

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Hilderbran, Guillen, Chisum, Turner,  
Cook of Navarro, et al.

H.B. No. 12

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the funding, powers, duties, and responsibilities of  
3 the Parks and Wildlife Department and the Texas Historical  
4 Commission.

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

6 SECTION 1. Subchapter A, Chapter 442, Government Code, is  
7 amended by adding Sections 442.0051, 442.0052, and 442.0053 to read  
8 as follows:

9 Sec. 442.0051. FEES. The commission by rule may establish  
10 reasonable fees for commission purposes under this chapter,  
11 including an admission fee appropriate to a historic site under its  
12 jurisdiction.

13 Sec. 442.0052. VOLUNTEER SERVICES. (a) Except as provided  
14 by Subsection (b), the commission may use the services of  
15 volunteers to help carry out the duties and responsibilities of the  
16 commission.

17 (b) A volunteer may not enforce this code.

18 Sec. 442.0053. ELIGIBILITY CRITERIA FOR INCLUSION OF REAL  
19 PROPERTY IN STATE HISTORIC SITES SYSTEM. (a) The commission by  
20 rule shall adopt criteria for determining the eligibility of real  
21 property donated to the commission for inclusion in the historic  
22 sites system.

23 (b) The commission may accept a donation of real property  
24 that satisfies the criteria adopted under Subsection (a).

1        (c) The commission may renovate or restore donated real  
2 property, including improvements to the property, or construct  
3 improvements on the donated real property as necessary and prudent.

4        SECTION 2. Chapter 442, Government Code, is amended by  
5 adding Subchapter C to read as follows:

6                    SUBCHAPTER C. CERTAIN HISTORIC SITES

7        Sec. 442.071. DEFINITION. In this subchapter, "historic  
8 site" means a site or park listed under Section 442.072.

9        Sec. 442.072. JURISDICTION. (a) The following historic  
10 sites and parks formerly under the jurisdiction of the Parks and  
11 Wildlife Department are under the commission's jurisdiction:

- 12                    (1) Acton State Historic Site;
- 13                    (2) Caddoan Mounds State Historic Site;
- 14                    (3) Casa Navarro State Historic Site;
- 15                    (4) Confederate Reunion Grounds State Historic Site;
- 16                    (5) Eisenhower Birthplace State Historic Site;
- 17                    (6) Fannin Battleground State Historic Site;
- 18                    (7) Fort Griffin State Historic Site;
- 19                    (8) Fort Lancaster State Historic Site;
- 20                    (9) Fort McKavett State Historic Site;
- 21                    (10) Fulton Mansion State Historic Site;
- 22                    (11) Landmark Inn State Historic Site;
- 23                    (12) Levi Jordan State Historic Site;
- 24                    (13) Magoffin Home State Historic Site;
- 25                    (14) Sabine Pass Battleground State Historic Site;
- 26                    (15) Sam Bell Maxey House State Historic Site;
- 27                    (16) San Felipe State Historic Site;

1           (17) Starr Family Home State Historic Site;

2           (18) Varner-Hogg Plantation State Historic Site.

3           (b) This subsection applies to a historic site that the  
4 state is required to operate in a particular manner or for a  
5 particular purpose, such as a site improved with federal money  
6 subject to federal restrictions on the purposes for which the  
7 improved site may be used or a site donated to the state subject to a  
8 reversion clause providing that the title reverts to the grantor  
9 when the site is not used for the purposes for which it was  
10 acquired. The commission has all powers necessary to operate the  
11 site in the required manner or for the required purpose.

12           (c) The commission may enter into an agreement with a  
13 nonprofit corporation, foundation, association, or other nonprofit  
14 entity for the expansion, renovation, management, operation, or  
15 financial support of a historic site.

16           Sec. 442.073. HISTORIC SITE ACCOUNT. (a) The historic site  
17 account is a separate account in the general revenue fund.

18           (b) The account consists of:

19                   (1) credits made to the commission under Section  
20 151.801, Tax Code;

21                   (2) transfers to the account;

22                   (3) interest earned on the account;

23                   (4) fees and other revenue from operation of a  
24 historic site; and

25                   (5) grants and donations accepted under Section  
26 442.074.

27           (c) A fee or other revenue generated at a historic site must

1 be credited to the account.

2 (d) Money in the account may be used only to administer,  
3 operate, preserve, repair, expand, or otherwise maintain a historic  
4 site or to acquire a historical item appropriate to a historic site.

5 (e) Any money in the account not used in a fiscal year  
6 remains in the account. The account is exempt from the application  
7 of Section 403.095.

8 Sec. 442.074. GRANTS; DONATIONS. (a) The commission may  
9 seek and accept grants and donations for a historic site from any  
10 appropriate source.

11 (b) Money accepted under this section shall be deposited to  
12 the credit of the historic site account.

13 SECTION 3. Section 442.019, Government Code, as added by  
14 Chapter 1259, Acts of the 79th Legislature, Regular Session, 2005,  
15 is transferred to Subchapter C, Chapter 442, Government Code, as  
16 added by this Act, renumbered as Section 442.075, Government Code,  
17 and amended to read as follows:

18 Sec. 442.075 [~~442.019~~]. TRANSFER OF HISTORIC [~~HISTORICAL~~]  
19 SITES FROM PARKS AND WILDLIFE. (a) Section 442.071 does not apply  
20 to this section.

21 (b) By interagency agreement, a historic [~~historical~~] site  
22 under the jurisdiction of the Parks and Wildlife Department may be  
23 transferred to the commission.

24 (c) [~~(b)~~] If jurisdiction over a historic [~~historical~~] site  
25 is transferred under this section, all rights, powers, duties,  
26 obligations, functions, activities, property, and programs of the  
27 Parks and Wildlife Department relating to the [~~historical~~] site are

1 transferred to the commission.

2 (d) [~~(c)~~] On or after the transfer of jurisdiction over a  
3 historic [~~historical~~] site, the commission may enter into an  
4 agreement with a nonprofit corporation, including the Admiral  
5 Nimitz Foundation, for the expansion, renovation, management,  
6 operation, or financial support of the site.

7 (e) The legislature may adjust the percentages allocated to  
8 the commission and the Parks and Wildlife Department under Section  
9 151.801(c), Tax Code, in future appropriations to reflect the  
10 transfer of a site under this section and the associated savings or  
11 costs to each agency.

12 SECTION 4. Section 651.004, Government Code, is amended by  
13 adding Subsection (f) to read as follows:

14 (f) The Parks and Wildlife Department is not required to  
15 comply with management-to-staff ratio requirements of this section  
16 with respect to employees located in field-based operations.

17 SECTION 5. Section 11.0262(a), Parks and Wildlife Code, is  
18 amended to read as follows:

19 (a) An employee of the state parks division of the  
20 department may accept a gratuity if:

21 (1) the employee, as a primary job duty, serves food or  
22 beverages in a restaurant, cafeteria, or other food service  
23 establishment located within a state park and owned and operated by  
24 the department;

25 (2) the employee, as an auxiliary duty in performance  
26 of a regular duty renders a special customer service to an  
27 individual or group;

1           (3) the gratuity is offered by a customer;

2           (A) of the restaurant, cafeteria, [~~or other~~] food  
3 service establishment, or hospitality unit of the state parks  
4 division in appreciation of being served food or beverages by the  
5 employee; or

6           (B) of a hospitality unit of the state parks  
7 division, in appreciation of receiving some other customer service  
8 from the employee;

9           (4) [~~(3)~~] the department has designated the employee  
10 as an employee authorized to accept a gratuity; and

11           (5) [~~(4)~~] the employee reports the gratuity in  
12 accordance with commission rules.

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

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

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

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

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

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

27           (5) an amount of money equal to 74 [~~\$1,125,000 per~~

1 ~~month and 40]~~ percent of the [~~amount above \$27 million per year of]~~  
2 credits made to the department under Section 151.801, Tax Code; and

3 (6) any other source provided by law.

4 SECTION 7. Section 11.043(b), Parks and Wildlife Code, is  
5 amended to read as follows:

6 (b) The account consists of:

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

9 (A) the state parks account;

10 (B) the large county and municipality recreation  
11 and parks account; and

12 (C) the Texas recreation and parks account;

13 (2) [~~r~~] proceeds of revenue bonds issued under Section  
14 13.0045; and

15 (3) money from [~~r~~ ~~or~~] any other source authorized by  
16 law.

17 SECTION 8. Chapter 11, Parks and Wildlife Code, is amended  
18 by adding Subchapter K to read as follows:

19 SUBCHAPTER K. MANAGEMENT AND EFFICIENCY REVIEWS

20 Sec. 11.251. MAINTENANCE EQUIPMENT REVIEW SYSTEM. (a) In  
21 this section:

22 (1) "Maintenance equipment" means personal property  
23 owned by the department that is used to administer, operate,  
24 preserve, repair, expand, or otherwise maintain real property,  
25 including improvements and fixtures, owned or operated by the  
26 department.

27 (2) "Outdated equipment" means equipment:

1           (A) that has a fair market value that is less than  
2 the annual cost of maintaining the equipment in working order;

3           (B) that is not operational and cannot reasonably  
4 be made operational; or

5           (C) that no longer serves a department purpose.

6           (b) The commission by rule shall establish an equipment  
7 review system through which the department annually determines  
8 whether any of the department's maintenance equipment has become  
9 outdated equipment since the last date the department conducted an  
10 equipment review under this section.

11           (c) The equipment review system established under  
12 Subsection (b) must require the department to sell any outdated  
13 equipment in the manner and at the time specified by the commission  
14 by rule.

15           (d) The department shall deposit proceeds from the sale of  
16 equipment under this section to the credit of the appropriate parks  
17 and wildlife account.

18           Sec. 11.252. MAINTENANCE PROVIDER REVIEW SYSTEM. (a) In  
19 this section "maintenance" includes the administration, operation,  
20 preservation, repair, and expansion of personal property owned by  
21 the department and real property owned or operated by the  
22 department.

23           (b) The commission by rule shall establish a maintenance  
24 provider review system through which the department annually  
25 determines whether a maintenance task performed by the department  
26 could be performed by a third-party contractor in a manner that:

27           (1) is more cost-effective than the department's

1 manner of performing the maintenance task; and

2 (2) yields a result that is equal to or greater than  
3 the quality of the result produced by the department performing the  
4 task.

5 (c) The maintenance provider review system established  
6 under Subsection (b) must require the department to contract with a  
7 third party for the performance of any maintenance task performed  
8 by the department that could be performed by a third-party  
9 contractor in the manner that meets the criteria described by  
10 Subsection (b) after the department's cost of administering the  
11 contract is added to the cost of performance by the third party.

