

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION
Revision 1

May 27, 2007

TO: Honorable David Dewhurst , Lieutenant Governor, Senate
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 parks, wildlife, hunting, and historic sites; the funding, powers, and duties of the Parks and Wildlife Department, the Parks and Wildlife Commission, and the Texas Historical Commission; and standards for certain state law enforcement officers; providing a criminal penalty.), **Conference Committee Report**

Estimated Two-year Net Impact to General Revenue Related Funds for HB12, Conference Committee Report: a negative impact of (\$4,200,000) through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	(\$1,950,000)
2009	(\$2,250,000)
2010	\$0
2011	\$0
2012	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>GENERAL REVENUE FUND 1</i>	Probable Savings/ (Cost) from <i>GENERAL REVENUE FUND 1</i>	Probable Revenue Gain/(Loss) from <i>GAME, FISH, WATER SAFETY AC 9</i>	Probable Revenue Gain/(Loss) from <i>STATE PARKS ACCT 64</i>
2008	(\$14,450,000)	\$12,500,000	\$126,250	\$14,450,000
2009	(\$14,750,000)	\$12,500,000	\$126,250	\$14,750,000
2010	\$0	\$0	\$126,250	\$0
2011	\$0	\$0	\$126,250	\$0
2012	\$0	\$0	\$126,250	\$0

Fiscal Year	Probable Savings/ (Cost) from STATE PARKS ACCT 64	Probable Savings/ (Cost) from LOCAL PARKS ACCOUNT 467	Probable Revenue Gain/(Loss) from PARKS/WILDLIFE CAP ACCT 5004	Probable Revenue Gain/(Loss) from Historic Site Account New GR-D Account
2008	(\$11,740,300)	(\$9,550,000)	(\$2,050,000)	\$6,750,720
2009	(\$15,765,300)	(\$9,550,000)	(\$2,050,000)	\$6,999,120
2010	\$0	\$0	\$0	\$0
2011	\$0	\$0	\$0	\$0
2012	\$0	\$0	\$0	\$0

Fiscal Year	Probable Savings/ (Cost) from Historic Site Account New General Revenue Dedicated Account	Change in Number of State Employees from FY 2007
2008	(\$6,750,000)	35.0
2009	(\$6,999,120)	35.0
2010	\$0	35.0
2011	\$0	35.0
2012	\$0	35.0

Fiscal Analysis

The bill would amend Section 151.80 of the Tax Code to remove the current \$32 million cap on the use of proceeds from the sporting goods sales tax (SGST). Total SGST proceeds would be credited as follows: 94 percent to the Texas Parks and Wildlife Department (TPWD) and 6 percent to the Texas Historical Commission (THC), although the actual credits could not exceed the amounts appropriated by the Legislature.

The amounts credited to the TPWD and the THC could not be in excess of the amount appropriated to either agency, less any other amounts to which either agency is entitled.

It would also amend the Parks and Wildlife Code Chapters 11 and 24 such that the portion of the SGST credited to the TPWD would be allocated as follows: 74 percent to the State Parks Account No. 64; 15 percent to the Texas Recreation and Local Parks Account No. 467; 10 percent to a new Large County and Municipality Recreation and Parks Account; and 1 percent to the Parks and Wildlife Conservation and Capital Account No. 5004.

The bill would allow the Legislature to adjust the percentage of SGST allocated to the TPWD and THC in future appropriations to reflect transfer of other historical sites and the associated savings or costs to each agency.

The THC credit would be deposited into a new "Historic Site Account" consisting of SGST deposits, transfers to the account, interest earnings, fees and other revenue from historic sites, and grants and donations to the THC. Money in the new account would be used by the THC to administer, operate, preserve, repair, expand, and maintain historic sites, and acquire a historical item appropriate to a historic site.

Both the new Historic Site Account, and the new Large County and Municipality Recreation and Parks Account, as dedicated accounts in the General Revenue Fund, would be subject to funds consolidation review by the current legislature under Section 403.094 of the Government Code.

The bill would amend Chapter 442 of the Government Code to transfer 18 historical sites from the Texas Parks and Wildlife Department (TPWD) to the Texas Historical Commission (THC) effective January 1, 2008.

The bill would waive any restrictions on the use of money in the two of the accounts administered by the TPWD (i.e. the account for local parks and the account for state park capital projects) so that a one-time appropriation of unencumbered balances from the two accounts could be used to repair, renovate, and maintain state historic sites and state parks. This appropriation would have to be

authorized by a rider in the General Appropriations Act for the 2008-2009 biennium, contingent on passage of House Bill 12 or similar legislature.

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 to be submitted to the Legislature at the beginning of each legislative session.

