Comptroller from the account during a fiscal year could not exceed an amount equal to 7 percent of the average net fair market value of the investment assets of the account, as determined by the Comptroller.

The Historical Commission stated that the bill could potentially produce a positive impact of \$500,000.00 per year on the Texas Preservation Trust Fund account, thereby increasing the number of grants made available through this fund.

The bill would amend Government Code, Chapter 614 which would require the state law enforcement agencies (the Department of Public Safety, the Department of Criminal Justice, the Alcoholic Beverage Commission, and the Parks and Wildlife Department) to adopt physical fitness standards for Schedule C and some Schedule B employees out of appropriated funds. The bill states that the standards must directly relate to the officer's job duties. Any violation of these standards would be a just cause to discharge the officer, transfer of the officer to a position that is not compensated according to Schedule C, or for employees of the Parks and Wildlife Department transfer to a position that does not require a commissioned peace officer. The bill would exempt a law enforcement officer from these standards based on facts and circumstances of the individual case, including an injury in the line of duty. The bill would require the state law enforcement agencies to adopt the standards not later than November 1, 2008.

The Department of Public Safety and the Department of Criminal Justice anticipate that the bill would have no significant fiscal impact on state or local government. The Texas Alcohol and Beverage Commission states that the provisions in the bill would cost their agency \$70,000 in fiscal year 2008 and the Parks and Wildlife Department states it would cost their agency \$72,000 in fiscal year 2008. This analysis assumes these costs can be absorbed within existing agency resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 802 Parks and Wildlife Department, 347 Public Finance Authority, 808 Historical Commission

LBB Staff: JOB, WK, RN, CT, ZS