12 Sec. 11.253. MANAGEMENT PLAN AND PRIORITIES LIST. Not  
13 later than January 15 of each odd-numbered year the department  
14 shall submit to the governor, the speaker of the house of  
15 representatives, the lieutenant governor, and the chair of each  
16 house and senate standing committee having jurisdiction over a  
17 matter regulated by the department under this code a management  
18 plan to address the department's maintenance responsibilities  
19 under this subchapter and a priorities list that includes the  
20 following information:

21 (1) a prioritized list of facilities operated by the  
22 department that are most in need of repair, renovation, expansion,  
23 or other maintenance;

24 (2) an itemized list explaining any additional funding  
25 requested by the department to accomplish a task described by  
26 Subdivision (1); and

27 (3) the results of the reviews conducted under

1 Sections 11.251, 11.252, and 13.019(b).

2 SECTION 9. Subchapter A, Chapter 13, Parks and Wildlife  
3 Code, is amended by adding Section 13.0044 to read as follows:

4 Sec. 13.0044. PREFERENCE FOR CERTAIN PARK PROGRAMS. In  
5 selecting parks for capital improvements, the department may give a  
6 preference to programs in which the department matches locally  
7 raised money on a dollar-for-dollar basis.

8 SECTION 10. Section 13.0061(a), Parks and Wildlife Code, is  
9 amended to read as follows:

10 (a) The department may lease grazing rights on any state  
11 park or any area of a state park. The department may harvest and  
12 sell, or sell in place, any timber, hay, livestock, or other product  
13 grown on state park land the department finds to be in excess of  
14 natural resource management, educational, or interpretive  
15 objectives [~~programming needs~~]. Timber may be harvested only for  
16 forest pest management, salvage, or habitat restoration and under  
17 good forestry practices with the advice of the Texas Forest  
18 Service.

19 SECTION 11. Subchapter A, Chapter 13, Parks and Wildlife  
20 Code, is amended by adding Section 13.0075 to read as follows:

21 Sec. 13.0075. ELIGIBILITY CRITERIA FOR INCLUSION OF REAL  
22 PROPERTY IN STATE PARKS SYSTEM. (a) The commission by rule shall  
23 adopt criteria for determining the eligibility of real property  
24 that is donated to the department for inclusion in the state parks  
25 system.

26 (b) The department may accept a donation of real property  
27 that satisfies the criteria adopted under Subsection (a).

1       (c) The department may renovate or restore donated real  
2 property, including improvements to the property, or construct  
3 improvements on the donated real property as necessary and prudent.

4       SECTION 12. Subchapter A, Chapter 13, Parks and Wildlife  
5 Code, is amended by adding Section 13.0145 to read as follows:

6       Sec. 13.0145. SPEED LIMITS. (a) The department shall set  
7 and enforce speed limits on a road in a state park, wildlife  
8 management area, or other site under the control of the department  
9 as follows:

10           (1) 30 miles per hour on a park road or main drive;

11           (2) 20 miles per hour on a secondary road; or

12           (3) as posted by the department.

13       (b) The department shall:

14           (1) consult with the Texas Department of  
15 Transportation to determine if a speed limit under Subsection (a)  
16 is reasonable and safe based on an engineering and traffic control  
17 study; and

18           (2) amend the limit, if necessary.

19       SECTION 13. Section 13.015, Parks and Wildlife Code, is  
20 amended by amending Subsection (b) and adding Subsections (a-1),  
21 (b-1), (b-2), and (b-3) to read as follows:

22       (a-1) The department may promote visits and enhance revenue  
23 at parks, including amounts necessary for salaries, advertising,  
24 consumable supplies and materials, promotional products, fees, and  
25 related expenses.

26       (b) The department may operate or grant contracts to operate  
27 concessions in state parks or on causeways, beach drives, or other

1 improvements in connection with state park sites. The department  
2 may make regulations governing the granting or operating of  
3 concessions. The department may establish and operate staff  
4 concessions, including salaries, consumable supplies and  
5 materials, operating expenses, rental and other equipment, and  
6 other capital outlays.

7 (b-1) The department may purchase products, including food  
8 items, for resale or rental at a profit.

9 (b-2) The department shall operate any resale concession  
10 program using standard business practice models to generate revenue  
11 and provide quality customer service while adhering to conservation  
12 principles.

13 (b-3) The department may recruit and select private service  
14 providers to enter into leased concession contracts with the  
15 department to provide necessary and appropriate visitor services.

16 SECTION 14. Section 13.016, Parks and Wildlife Code, is  
17 amended to read as follows:

18 Sec. 13.016. INMATE [~~PRISON~~] LABOR. (a) The department may  
19 use the labor of an inmate confined in a state, county, or local  
20 correctional facility [~~trustee state convicts~~] on or in connection  
21 with state parks, wildlife management areas, or other property  
22 under the control or jurisdiction of the department.

23 (b) Inmates [~~Convicts~~] working in connection with lands  
24 under the control or jurisdiction of the department remain under  
25 the control of the Texas Department of Criminal Justice or county or  
26 local correctional facility, as appropriate, and are considered as  
27 serving their terms in the Texas Department of Criminal Justice or

1 other correctional facility [penitentiary].

2 (c) The department may purchase equipment, meals, supplies,  
3 and materials for an inmate working at a department site as  
4 necessary to facilitate the use of the labor described by this  
5 section.

6 (d) The department may not use the labor of an inmate  
7 convicted of an offense listed in Article 62.001(5), Code of  
8 Criminal Procedure.

9 (e) The department may not use the labor of an inmate  
10 convicted of any violent offense.

11 SECTION 15. Section 13.019, Parks and Wildlife Code, is  
12 amended to read as follows:

13 Sec. 13.019. FACILITY RESERVATION SYSTEM AND FEE. (a) The  
14 department may permit the advance reservation of a facility,  
15 lodging, or campsite at a state park and require the payment of a  
16 fee by a person making the reservation.

17 (b) The department shall annually:

18 (1) evaluate whether the reservation system used by  
19 the department for the advance reservation of facilities, lodging,  
20 and campsites is as user-friendly as possible; and

21 (2) make modifications to the system as necessary to  
22 enhance the user-friendliness of the reservation system.

23 SECTION 16. Subchapter A, Chapter 13, Parks and Wildlife  
24 Code, is amended by adding Section 13.0191 to read as follows:

25 Sec. 13.0191. FACILITY AND LODGING FEES. A fee charged by  
26 the department under this subchapter for the use of a facility or  
27 lodging at a state park may vary on a seasonal basis and may be set

1 in an amount to recover the direct and indirect costs of providing  
2 the facility or lodging and provide a reasonable rate of return to  
3 the department. Items to be considered in setting a fee include the  
4 cost required to provide, maintain, and improve amenities available  
5 at the site and seasonal variables such as the cost of staffing to  
6 meet demand and costs of heating or air conditioning.

7 SECTION 17. Chapter 24, Parks and Wildlife Code, is amended  
8 by designating Sections 24.001 through 24.013 as Subchapter A and  
9 adding a heading for Subchapter A to read as follows:

10 SUBCHAPTER A. LOCAL PARKS FOR SMALLER COUNTIES AND MUNICIPALITIES  
11 AND OTHER POLITICAL SUBDIVISIONS

12 SECTION 18. Section 24.001, Parks and Wildlife Code, is  
13 amended to read as follows:

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

15 (1) "Political subdivision" means a county,  
16 municipality [~~city~~], special district, river authority, or other  
17 governmental entity created under the authority of the state or a  
18 county or municipality [~~city~~].

19 (2) "Urban area" means the area within a standard  
20 metropolitan statistical area (SMSA) in this state used in the last  
21 preceding federal census.

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

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

27 (5) "Natural area" means a site having valuable or

1 vulnerable natural resources, ecological processes, or rare,  
2 threatened, or endangered species of vegetation or wildlife.

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

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

15 (8) "Account" means the Texas recreation and parks  
16 account.

17 (9) "Rural area" means any area not included in an  
18 urban area.

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

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

26 (12) "Underserved population" means any group of  
27 people that is low income, inner city, or rural as determined by the

1 last census, or minority, physically or mentally challenged youth  
2 at risk, youth, or female.

3 SECTION 19. Section 24.002, Parks and Wildlife Code, is  
4 amended to read as follows:

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

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

11 (2) any other political subdivision that is not a  
12 county or municipality.

13 SECTION 20. Section 24.003, Parks and Wildlife Code, is  
14 amended to read as follows:

15 Sec. 24.003. ACCOUNT REVENUE SOURCE; REVENUE DEDICATION.  
16 The department shall deposit to the credit of the Texas recreation  
17 and parks account:

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

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

23 SECTION 21. Section 24.005(e), Parks and Wildlife Code, is  
24 amended to read as follows:

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

1 SECTION 22. Section 24.008(a), Parks and Wildlife Code, is  
2 amended to read as follows:

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

7 SECTION 23. Section 24.009, Parks and Wildlife Code, is  
8 amended to read as follows:

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

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

26 (c) The recipient of funds under this subchapter [~~chapter~~]  
27 shall, on each anniversary date of the grant for five years after

1 the grant is made, furnish to the department a comprehensive report  
2 detailing the present and anticipated use of the property, any  
3 contiguous additions to the property, and any major changes in the  
4 character of the property, including the extent of park development  
5 which may have taken place.

6 SECTION 24. Section 24.011, Parks and Wildlife Code, is  
7 amended to read as follows:

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

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

22 Sec. 24.013. AUTHORITY OF POLITICAL SUBDIVISIONS TO HAVE  
23 PARKS. This subchapter [~~chapter~~] does not authorize a political  
24 subdivision to acquire, develop, maintain, or operate a park,  
25 recreational area, open space area, or natural area.

26 SECTION 26. Chapter 24, Parks and Wildlife Code, is amended  
27 by adding Subchapter B to read as follows:

1           SUBCHAPTER B. PARKS FOR LARGE COUNTIES AND MUNICIPALITIES

2           Sec. 24.051. DEFINITIONS. In this subchapter:

3           (1) "Account" means the large county and municipality  
4 recreation and parks account.

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

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

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

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

23           (7) "Open space area" means a land or water area for  
24 human use and enjoyment that is relatively free of man-made  
25 structures.

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

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

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

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

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

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

- 23           (1) an amount of money equal to 10 percent of the  
24 credits made to the department under Section 151.801, Tax Code; and  
25           (2) money from any other source authorized by law.

26           Sec. 24.054. ASSISTANCE GRANTS. (a) The department may  
27 make grants of money from the account to a large county or

1 municipality for use by the county or municipality as all or part of  
2 the county's or municipality's required share of funds for  
3 eligibility for receiving a federal rehabilitation and recovery  
4 grant.

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

9 (c) A grant under this section is conditioned on the county  
10 or 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 county or municipality to provide one-half of the costs of the  
14 planning, acquisition, or development of a park, recreational area,  
15 or open space area to be owned and operated by the county or  
16 municipality.