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.

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.

The bill would amend the Parks and Wildlife Code to require a permit for the possession or transport of live, non-indigenous venomous snakes or constrictors in Texas. The Texas Parks and Wildlife Department (TPWD) would be required to establish separate permits for recreational and commercial purposes, and to issue the permits no later than April 1, 2008.

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 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 markers 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 per year on the Texas Preservation Trust Fund account, thereby increasing the number of grants made available through this fund.

Methodology

Because the bill would both remove the Sporting Goods Sales Tax cap and make allocations from the tax subject to appropriations, the fiscal impact of these provisions can be assessed in reference to the General Appropriations Act for the 2008-09 biennium. The Conference Committee Report on House Bill 1, the General Appropriations Act for the 2008-09 biennium, contains an appropriation rider that is contingent upon passage of House Bill 12 or similar legislation. The rider, Section 19.81, Article IX, of the House Bill 1 appropriates \$29.2 million out of the Sporting Goods Sales Tax to State Parks Account No. 64. This amount is reflected in the fiscal impact table as a revenue loss to General Revenue and a gain to the State Parks Account No.64 for fiscal years 2008 and 2009.

A savings of \$25 million to GR would result from replacing GR for coastal erosion programs at the General Land Office with interagency funds (additional sporting goods sales tax receipts to State Parks Account 64) from TPWD.

House Bill 12 also allows for the one-time use of unexpended account balances in the three major park-related accounts. The same Article IX contingency rider also appropriates \$27.4 million from unexpended balances in the State Parks Account No. 64, the Texas Recreation and Parks Account No. 467, and the Parks and Wildlife Conservation and Capital Account No. 5004. These amounts are reflected in the fiscal impact table as costs to each of the accounts for fiscal year 2008 and 2009.

The two contingency appropriations, \$29.2 million and \$27.4 million, are to be used for Coastal Erosion Projects, State Parks Operations, Minor Repairs, and Land Acquisition.

The same Article IX rider appropriates \$6,750,720 in fiscal year 2008 and \$6,999,120 in fiscal year 2009 to the Texas Historical Commission as a source of funding for operating, administrative, and employee benefit costs associated with the 18 historic sites that would be transferred under House Bill 12. These amounts are reflected as revenue gains and costs to the new Historic Site Account. Also, the rider appropriates \$34 million in General Obligation Bonds for the 2008-09 biennium, contingent on legislation transferring the 18 historic sites from TPWD to THC. However, since the appropriation for the bonds and related debt service requirements are provided for in House Bill 1, these costs are therefore not reflected in the fiscal impact table.

The Conference Committee Report for House Bill 1 includes an estimated \$2,809,700 per fiscal year for TPWD to administer and operate the 18 historic sites TPWD. These amounts are reflected as a savings to State Parks Account No. 64, given that the Article IX rider reduces appropriations to TPWD by that amount each fiscal year.

The net impact on State Parks Account No. 64 is calculated by subtracting the savings from the historic site transfer, \$2,809,700, from the cost of additional appropriations, \$14,450,000 and \$14,750,000 in fiscal years 2008 and 2009 respectively; and the cost of using unexpended balances from the account, \$100,000 and \$4,100,000 from the aforementioned fiscal years. This results in a net cost to State Parks Account No. 64 of \$11,740,300 in fiscal year 2008 and \$15,765,300 in fiscal year 2009.

The FTE cap for the THC would be increased by 100 FTEs related to the historic site transfer, while the TPWD FTE cap would be reduced by 65 FTEs. Consequently there would be a net increase of 35 FTEs.

A provision of House Bill 12 that would make allocations from the Sporting Goods Sales Tax subject to appropriations would be repealed if a future Legislature passes a bill that implements the recommendations of a legislative task force that will study state and local park funding needs. The outcome of the study and its recommendations related to the Sporting Goods Sales Tax cannot be foreseen at this time; therefore the fiscal impact after the 2008-09 biennium to the General Revenue Fund, as well as all of the other funds mentioned previously, cannot be determined.

The equipment and maintenance provider reviews, as well as the implementation of the State Auditors Office March 2007 audit of the TPWD, would result in additional costs to the agency. However, the agency is unable to quantify these amounts.

TPWD currently has no regulatory authority concerning non-indigenous venomous snakes and constrictors, and as such, does not maintain statistics regarding the possible number of owners of such snakes. However, the agency estimates that this provision would result in an anticipated revenue gain to the Game, Fish and Water Safety Account No. 9 of \$126,250 in each year.

Local Government Impact

The bill could result in additional funding for local parks to the extent that additional amounts are appropriated in connection with removal of the Sporting Goods Sales Tax.

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

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