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

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

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

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

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

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

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

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

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

27           (2) a written statement is obtained from the regional

1 planning commission having jurisdiction of the area in which the  
2 property is to be acquired and developed that the acquisition and  
3 development is consistent with local needs.

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

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

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

24 (d) All land or water purchased with assistance from the  
25 account shall be dedicated for park, recreational, cultural  
26 resource, indoor recreation center, and open space purposes in  
27 perpetuity and may not be used for any other purpose, except where

1 the use is compatible with park, recreational, cultural resource,  
2 and open space objectives, and the use is approved in advance by the  
3 department.

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

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

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

27 Sec. 24.060. NONCOMPLIANCE WITH SUBCHAPTER. The attorney

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

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

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

18 SECTION 27. Section 151.801(c), Tax Code, is amended to  
19 read as follows:

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

23 (1) an amount equal to 94 percent of the proceeds [~~For~~  
24 ~~the period beginning September 1, 1993, and ending August 31, 1995,~~  
25 ~~an amount equal to 50 cents per 1,000 cigarettes shall be deposited~~  
26 ~~to the credit of the general revenue fund, state parks account, and~~  
27 ~~an amount equal to 50 cents per 1,000 cigarettes shall be deposited~~

1 ~~to the credit of the general revenue fund, Texas recreation and~~  
2 ~~parks account, and the balance shall be retained in the general~~  
3 ~~revenue fund.~~

4 ~~[(2) Beginning September 1, 1995, the taxes collected]~~  
5 shall be credited to the Parks and Wildlife Department and  
6 deposited as specified in the Parks and Wildlife Code; and

7 (2) an amount equal to six percent of the proceeds  
8 shall be credited to the Texas Historical Commission and deposited  
9 as specified in Section 442.073, Government Code. ~~[The comptroller~~  
10 ~~shall not credit in excess of \$32 million in sporting goods tax~~  
11 ~~revenue annually to the Parks and Wildlife Department.]~~

12 SECTION 28. The Parks and Wildlife Department shall comply  
13 with the recommendations contained in the State Auditor's Office  
14 "An Audit Report on Financial Processes at the Parks and Wildlife  
15 Department Report No. 07-021" in accordance with the dates  
16 specified in the department's management response included as  
17 Appendix 6 to the report and contingent on receiving an  
18 appropriation sufficient to fund the implementation of the  
19 recommendations.

20 SECTION 29. (a) In this section, "historic site" means a  
21 historic site or park listed under Section 442.072, Government  
22 Code, as added by this Act.

23 (b) On or after January 1, 2008, as provided by this  
24 section, the following are transferred to the Texas Historical  
25 Commission:

26 (1) each historic site and all obligations and  
27 liabilities of the Parks and Wildlife Department relating to the

1 site;

2 (2) all unobligated and unexpended funds appropriated  
3 to the Parks and Wildlife Department designated for the  
4 administration of each site;

5 (3) all equipment and property of the Parks and  
6 Wildlife Department used for the administration of or related to  
7 each site; and

8 (4) all files and other records of the Parks and  
9 Wildlife Department kept by the department regarding each site.

10 (c) A rule adopted by the Parks and Wildlife Commission that  
11 is in effect immediately before January 1, 2008, and that relates to  
12 a historic site is, on January 1, 2008, a rule of the Texas  
13 Historical Commission and remains in effect until amended or  
14 repealed by the Texas Historical Commission. A rule that applies to  
15 both a transferred site and park that is not transferred is a rule  
16 of both commissions and applies to the transferred site until  
17 amended or repealed by the Texas Historical Commission.

18 (d) A transfer under this Act does not diminish or impair  
19 the rights of a holder of an outstanding bond or other obligation  
20 issued by the Parks and Wildlife Department in relation to the  
21 support of a historic site.

22 (e) On January 1, 2008, a reference in the Parks and  
23 Wildlife Code or other law to a power, duty, obligation, or  
24 liability of the Parks and Wildlife Department or the Parks and  
25 Wildlife Commission that relates to a historic site is a reference  
26 to the Texas Historical Commission. The Texas Historical  
27 Commission is the successor agency to the Parks and Wildlife

1 Department and the Parks and Wildlife Commission for the site.

2 (f) The Texas Historical Commission shall prepare a base  
3 operating plan for each historic site before the transfer of any  
4 site or associated artifact or archival materials from the Parks  
5 and Wildlife Department to the commission. The base operating plan  
6 for each site must be completed on or before January 1, 2008. The  
7 base operating plan for each site must include:

8 (1) a mission statement outlining the goals for the  
9 site;

10 (2) an interpretive plan showing how the mission is to  
11 be accomplished;

12 (3) an operational plan, including:

13 (A) facilities, documents, records, and other  
14 assets to be transferred;

15 (B) parties responsible for daily site  
16 management, including staff that will be transferred;

17 (C) off-site support structure;

18 (D) plans for artifact and archival curation;

19 (E) signed memoranda of understanding or  
20 memoranda of agreement with appropriate friends groups and  
21 volunteer organizations; and

22 (F) emergency plans;

23 (4) a maintenance plan, including maintenance and  
24 repair needs;

25 (5) a marketing plan;

26 (6) a business plan, including revenue and visitation  
27 goals;

1           (7) a plan for compliance with:

2                   (A) Chapter 191, Natural Resources Code (the  
3 Antiquities Code of Texas); and

4                   (B) the National Historic Preservation Act (16  
5 U.S.C. Section 470 et seq.); and

6           (8) fiscal plans and budgets associated with  
7 Subdivisions (1) through (7) of this subsection.

8           (g) An interim study committee shall review the base  
9 operating plan described by Subsection (f) of this section. The  
10 members of the interim committee shall be a subcommittee of the  
11 House Committee on Culture, Recreation, and Tourism appointed not  
12 later than September 1, 2007, by the chair of that house committee.  
13 The interim committee shall obtain feedback and information from  
14 professionals familiar with the work of the Parks and Wildlife  
15 Department, the Texas Historical Commission, the National Park  
16 Service, the Council of Texas Archeologists, professional  
17 archivists, park managers, and the tourism industry. The interim  
18 study committee shall report to the House Committee on Culture,  
19 Recreation, and Tourism on the results of the study conducted under  
20 this subsection not later than September 1, 2008.

21           (h) Until a historic site is transferred to the Texas  
22 Historical Commission in accordance with this Act, the Parks and  
23 Wildlife Department shall continue to operate and maintain the site  
24 under applicable law as it existed on January 1, 2007.

25           (i) The Parks and Wildlife Department and the Texas  
26 Historical Commission shall keep the House Committee on Culture,  
27 Recreation, and Tourism informed of the progress of the transfer of

1 each historic site under this Act.

2 (j) An employee of the Parks and Wildlife Department whose  
3 job responsibilities are more than 50 percent related to a historic  
4 site transferred to the Texas Historical Commission under this Act  
5 becomes an employee of the Texas Historical Commission on the date  
6 of the transfer of that site. An employee whose job is transferred  
7 may not be dismissed after the transfer except for cause before the  
8 first anniversary of the date of the transfer.

9 SECTION 30. (a) The Parks and Wildlife Department shall  
10 accept the gift of a 16-acre tract of land currently owned by Zavala  
11 County that is located adjacent to the Nueces River and United  
12 States Highway 83 intersection north of La Pryor, Texas.

13 (b) The department shall develop the land as a state park or  
14 fund the development of a park on that property.

15 SECTION 31. Any restrictions on the allocation of money in  
16 the state parks account under Section 11.035, Parks and Wildlife  
17 Code, as amended by this Act, on the use of money in the Texas parks  
18 and wildlife conservation and capital account under Section 11.043,  
19 Parks and Wildlife Code, as amended by this Act, on the use of money  
20 in the Texas recreation and parks account under Section 24.002,  
21 Parks and Wildlife Code, as amended by this Act, or on the  
22 allocation of that money under Section 24.003, Parks and Wildlife  
23 Code, as amended by this Act, do not apply to a one-time  
24 appropriation of the unencumbered balances of those accounts on  
25 August 31, 2007, made by a rider to the General Appropriations Act  
26 that:

27 (1) is contingent on the enactment of this Act or a

1 similar Act by the 80th Legislature; and

2 (2) provides for the one-time allocation of that money  
3 to the Parks and Wildlife Department and the Texas Historical  
4 Commission to be used for the repair, renovation, maintenance, and  
5 other one-time costs associated with state historic sites and state  
6 parks.

7 SECTION 32. The name of the Peach Point Wildlife Management  
8 Area is changed to the Justin Hurst Wildlife Management Area.

9 SECTION 33. This Act takes effect immediately if it  
10 receives a vote of two-thirds of all the members elected to each  
11 house, as provided by Section 39, Article III, Texas Constitution.  
12 If this Act does not receive the vote necessary for immediate  
13 effect, this Act takes effect September 1, 2007.

**ADOPTED**

MAY 23 2007

*Leta Spaw*  
Secretary of the Senate

By: \_\_\_\_\_

H.B. No. 12

Substitute the following for H.B. No. 12:

By:  \_\_\_\_\_

C.S.H.B. No. 12

A BILL TO BE ENTITLED

AN ACT

1 relating to the funding, powers, duties, and responsibilities of  
2 the Parks and Wildlife Department and the Texas Historical  
3 Commission.

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

5 SECTION 1. (a) The legislative task force on the use of  
6 the sales tax on sporting goods is composed of eight members, as  
7 follows:

8 (1) two members of the House Culture, Recreation and  
9 Tourism Committee, appointed by the speaker of the house of  
10 representatives;

11 (2) two members of the House Appropriations  
12 Committee, appointed by the speaker of the house of  
13 representatives;

14 (3) two members of the Senate Committee on Natural  
15 Resources, appointed by the lieutenant governor; and

16 (4) two members of the Senate Committee on Finance,  
17 appointed by the lieutenant governor.

18 (b) The speaker of the house of representatives shall  
19 designate one member of the task force to serve as a joint

1 presiding officer of the task force, and the lieutenant governor  
2 shall designate another task force member to serve as the other  
3 joint presiding officer.

4 (c) The task force meets at the call of a joint presiding  
5 officer.

6 (d) The task force shall:

7 (1) review the items that are included in the  
8 definition of "sporting goods" under Section 151.801(e), Tax  
9 Code, and determine if there is a correlation between each  
10 individual item included and activities related to state parks,  
11 including the use of those parks; and

12 (2) determine the amount of revenue that must be  
13 generated to fund the policy decisions made by the 80th  
14 Legislature regarding state parks.

15 (e) Not later than January 15, 2009, the task force shall  
16 prepare and present to the 81st Legislature a report that  
17 describes the findings of the task force and includes  
18 recommendations regarding the specific items that should be  
19 included in the definition of "sporting goods" under Section  
20 151.801(e), Tax Code.

21 (f) Notwithstanding any law to the contrary, no funds  
22 allocated pursuant to Tax Code Section 151.801(c), not  
23 previously dedicated by a previous legislature, may be dedicated  
24 to a specific purpose or account until the task force review is  
25 completed and its recommendations are delivered to each member  
26 of legislature.

27 (g) This section expires March 1, 2009.

2  
33

1 SECTION 2. Subchapter A, Chapter 442, Government Code, is  
2 amended by adding Sections 442.0051, 442.0052, and 442.0053 to  
3 read as follows:

4 Sec. 442.0051. FEES. The commission by rule may establish  
5 reasonable fees for commission purposes under this chapter,  
6 including an admission fee appropriate to a historic site under  
7 its jurisdiction.

8 Sec. 442.0052. VOLUNTEER SERVICES. (a) Except as provided  
9 by Subsection (b), the commission may use the services of  
10 volunteers to help carry out the duties and responsibilities of  
11 the commission.

12 (b) A volunteer may not enforce this code.

13 Sec. 442.0053. ELIGIBILITY CRITERIA FOR INCLUSION OF REAL  
14 PROPERTY IN STATE HISTORIC SITES SYSTEM. (a) The commission by  
15 rule shall adopt criteria for determining the eligibility of  
16 real property donated to the commission for inclusion in the  
17 historic sites system.

18 (b) The commission may accept a donation of real property  
19 that satisfies the criteria adopted under Subsection (a).

20 (c) The commission may renovate or restore donated real  
21 property, including improvements to the property, or construct  
22 improvements on the donated real property as necessary and  
23 prudent.

24 SECTION 3. The Historical Commission and the Parks and  
25 Wildlife Department shall assist in a joint interim study of the  
26 need for and the terms and conditions of any transfer of certain  
27 state historic sites by the legislative audit committee and the

1 legislative committees of each house with jurisdiction over the  
2 Historical Commission and the Parks and Wildlife Department and  
3 submission of that report to the Governor, the Lieutenant  
4 Governor, the members of the Legislature, and the members of the  
5 governing boards and the executive directors of the commission  
6 and the department by January 1, 2009. At a minimum, the study  
7 shall include a public hearing component that includes one or  
8 more hearings at or near affected historical sites. In addition,  
9 the Historical Commission shall develop a base operating plan  
10 for each historic site proposed for transfer to the commission.  
11 The base operating plan for each site shall be completed by the  
12 commission on or before September 1, 2008. The base operating  
13 plan for each site shall include:

- 14 (1) a mission statement outlining the goals for the site;
- 15 (2) an interpretive plan showing how the mission is to be  
16 accomplished;
- 17 (3) an operational plan, including:
- 18 (A) facilities, documents, records, and other assets  
19 to be transferred;
- 20 (B) parties responsible for daily site management,  
21 including staff that will be transferred;
- 22 (C) off-site support structure;
- 23 (D) plans for artifact and archival curation;
- 24 (E) signed memoranda of understanding or memoranda of  
25 agreement with appropriate friends groups and volunteer  
26 organizations: and
- 27 (F) emergency plans;

1 (4) a maintenance plan, including maintenance and  
2 repair needs;

3 (5) a marketing plan;

4 (6) a business plan, including revenue and visitation  
5 goals;

6 (7) a plan for compliance with:

7 (A) Chapter 191, Natural Resources Code (the  
8 Antiquities Code of Texas); and

9 (B) the National Historic Preservation Act (16  
10 U.S.C. Section 470 et seq.); and

11 (8) fiscal plans and budgets associated with  
12 Subdivisions (1) through (7) of this subsection.

13 SECTION 4. Chapter 11, Parks and Wildlife Code, is amended  
14 by adding Subchapter K to read as follows:

15 SUBCHAPTER K. MANAGEMENT AND EFFICIENCY REVIEWS

16 Sec. 11.251. MAINTENANCE EQUIPMENT REVIEW SYSTEM. (a) In  
17 this section:

18 (1) "Maintenance equipment" means personal property  
19 owned by the department that is used to administer, operate,  
20 preserve, repair, expand, or otherwise maintain real property,  
21 including improvements and fixtures, owned or operated by the  
22 department.

23 (2) "Outdated equipment" means equipment:

24 (A) that has a fair market value that is less  
25 than the annual cost of maintaining the equipment in working  
26 order;

27 (B) that is not operational and cannot

1 reasonably be made operational; or

2 (C) that no longer serves a department purpose.

3 (b) The commission by rule shall establish an equipment  
4 review system through which the department annually determines  
5 whether any of the department's maintenance equipment has become  
6 outdated equipment since the last date the department conducted  
7 an equipment review under this section.

8 (c) The equipment review system established under  
9 Subsection (b) must require the department to sell any outdated  
10 equipment in the manner and at the time specified by the  
11 commission by rule.

12 (d) The department shall deposit proceeds from the sale of  
13 equipment under this section to the credit of the appropriate  
14 parks and wildlife account.

15 Sec. 11.252. MAINTENANCE PROVIDER REVIEW SYSTEM. (a) In  
16 this section, "maintenance" includes the administration,  
17 operation, preservation, repair, and expansion of personal  
18 property owned by the department and real property owned or  
19 operated by the department.

20 (b) The commission by rule shall establish a maintenance  
21 provider review system through which the department annually  
22 determines whether a maintenance task performed by the  
23 department could be performed by a third-party contractor in a  
24 manner that:

25 (1) is more cost-effective than the department's  
26 manner of performing the maintenance task; and

27 (2) yields a result that is equal to or greater than

1 the quality of the result produced by the department performing  
2 the task.

3 (c) The maintenance provider review system established  
4 under Subsection (b) must require the department to contract  
5 with a third party for the performance of any maintenance task  
6 performed by the department that could be performed by a third-  
7 party contractor in the manner that meets the criteria described  
8 by Subsection (b) after the department's cost of administering  
9 the contract is added to the cost of performance by the third  
10 party.

11 Sec. 11.253. MANAGEMENT PLAN AND PRIORITIES LIST. Not  
12 later than January 15 of each odd-numbered year the department  
13 shall submit to the governor, the speaker of the house of  
14 representatives, the lieutenant governor, and the chair of each  
15 house and senate standing committee having jurisdiction over a  
16 matter regulated by the department under this code a management  
17 plan to address the department's maintenance responsibilities  
18 under this subchapter and a priorities list that includes the  
19 following information:

20 (1) a prioritized list of facilities operated by the  
21 department that are most in need of repair, renovation,  
22 expansion, or other maintenance;

23 (2) an itemized list explaining any additional  
24 funding requested by the department to accomplish a task  
25 described by Subdivision (1); and

26 (3) the results of the reviews conducted under  
27 Sections 11.251, 11.252, and 13.019(b).

1 SECTION 5. Subchapter A, Chapter 13, Parks and Wildlife  
2 Code, is amended by adding Section 13.0044 to read as follows:

3 Sec. 13.0044. PREFERENCE FOR CERTAIN PARK PROGRAMS. In  
4 selecting parks for capital improvements, the department may  
5 give a preference to programs in which the department matches  
6 locally raised money on a dollar-for-dollar basis.

7 SECTION 6. Section 13.0061(a), Parks and Wildlife Code, is  
8 amended to read as follows:

9 (a) The department may lease grazing rights on any state  
10 park or any area of a state park. The department may harvest  
11 and sell, or sell in place, any timber, hay, livestock, or other  
12 product grown on state park land the department finds to be in  
13 excess of natural resource management, educational, or  
14 interpretive objectives [~~programming needs~~]. Timber may be  
15 harvested only for forest pest management, salvage, or habitat  
16 restoration and under good forestry practices with the advice of  
17 the Texas Forest Service.

18 SECTION 7. Subchapter A, Chapter 13, Parks and Wildlife  
19 Code, is amended by adding Section 13.0075 to read as follows:

20 Sec. 13.0075. ELIGIBILITY CRITERIA FOR INCLUSION OF REAL  
21 PROPERTY IN STATE PARKS SYSTEM. (a) The commission by rule  
22 shall adopt criteria for determining the eligibility of real  
23 property that is donated to the department for inclusion in the  
24 state parks system.

25 (b) The department may accept a donation of real property  
26 that satisfies the criteria adopted under Subsection (a).

27 (c) The department may renovate or restore donated real

1 property, including improvements to the property, or construct  
2 improvements on the donated real property as necessary and  
3 prudent.

4 SECTION 8. Subchapter A, Chapter 13, Parks and Wildlife  
5 Code, is amended by adding Section 13.0145 to read as follows:

6 Sec. 13.0145. SPEED LIMITS. (a) The department shall set  
7 and enforce speed limits on a road in a state park, wildlife  
8 management area, or other site under the control of the  
9 department as follows:

10 (1) 30 miles per hour on a park road or main drive;

11 (2) 20 miles per hour on a secondary road; or

12 (3) as posted by the department.

13 (b) The department shall:

14 (1) consult with the Texas Department of  
15 Transportation to determine if a speed limit under Subsection  
16 (a) is reasonable and safe based on an engineering and traffic  
17 control study; and

18 (2) amend the limit, if necessary.

19 SECTION 9. Section 13.015, Parks and Wildlife Code, is  
20 amended by amending Subsection (b) and adding Subsections (a-1),  
21 (b-1), (b-2), and (b-3) to read as follows:

22 (a-1) The department may promote visits and enhance  
23 revenue at parks, including amounts necessary for salaries,  
24 advertising, consumable supplies and materials, promotional  
25 products, fees, and related expenses.

26 (b) The department may operate or grant contracts to  
27 operate concessions in state parks or on causeways, beach

1 drives, or other improvements in connection with state park  
2 sites. The department may make regulations governing the  
3 granting or operating of concessions. The department may  
4 establish and operate staff concessions, including salaries,  
5 consumable supplies and materials, operating expenses, rental  
6 and other equipment, and other capital outlays.

7 (b-1) The department may purchase products, including food  
8 items, for resale or rental at a profit.

9 (b-2) The department shall operate any resale concession  
10 program using standard business practice models to generate  
11 revenue and provide quality customer service while adhering to  
12 conservation principles.

13 (b-3) The department may recruit and select private  
14 service providers to enter into leased concession contracts with  
15 the department to provide necessary and appropriate visitor  
16 services.

17 SECTION 10. Section 13.016, Parks and Wildlife Code, is  
18 amended to read as follows:

19 Sec. 13.016. INMATE [~~PRISON~~] LABOR. (a) The department  
20 may use the labor of an inmate confined in a state, county, or  
21 local correctional facility [~~trustee state convicts~~] on or in  
22 connection with state parks, wildlife management areas, or other  
23 property under the control or jurisdiction of the department.

24 (b) Inmates [~~Convicts~~] working in connection with lands  
25 under the control or jurisdiction of the department remain under  
26 the control of the Texas Department of Criminal Justice or  
27 county or local correctional facility, as appropriate, and are

1 considered as serving their terms in the Texas Department of  
2 Criminal Justice or other correctional facility [~~penitentiary~~].

3 (c) The department may purchase equipment, meals,  
4 supplies, and materials for an inmate working at a department  
5 site as necessary to facilitate the use of the labor described  
6 by this section.

7 (d) The department may not use the labor of an inmate  
8 convicted of an offense listed in Article 62.001(5), Code of  
9 Criminal Procedure.

10 (e) The department may not use the labor of an inmate  
11 convicted of any violent offense.

12 SECTION 11. Section 13.019, Parks and Wildlife Code, is  
13 amended to read as follows:

14 Sec. 13.019. FACILITY RESERVATION SYSTEM AND FEE. (a)  
15 The department may permit the advance reservation of a facility,  
16 lodging, or campsite at a state park and require the payment of  
17 a fee by a person making the reservation.

18 (b) The department shall annually:

19 (1) evaluate whether the reservation system used by  
20 the department for the advance reservation of facilities,  
21 lodging, and campsites is as user-friendly as possible; and

22 (2) make modifications to the system as necessary to  
23 enhance the user-friendliness of the reservation system.

24 SECTION 12. Subchapter A, Chapter 13, Parks and Wildlife  
25 Code, is amended by adding Section 13.0191 to read as follows:

26 Sec. 13.0191. FACILITY AND LODGING FEES. A fee charged by  
27 the department under this subchapter for the use of a facility

1 or lodging at a state park may vary on a seasonal basis and may  
2 be set in an amount to recover the direct and indirect costs of  
3 providing the facility or lodging and provide a reasonable rate  
4 of return to the department. Items to be considered in setting  
5 a fee include the cost required to provide, maintain, and  
6 improve amenities available at the site and seasonal variables  
7 such as the cost of staffing to meet demand and costs of heating  
8 or air conditioning.

9 SECTION 13. The Parks and Wildlife Department shall comply  
10 with the recommendations contained in the State Auditor's Office  
11 "An Audit Report on Financial Processes at the Parks and  
12 Wildlife Department Report No. 07-021" in accordance with the  
13 dates specified in the department's management response included  
14 as Appendix 6 to the report and contingent on receiving an  
15 appropriation sufficient to fund the implementation of the  
16 recommendations.

17 SECTION 14. The name of the Peach Point Wildlife  
18 Management Area is changed to the Justin Hurst Wildlife  
19 Management Area.

20 SECTION 15. This Act takes effect immediately if it  
21 receives a vote of two-thirds of all the members elected to each  
22 house, as provided by Section 39, Article III, Texas  
23 Constitution. If this Act does not receive the vote necessary  
24 for immediate effect, this Act takes effect September 1, 2007.

ADOPTED

FLOOR AMENDMENT NO. 1

MAY 23 2007

BY:

*Robert Lee Williams*

*Letty Spaw*  
Secretary of the Senate

1 Amend CSHB 12 by adding an appropriately numbered SECTIONS  
2 to the bill to read as follows, and renumbering subsequent  
3 SECTIONS accordingly:

4 SECTION \_\_\_\_\_. Section 12.010, Parks and Wildlife Code, is  
5 amended to read as follows:

6 Sec. 12.010. NUISANCE OR NOXIOUS AQUATIC VEGETATION  
7 PROGRAM. (a) The department may implement a program to control  
8 or eradicate nuisance aquatic vegetation, including hydrilla and  
9 giant sylvania, from public water in this state.

10 (b) To implement the program under this section, the  
11 department may use money from unclaimed refunds of the tax on  
12 fuel used in motorboats appropriated to the department under  
13 Section 162.502(c), Tax Code.

14 (c) The department may contract with a person not employed  
15 by the department or use the services of department personnel  
16 for the control or eradication of nuisance or noxious vegetation  
17 in the water of this state.

ADOPTED

MAY 23 2007

*Lotay Spauld*  
Secretary of the Senate

FLOOR AMENDMENT NO. 2

BY: *Illegible Signature*

1 Amend H.B. No. 12 by adding the following appropriately  
2 numbered SECTION to the bill and renumbering subsequent SECTIONS of  
3 the bill accordingly:

4 SECTION \_\_\_\_ . Section 22.023, Parks and Wildlife Code, is  
5 amended to read as follows:

6 Sec. 22.023. DISPOSITION OF INCOME. The department shall  
7 use the income derived from leases, royalties, and operation of the  
8 park necessary for maintaining, improving, and operating the park.  
9 The [One-half of the balance of the] unexpended income at the end of  
10 the biennium shall be placed in the state treasury to the credit of  
11 the [may be used by the department on other] state parks account [7  
12 and the remaining one-half and any other unexpended balance shall  
13 be transferred to the general revenue fund at the end of each  
14 biennium].

45

ADOPTED

FLOOR AMENDMENT NO. 3

MAY 23 2007

BY:

*Paul Watson*  
(Watson)

*Letty Spaw*  
Secretary of the Senate

1 Amend C.S.H.B. No. 12 by inserting the SECTIONS below and  
2 renumbering the following SECTIONS of the bill accordingly:

3 SECTION \_\_. Chapter 31, Parks and Wildlife Code, is  
4 amended by adding Subchapter G to read as follows:

5 SUBCHAPTER G. PARTY BOATS

6 Sec. 31.171. DEFINITIONS. In this subchapter:

7 (1) "Licensed party boat operator" means a person  
8 issued a license by the department under this subchapter.

9 (2) "Party boat" means a vessel:

10 (A) operated by the owner of the vessel or an  
11 employee of the owner; and

12 (B) rented or leased by the owner for a group  
13 recreational event for more than six passengers.

14 Sec. 31.172. APPLICABILITY; EXCEPTION. (a) This  
15 subchapter applies only to a party boat that operates on the  
16 inland waters of this state.

17 (b) This subchapter does not apply to:

18 (1) a boat that is less than 30 feet in length;

19 (2) a sailboat; or

20 (3) a boat traveling along the waterway of a  
21 municipal riverwalk or a canal.

22 Sec. 31.173. PARTY BOAT OPERATOR AND STAFF. (a) Except  
23 as provided by Subsection (c), the party boat owner shall  
24 provide staff members, including a licensed party boat operator,  
25 who:

26 (1) operate and staff the party boat for the duration  
27 of a rental or lease for a group recreational event as follows:

28 (A) for a boat with not more than 25 passengers,  
29 one staff member who is an operator;

~~1~~  
46

1           (B) for a boat with at least 26 but not more  
2 than 50 passengers, two staff members, including one operator;  
3 and

4           (C) for a boat with more than 50 passengers,  
5 three staff members, including one operator; and

6           (2) have each successfully completed a boater safety  
7 course approved under this chapter.

8           (b) At least one staff member on the boat must be  
9 certified to conduct cardiopulmonary resuscitation.

10           (c) This section does not apply to a party boat rented or  
11 leased for an overnight or longer period for which the owner, or  
12 the owner's staff, does not intend to remain in constant  
13 possession, command, and control of the party boat.

14           Sec. 31.174. BOAT REQUIREMENTS. A party boat:

15           (1) may not carry more than the maximum number of  
16 passengers the boat may safely accommodate as determined by the  
17 department on inspection;

18           (2) must have a direct and reliable communication  
19 connection to the land-based office of the owner and law  
20 enforcement and emergency services by cellular telephone or very  
21 high frequency radio; and

22           (3) must pass an annual water safety inspection  
23 conducted by the department or a person under contract with the  
24 department.

25           Sec. 31.175. PASSENGER SAFETY INFORMATION; INSURANCE.

26           (a) The owner of a party boat shall provide each passenger with  
27 written and verbal safety information and require each passenger  
28 to sign a form acknowledging that the passenger reviewed and  
29 understands the information.

30           (b) The verbal and written safety information must  
31 disclose that no lifeguard is present on the party boat if there

1 is not at least one staff member on the boat who is certified as  
2 a lifeguard by the American Red Cross, the American Lifeguard  
3 Association, or another comparable nationally recognized  
4 organization.

5 (c) The owner of a party boat must obtain at least a  
6 minimum amount of liability insurance from an insurer licensed  
7 to do business in this state. The commission shall set the  
8 amount.

9 Sec. 31.176. PARTY BOAT OPERATOR LICENSE. (a) The  
10 commission by rule shall establish, as necessary to protect the  
11 public health and safety, the requirements and procedures for  
12 the issuance and renewal of a party boat operator license under  
13 this subchapter.

14 (b) Except as provided by Subsection (c), the rules for  
15 obtaining a license as a party boat operator must require at a  
16 minimum that the applicant:

17 (1) be at least 21 years of age;

18 (2) observe for at least four hours a licensed party  
19 boat operator operating a party boat on open water;

20 (3) operate for at least four hours a party boat on  
21 open water while being supervised and observed by a licensed  
22 party boat operator; and

23 (4) pass a written examination covering onboard  
24 safety procedures and the applicable provisions of this chapter.

25 (c) An applicant is not required to comply with  
26 Subsections (b)(2) and (3) if the applicant has:

27 (1) at least 25 hours of experience operating a party  
28 boat as shown by appropriate documentation; and

29 (2) no record of boating violations.

30 Sec. 31.177. FEES. (a) The commission by rule shall  
31 establish and collect a reasonable fee for:

1           (1) the issuance of a party boat operator license  
2 under this subchapter; and

3           (2) the annual water safety inspection of a party  
4 boat required by this subchapter.

5           (b) A fee collected by the department under this  
6 subchapter and any interest that accrues on the fee shall be  
7 deposited to the credit of the game, fish, and water safety  
8 account established under Section 11.032.

9           Sec. 31.178. DRUG AND ALCOHOL TESTING. If a party boat is  
10 involved in an accident causing serious personal injury or  
11 death, each staff member on board is subject to mandatory drug  
12 and alcohol testing.

13           Sec. 31.179. ENFORCEMENT. (a) In addition to a game  
14 warden, any peace officer of a municipality or other political  
15 subdivision of this state who is certified as a marine safety  
16 enforcement officer under Section 31.121 may enforce this  
17 subchapter:

18           (1) in the area of a navigable body of water that is  
19 in the jurisdiction of the municipality or other political  
20 subdivision; or

21           (2) in any part of a lake that is partly or wholly  
22 inside the boundaries of:

23                   (A) the municipality or its extraterritorial  
24 jurisdiction; or

25                   (B) the political subdivision.

26           (b) A party boat is subject to enforcement inspections  
27 conducted under Section 31.124.

28           Sec. 31.180. RULES. The commission shall adopt and  
29 enforce rules necessary to implement this subchapter.

30           SECTION \_\_. Not later than January 1, 2008, the Parks and  
31 Wildlife Commission shall adopt rules to implement Subchapter G,

1 Chapter 31, Parks and Wildlife Code, as added by this Act.

2 SECTION \_\_. Subchapter G, Chapter 31, Parks and Wildlife  
3 Code, as added by this Act, applies only to the rental or lease  
4 of a party boat on the public water of this state for a group  
5 recreational event held on or after June 1, 2008.

ADOPTED

FLOOR AMENDMENT NO. 4

MAY 23 2007

BY: Dowell

*Atty. Gen. Spaw*  
Secretary of the Senate

1 Amend C.S.H.B. No. 12 (Senate Committee Printing) as  
2 follows:

3 (1) Add the following appropriately numbered SECTIONS to  
4 the bill and renumber existing SECTIONS accordingly:

5 SECTION \_\_\_\_\_. Subsections (b) and (k), Section 442.002,  
6 Government Code, are amended to read as follows:

7 (b) The commission is composed of 17 members appointed by  
8 the governor with the advice and consent of the senate. One  
9 member must be a professional archeologist, one must be a  
10 professional historian, and one must be a licensed architect who  
11 has expertise in historic preservation and architectural  
12 history. Fourteen members must be representatives of the  
13 general public. A person may [~~is~~] not be [~~eligible for~~  
14 ~~appointment as~~] a public member of the commission if the person  
15 or the person's spouse:

16 (1) owns or controls, directly or indirectly, more  
17 than a 10 percent interest in a business entity or other  
18 organization regulated by the commission or receiving money  
19 [~~funds~~] other than grant money [~~funds~~] from the commission; [~~or~~]

20 (2) uses or receives a substantial amount of tangible  
21 goods, services, or money [~~funds~~] from the commission, other  
22 than compensation or reimbursement authorized by law for  
23 commission membership, attendance, or expenses; or

24 (3) is employed by or participates in the management  
25 of a business entity or other organization regulated by or  
26 receiving money other than grant money from the commission.

27 (k) The Texas Historical Commission is subject to Chapter  
28 325 (Texas Sunset Act). Unless continued in existence as  
29 provided by that chapter, the commission is abolished and this

1 chapter expires September 1, 2019 [~~2007~~].

2 SECTION \_\_\_\_\_. Section 442.0021, Government Code, is  
3 amended to read as follows:

4 Sec. 442.0021. COMMISSION MEMBERS: TRAINING. (a) A  
5 person who is appointed to and qualifies for office as a member  
6 of the commission may not vote, deliberate, or be counted as a  
7 member in attendance at a meeting of the commission until the  
8 person completes a training program that complies with [~~Before a~~  
9 ~~member of the commission may assume the member's duties and~~  
10 ~~before the member may be confirmed by the senate, the member~~  
11 ~~must complete at least one course of the training program~~  
12 ~~established under~~] this section.

13 (b) The [A] training program must [~~established under this~~  
14 ~~section shall~~] provide the person with information [~~to the~~  
15 ~~member~~] regarding:

16 (1) the [~~enabling~~] legislation that created the  
17 commission;

18 (2) the programs, functions, rules, and budget of the  
19 commission;

20 (3) the results of the most recent formal audit of  
21 the commission [~~(2) the programs operated by the commission~~];

22 (4) the requirements of laws relating to open  
23 meetings, public information, administrative procedure, and  
24 conflicts of interest [~~(3) the role and functions of the~~  
25 ~~commission~~]; and

26 (5) any applicable ethics policies adopted by the  
27 commission or the Texas Ethics Commission [~~(4) the rules of the~~  
28 ~~commission with an emphasis on the rules that relate to~~  
29 ~~disciplinary and investigatory authority~~];

30 [~~(5) the current budget for the commission~~];

31 [~~(6) the results of the most recent formal audit of~~

1 ~~the commission,~~

2 ~~[(7) the requirements of the:~~

3 ~~[(A) open meetings law, Chapter 551,~~

4 ~~[(B) open records law, Chapter 552, and~~

5 ~~[(C) administrative procedure law, Chapter 2001,~~

6 ~~[(8) the requirements of the conflict of interest~~  
7 ~~laws and other laws relating to public officials, and~~

8 ~~[(9) any applicable ethics policies adopted by the~~  
9 ~~commission or the Texas Ethics Commission].~~

10 (c) A person appointed to the commission is entitled to  
11 reimbursement, as provided by the General Appropriations Act,  
12 for the travel expenses incurred in attending the training  
13 program regardless of whether the attendance at the program  
14 occurs before or after the person qualifies for office.

15 SECTION \_\_\_\_\_. Subsections (a) and (b), Section 442.0022,  
16 Government Code, are amended to read as follows:

17 (a) In this section, "Texas trade association" means a  
18 cooperative and voluntarily joined statewide association of  
19 business or professional competitors in this state designed to  
20 assist its members and its industry or profession in dealing  
21 with mutual business or professional problems and in promoting  
22 their common interest ~~[An officer, employee, or paid consultant~~  
23 ~~of a Texas trade association in the field of archeology or~~  
24 ~~historic preservation may not be a member of the commission or~~  
25 ~~employee of the commission who is exempt from the state's~~  
26 ~~position classification plan or is compensated at or above the~~  
27 ~~amount prescribed by the General Appropriations Act for step 1,~~  
28 ~~salary group 17, of the position classification salary~~  
29 ~~schedule].~~

30 (b) A person may not be a member of the commission and may  
31 not be a commission employee employed in a "bona fide executive,

1 administrative, or professional capacity," as that phrase is  
2 used for purposes of establishing an exemption to the overtime  
3 provisions of the federal Fair Labor Standards Act of 1938 (29  
4 U.S.C. Section 201 et seq.) if:

5 (1) the person is an officer, employee, or paid  
6 consultant of a Texas trade association in the field of  
7 archeology or historic preservation; or

8 (2) the person's spouse is an officer, manager, or  
9 paid consultant of a Texas trade association in the field of  
10 archeology or historic preservation [~~who is the spouse of an~~  
11 ~~officer, manager, or paid consultant of a Texas trade~~  
12 ~~association in the field of archeology or historic preservation~~  
13 ~~may not be a member of the commission and may not be an employee~~  
14 ~~of the commission who is exempt from the state's position~~  
15 ~~classification plan or is compensated at or above the amount~~  
16 ~~prescribed by the General Appropriations Act for step 1, salary~~  
17 ~~group 17, of the position classification salary schedule].~~

18 SECTION \_\_\_\_\_. Section 442.004, Government Code, is  
19 amended by adding Subsection (b-1) to read as follows:

20 (b-1) The executive director may not serve as a voting  
21 director on the board of directors of an affiliated nonprofit  
22 organization formed under Section 442.005(p).

23 SECTION \_\_\_\_\_. Subchapter A, Chapter 442, Government Code,  
24 is amended by adding Section 442.0055 to read as follows:

25 Sec. 442.0055. AFFILIATED NONPROFIT ORGANIZATION; RULES;  
26 GUIDELINES. (a) The commission shall adopt rules governing the  
27 relationship between the commission and an affiliated nonprofit  
28 organization formed under Section 442.005(p), including rules  
29 that, at a minimum:

30 (1) define the extent to which commission employees  
31 with regulatory responsibilities, including the executive

1 director, may participate in activities that raise funds for an  
2 affiliated nonprofit organization, which may not include the  
3 direct solicitation of funds; and

4 (2) define the relationship between commission  
5 employees and an affiliated nonprofit organization.

6 (b) The commission shall establish guidelines for  
7 identifying and defining the administrative and financial  
8 support the commission may provide for an affiliated nonprofit  
9 organization formed under Section 442.005(p).

10 SECTION \_\_\_\_\_. Section 442.006, Government Code, is  
11 amended by amending Subsection (b) and adding Subsection (h) to  
12 read as follows:

13 (b) The commission shall:

14 (1) develop statewide themes for the program related  
15 to the commission's preservation goals for the state;

16 (2) install markers recognizing districts, sites,  
17 individuals, events, structures, and objects significant in  
18 Texas or American history, architecture, archeology, or culture;

19 (3) [~~and shall~~] keep a register of those markers; and

20 (4) establish a limit for the number of markers the  
21 commission awards annually.

22 (h) The commission by rule shall establish guidelines for  
23 an application for, and the commission's review of the  
24 application for, a historical marker, monument, or medallion.  
25 The guidelines must include criteria for ranking the  
26 applications. The commission shall give priority to the  
27 markers, monuments, and medallions that relate to the statewide  
28 themes developed by the commission.

29 SECTION \_\_\_\_\_. Subsections (a), (b), and (c), Section  
30 442.009, Government Code, are amended to read as follows:

31 (a) The commission shall maintain a system to promptly and

1 efficiently act on complaints filed with the commission. The  
2 commission shall maintain information about parties to the  
3 complaint, the subject matter of the complaint, a summary of the  
4 results of the review or investigation of the complaint, and its  
5 disposition [~~prepare information of public interest describing~~  
6 ~~the functions of the commission and the procedures by which~~  
7 ~~complaints are filed with and resolved by the commission. The~~  
8 ~~commission shall make the information available to the public~~  
9 ~~and appropriate state agencies].~~

10 (b) The commission [~~by rule~~] shall make information  
11 available describing its procedures for complaint investigation  
12 and resolution [~~establish methods by which consumers and service~~  
13 ~~recipients are notified of the name, mailing address, and~~  
14 ~~telephone number of the commission for the purpose of directing~~  
15 ~~complaints to the commission].~~

16 (c) The commission shall periodically notify the complaint  
17 parties of the status of the complaint until final disposition  
18 [~~keep information about each complaint filed with the~~  
19 ~~commission. The information shall include:~~

20 [~~(1) the date the complaint is received,~~

21 [~~(2) the name of the complainant,~~

22 [~~(3) the subject matter of the complaint,~~

23 [~~(4) a record of all persons contacted in relation to~~  
24 ~~the complaint,~~

25 [~~(5) a summary of the results of the review or~~  
26 ~~investigation of the complaint, and~~

27 [~~(6) for complaints for which the agency took no~~  
28 ~~action, an explanation of the reason the complaint was closed~~  
29 ~~without action].~~

30 SECTION \_\_\_\_\_. Subchapter A, Chapter 442, Government Code,  
31 is amended by adding Sections 442.022 and 442.023 to read as

1 follows:

2 Sec. 442.022. USE OF TECHNOLOGY. The commission shall  
3 implement a policy requiring the commission to use appropriate  
4 technological solutions to improve the commission's ability to  
5 perform its functions. The policy must ensure that the public  
6 is able to interact with the commission on the Internet.

7 Sec. 442.023. NEGOTIATED RULEMAKING AND ALTERNATIVE  
8 DISPUTE PROCEDURES. (a) The commission shall develop and  
9 implement a policy to encourage the use of:

10 (1) negotiated rulemaking procedures under Chapter  
11 2008 for the adoption of commission rules; and

12 (2) appropriate alternative dispute resolution  
13 procedures under Chapter 2009 to assist in the resolution of  
14 internal and external disputes under the commission's  
15 jurisdiction.

16 (b) The commission's procedures relating to alternative  
17 dispute resolution must conform, to the extent possible, to any  
18 model guidelines issued by the State Office of Administrative  
19 Hearings for the use of alternative dispute resolution by state  
20 agencies.

21 (c) The commission shall designate a trained person to:

22 (1) coordinate the implementation of the policy  
23 adopted under Subsection (a);

24 (2) serve as a resource for any training needed to  
25 implement the procedures for negotiated rulemaking or  
26 alternative dispute resolution; and

27 (3) collect data concerning the effectiveness of  
28 those procedures, as implemented by the commission.

29 SECTION \_\_\_\_\_. Subsection (c), Section 442.0022, and  
30 Subsection (d), Section 442.009, Government Code, are repealed.

31 SECTION \_\_\_\_\_. Not later than February 1, 2008, the Texas

1 Historical Commission shall adopt the rules required by Section  
2 442.0055 and Subsection (h), Section 442.006, Government Code,  
3 as added by this Act.

4 SECTION \_\_\_\_\_. (a) The changes in law made by this Act in  
5 the prohibitions or qualifications applying to a member of the  
6 Texas Historical Commission do not affect the entitlement of a  
7 member serving on the Texas Historical Commission immediately  
8 before September 1, 2007, to continue to serve and function as a  
9 member of the Texas Historical Commission for the remainder of  
10 the member's term. Those changes in law apply only to a member  
11 appointed on or after September 1, 2007.

12 (b) The changes in law made by this Act to Section  
13 442.009, Government Code, relating to the investigation of a  
14 complaint filed with the Texas Historical Commission apply only  
15 to a complaint filed on or after September 1, 2007. A complaint  
16 filed with the commission before September 1, 2007, is governed  
17 by the law as it existed immediately before that date, and the  
18 former law is continued in effect for that purpose.

ADOPTED

FLOOR AMENDMENT NO. 5

MAY 23 2007

BY:

Thompson

Atay Shaw  
Secretary of the Senate

1 Amend C.S.H.B. 12 by adding the following appropriately  
2 numbered SECTION to the bill and renumbering subsequent SECTIONS  
3 of the bill appropriately:

4 SECTION \_\_. Section 442.015, Government Code, is amended  
5 by amending Subsections (a), (b), and (f) and adding Subsections  
6 (h), (i), (j), (k), and (l) to read as follows:

7 (a) Notwithstanding Sections 403.094 and 403.095, the  
8 Texas preservation trust fund account is a separate account in  
9 the general revenue fund. The account consists of transfers  
10 made to the account, loan repayments, grants and donations made  
11 for the purposes of this program, proceeds of sales, earnings  
12 [~~income earned~~] on [~~money in~~] the account, and any other money  
13 received under this section. Distributions from [~~Money in~~] the  
14 account may be used only for the purposes of this section and  
15 may not be used to pay operating expenses of the commission.  
16 Money allocated to the commission's historic preservation grant  
17 program shall be deposited to the credit of the account.  
18 Earnings [~~income earned~~] on [~~money in~~] the account shall be  
19 deposited to the credit of the account.

20 (b) The commission may use distributions from [~~money in~~]  
21 the Texas preservation trust fund account to provide financial  
22 assistance to public or private entities for the acquisition,  
23 survey, restoration, or preservation, or for planning and  
24 educational activities leading to the preservation, of historic  
25 property in the state that is listed in the National Register of  
26 Historic Places or designated as a State Archeological Landmark  
27 or Recorded Texas Historic Landmark, or that the commission  
28 determines is eligible for such listing or designation. The  
29 financial assistance may be in the amount and form and according

1 to the terms that the commission by rule determines. The  
2 commission shall give priority to property the commission  
3 determines to be endangered by demolition, neglect, underuse,  
4 looting, vandalism, or other threat to the property. Gifts and  
5 grants [~~Money~~] deposited to the credit of the account  
6 specifically for any eligible projects may be used only for the  
7 type of projects specified. If such a specification is not  
8 made, the gift or grant [~~money~~] shall be unencumbered and accrue  
9 to the benefit of the Texas preservation trust fund account. If  
10 such a specification is made, the entire amount of the gift or  
11 grant may be used during any period for the project or type of  
12 project specified.

13 (f) The advisory board shall recommend to the commission  
14 rules for administering Subsections (a)-(e) [~~this section~~].

15 (h) The comptroller shall manage the assets of the  
16 account. In managing the assets of the account, the comptroller  
17 may acquire, exchange, sell, supervise, manage, or retain,  
18 through procedures and subject to restrictions the comptroller  
19 considers appropriate, any kind of investment that a prudent  
20 investor, exercising reasonable care, skill, and caution, would  
21 acquire or retain in light of the purposes, terms, distribution  
22 requirements, and other circumstances of the account then  
23 prevailing, taking into consideration the investment of all the  
24 assets of the account rather than a single investment.

25 (i) The amount of a distribution shall be determined by  
26 the comptroller in a manner intended to provide a stable and  
27 predictable stream of annual distributions and to maintain over  
28 time the purchasing power of account investments and annual  
29 distributions from the account. If the purchasing power of  
30 account investments for any 10-year period is not preserved, the  
31 comptroller may not increase annual distributions from the

1 account until the purchasing power of account investments is  
2 restored.

3 (j) An annual distribution made by the comptroller from  
4 the account during a fiscal year may not exceed an amount equal  
5 to seven percent of the average net fair market value of the  
6 investment assets of the account as determined by the  
7 comptroller.

8 (k) The expenses of managing account investments shall be  
9 paid from the account.

10 (l) On request, the comptroller shall fully disclose all  
11 details concerning the investments of the account.

# ADOPTED

FLOOR AMENDMENT NO. 6

MAY 23 2007

BY: OJD

*Lataj Spaw*  
Secretary of the Senate

1 Amend C.S.H.B. No. 12 (senate committee printing) by adding  
2 appropriately numbered SECTIONS to the bill to read as follows  
3 and renumbering remaining SECTIONS:

4 SECTION \_\_. Chapter 614, Government Code, is amended by  
5 adding Subchapter H to read as follows:

6 SUBCHAPTER H. STANDARDS FOR CERTAIN LAW ENFORCEMENT OFFICERS

7 Sec. 614.151. DEFINITIONS. In this subchapter:

8 (1) "Law enforcement agency" means the Department of  
9 Public Safety, Texas Alcoholic Beverage Commission, Texas  
10 Department of Criminal Justice, and Parks and Wildlife  
11 Department.

12 (2) "Law enforcement officer" means a person who:

13 (A) is a commissioned peace officer;

14 (B) is employed by a law enforcement agency; and

15 (C) is compensated according to Schedule C of  
16 the position classification salary schedule prescribed by the  
17 General Appropriations Act.

18 Sec. 614.152. PHYSICAL FITNESS AND APPEARANCE STANDARDS.

19 (a) Out of appropriated funds, each law enforcement agency  
20 shall adopt physical fitness and appearance standards that a law  
21 enforcement officer must meet to continue employment with the  
22 agency as a law enforcement officer. The standards adopted by a  
23 law enforcement agency other than the Department of Public  
24 Safety must be at least as stringent as the standards adopted by  
25 the Department of Public Safety. Except as provided by  
26 Subsection (b), a violation of a standard adopted under this  
27 subsection is just cause to discharge an officer or transfer an  
28 officer to a position that is not compensated according to  
29 Schedule C of the position classification salary schedule

1 prescribed by the General Appropriations Act.

2 (b) A law enforcement agency may exempt a law enforcement  
3 officer from a standard under Subsection (a) based on the facts  
4 and circumstances of the individual case, including whether an  
5 officer was injured in the line of duty.

6 SECTION \_\_. Not later than November 1, 2007, the  
7 Department of Public Safety of the State of Texas, the Texas  
8 Alcoholic Beverage Commission, the Texas Department of Criminal  
9 Justice, and the Parks and Wildlife Department shall each adopt  
10 the standards required by Section 614.152, Government Code, as  
11 added by this Act.



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 20, 2007**

**TO:** Honorable Steve Ogden, Chair, Senate Committee on Finance

**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. ), **Committee Report 2nd House, Substituted**

|   |
|---|
| <b>No significant fiscal implication to the State is anticipated.</b> |
|---|

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 an 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.

### **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, CT, WK, ZS, RN



**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 17, 2007**

**TO:** Honorable Steve Ogden, Chair, Senate Committee on Finance

**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 Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB12, As Engrossed: a negative impact of (\$165,164,000) 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)<br>Impact to General Revenue Related<br>Funds |
|-------------|--|
| 2008        | (\$80,512,000)   |
| 2009        | (\$84,652,000)   |
| 2010        | (\$88,847,000)   |
| 2011        | (\$93,294,000)   |
| 2012        | (\$97,946,000)   |

**All Funds, Five-Year Impact:**

| Fiscal Year | Probable Revenue<br>Gain/(Loss) from<br><i>GENERAL REVENUE<br/>FUND</i><br>1 | Probable Revenue<br>Gain/(Loss) from<br><i>STATE PARKS ACCT</i><br>64 | Probable Savings/<br>(Cost) from<br><i>STATE PARKS ACCT</i><br>64 | Probable Revenue<br>Gain/(Loss) from<br><i>LOCAL PARKS<br/>ACCOUNT</i><br>467 |
|-------------|--|---|---|---|
| 2008        | (\$80,512,000)   | \$62,763,347  | (\$2,393,331)   | \$34,364,192  |
| 2009        | (\$84,652,000)   | \$65,643,131  | (\$2,393,331)   | \$947,932   |
| 2010        | (\$88,847,000)   | \$68,691,173  | (\$409,333)   | \$1,539,427   |
| 2011        | (\$93,294,000)   | \$71,784,506  | (\$289,158)   | \$2,166,454   |
| 2012        | (\$97,946,000)   | \$75,020,438  | (\$289,158)   | \$2,822,386   |

| Fiscal Year | Probable Savings/<br>(Cost) from<br><i>LOCAL PARKS<br/>ACCOUNT</i><br>467 | Probable Revenue<br>Gain/(Loss) from<br><i>PARKS/WILDLIFE<br/>CAP ACCT</i><br>5004 | Probable Revenue<br>Gain/(Loss) from<br><i>Historic Site Account<br/>New GR-D Account</i> | Probable Revenue<br>Gain/(Loss) from<br><i>Large County and<br/>Municipality<br/>Recreation and Parks<br/>New GR-D Account</i> |
|-------------|---|--|---|--|
| 2008        | (\$34,000,000)  | \$57,613   | \$6,750,720   | \$10,576,128   |
| 2009        | \$0   | \$96,529   | \$6,999,120   | \$10,965,288   |
| 2010        | \$0   | \$135,962  | \$7,250,820   | \$11,359,618   |
| 2011        | \$0   | \$177,764  | \$7,517,640   | \$11,777,636   |
| 2012        | \$0   | \$221,492  | \$7,796,760   | \$12,214,924   |



| Fiscal Year | Probable Savings/<br>(Cost) from<br><i>Historic Site Account</i><br><i>New General Revenue</i><br><i>Dedicated Account</i> | Change in Number of<br>State Employees from<br>FY 2007 |
|-------------|--|--|
| 2008        | (\$2,968,000)  | 28.7   |
| 2009        | (\$4,452,000)  | 43.0   |
| 2010        | (\$4,452,000)  | 49.3   |
| 2011        | (\$4,452,000)  | 49.3   |
| 2012        | (\$4,452,000)  | 49.3   |

## Fiscal Analysis

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 THC would be required to prepare base operating plans for each site prior to the transfer of the site. An interim study committee would provide a report related to the base operating plans to the House Committee on Culture, Recreation, and Tourism no later than September 1, 2008. However, the planning and reporting process would be an advisory function that would not prevent the transfer of any of the historic sites.

The bill would amend Section 151.801(c) 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% to the TPWD, and 6% to the THC. 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.

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 require TPWD to accept a gift of real property (16 acres owned by Zavala County) and to develop or fund development of a park on the 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 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 an 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.

## Methodology

The 2008-09 estimate of sporting goods sales tax revenue from the Comptroller's Office are as follows:

Fiscal Year 2008: \$112,512,000  
Fiscal Year 2009: \$116,652,000

The loss to the General Revenue Fund was calculated by subtracting these estimated amounts from the current \$32.0 million per year statutory allocation of SGST to TPWD. The same approach, the 2008-09 Comptroller estimate less \$32.0 million, was used for fiscal years 2010 through 2012.

The 6 percent allocation of SGST proceeds for the Historic Site account is reflected in the fiscal impact table.

The combined effect of eliminating the Sporting Goods Sales Tax cap along with the new percentage allocations are reflected as revenue gains to the State Parks Account No. 64, the Texas Recreation and Local Parks Account No. 467, the new Large County and Municipality Recreation and Parks Account; and the Parks and Wildlife Conservation and Capital Account No. 5004.

As a base of reference, TPWD is estimated to expend \$1,911,000 for site specific operating costs, and \$637,000 in direct and indirect administrative costs, for a total of \$2,548,000, to operate the 18 historic sites in fiscal year 2007. TPWD uses an estimated 57 full-time equivalent (FTE) positions to manage the sites. This includes 47 site-specific FTEs and 10 direct and indirect administrative FTEs.

The Texas Historical Commission has indicated that the total annual cost to administer the 18 historic sites would be approximately \$7.0 million, and require 100 FTEs. Funding for the THC's historic site operations and administration would be paid out of the new Historic Site Account's 6 percent allocation from the Sporting Goods Sales Tax. However, the net cost to the state is \$4,452,000 or \$7.0 million less the \$2.5 million per year currently spent by the TPWD for the 18 historic sites, and is reflected in the fiscal impact table. The net increase of 43 FTEs, i.e. the 100 FTEs projected by the THC less 57 FTEs currently employed by the TPWD are reflected in the fiscal impact table.

Because the transfer of the 18 historic sites would occur by January 1, 2008, the fiscal year 2008 amounts are pro-rated accordingly (i.e. two-thirds of the annual costs and FTEs for that year).

Also, the Commission has indicated that approximately \$34.0 million would be necessary for one time costs, such repairs and restoration of the sites, associated with the transfer. The bill allows for unencumbered balances in the Texas Recreation and Local Parks Account Number 467 and the Texas Conservation and Capital Account Number 5004 to be used for these repairs. The balances in these two accounts as of August 31, 2007 total \$39.9 million. The costs of the repairs (\$34 million) is reflected in the fiscal impact table as a cost to the Texas Recreation and Local Parks Account Number 467.

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 has indicated that the 2008-09 biennial cost to develop the 16 acres of donated land in Zavala is \$4,786,661, with that amount split evenly between the two fiscal years. Ongoing operational costs for the site are estimated at \$409,333 in fiscal year 2010 and \$289,158 in each year thereafter. The fiscal impact table reflects these amounts as costs to State Parks Account Number 64. TPWD estimates a total of 6.33 FTEs would be required to manage the site.

Finally, TPWD projects that \$130,000 per year would be generated from park entrance fees at this site starting in fiscal year 2010. This annual operating revenue has been added to the State Parks Account Number 64 revenue gain in the fiscal note table.

### **Local Government Impact**

The bill would increase funding for local park grants overall by \$11.0 million in fiscal year 2008, with increasing gains in future years.

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

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



**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

April 26, 2007

**TO:** Honorable Harvey Hilderbran, Chair, House Committee on Culture, Recreation, & Tourism

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

**IN RE: HB12** by Hilderbran (Relating to the funding, powers, and duties of the Parks and Wildlife Department and the Texas Historical Commission. ), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB12, Committee Report 1st House, Substituted: a negative impact of (\$165,164,000) 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        | (\$80,512,000)   |
| 2009        | (\$84,652,000)   |
| 2010        | (\$88,847,000)   |
| 2011        | (\$93,294,000)   |
| 2012        | (\$97,946,000)   |

**All Funds, Five-Year Impact:**

| Fiscal Year | Probable Revenue Gain/(Loss) from GENERAL REVENUE FUND 1 | Probable Revenue Gain/(Loss) from STATE PARKS ACCT 64 | Probable Revenue Gain/(Loss) from LOCAL PARKS ACCOUNT 467 | Probable Revenue Gain/(Loss) from PARKS/WILDLIFE CAP ACCT 5004 |
|-------------|--|---|---|--|
| 2008        | (\$80,512,000)   | \$62,763,347  | \$364,192   | \$57,613   |
| 2009        | (\$84,652,000)   | \$65,643,131  | \$947,932   | \$96,529   |
| 2010        | (\$88,847,000)   | \$68,561,173  | \$1,539,427   | \$135,962  |
| 2011        | (\$93,294,000)   | \$71,654,506  | \$2,166,454   | \$177,764  |
| 2012        | (\$97,946,000)   | \$74,890,438  | \$2,822,386   | \$221,492  |

| Fiscal Year | Probable Revenue Gain/(Loss) from Historic Site Account New GR-D Account | Probable Revenue Gain/(Loss) from Large County and Municipality Recreation and Parks New GR-D Account |
|-------------|--|---|
| 2008        | \$6,750,720  | \$10,576,128  |
| 2009        | \$6,999,120  | \$10,965,288  |
| 2010        | \$7,250,820  | \$11,359,618  |
| 2011        | \$7,517,640  | \$11,777,636  |
| 2012        | \$7,796,760  | \$12,214,924  |



## **Fiscal Analysis**

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.

It would amend Section 151.801(c) 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% to the TPWD, and 6% to the THC. 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 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 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 an 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.

## **Methodology**

The 2008-09 estimate of sporting goods sales tax revenue from the Comptroller's Office are as follows:

Fiscal Year 2008: \$112,512,000  
Fiscal Year 2009: \$116,652,000

The loss to the General Revenue Fund was calculated by subtracting these estimated amounts from the current \$32.0 million per year statutory allocation of SGST to TPWD. The same approach, the 2008-09 Comptroller estimate less \$32.0 million, was used for fiscal years 2010 through 2012.

The 6 percent allocation of SGST proceeds for the Historic Site account is reflected in the fiscal impact table.

The three General Revenue Dedicated accounts administered by the TPWD -- State Parks Account No. 64, the Texas Recreation and Local Parks Account No. 467, and the Parks and Wildlife Conservation and Capital Account No. 5004 -- would receive SGST deposits according to the current Parks and Wildlife Code allocations, but at higher amounts given the removal of the SGST cap of \$32



million. These higher deposits are reflected in the fiscal impact table.

As a base of reference, TPWD is estimated to expend \$1,911,000 for site specific operating costs, and \$637,000 in direct and indirect administrative costs, for a total of \$2,548,000, to operate the 18 historic sites in fiscal year 2007. TPWD uses an estimated 57 full-time equivalent (FTE) positions to manage the sites. This includes 47 site-specific FTEs and 10 direct and indirect administrative FTEs.

The Texas Historical Commission has indicated that the total annual cost to administer the 18 historic sites would be approximately \$7.0 million. The agency indicates that it would need to add 100 FTEs for overall site administration. Also, approximately \$34.0 million would be necessary for one time costs, such repairs and restoration of the sites, associated with the transfer.

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.

**Local Government Impact**

The bill would increase funding for local park grants overall by \$11.0 million in fiscal year 2008, with increasing gains in future years.

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

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



**LEGISLATIVE BUDGET BOARD**

Austin, Texas

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

March 27, 2007

**TO:** Honorable Harvey Hilderbran, Chair, House Committee on Culture, Recreation, & Tourism

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

**IN RE: HB12** by Hilderbran (Relating to the funding, powers, and duties of the Parks and Wildlife Department and the Texas Historical Commission related to parks and historic sites.) **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB12. As Introduced: an impact of \$0 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)<br>Impact to General Revenue Related<br>Funds |
|-------------|--|
| 2008        | \$0  |
| 2009        | \$0  |
| 2010        | \$0  |
| 2011        | \$0  |
| 2012        | \$0  |

**All Funds, Five-Year Impact:**

| Fiscal Year | Probable Savings/(Cost)<br>from<br>STATE PARKS ACCT<br>64 | Probable Savings/(Cost)<br>from<br>PARKS/WILDLIFE CAP<br>ACCT<br>5004 | Probable Savings/(Cost)<br>from<br>LOCAL PARKS ACCOUNT<br>467 |
|-------------|---|---|---|
| 2008        | (\$9,828,826)   | (\$5,801,290)   | (\$16,114,884)  |
| 2009        | \$0   | \$0   | \$0   |
| 2010        | \$0   | \$0   | \$0   |
| 2011        | \$0   | \$0   | \$0   |
| 2012        | \$0   | \$0   | \$0   |

**Fiscal Analysis**

The bill would amend various provisions of the Government Code, the Parks and Wildlife Code, and the Tax Code as they relate to the transfer of historic sites, grant programs, and disposition of proceeds from the Sporting Goods Sales Tax.

The bill would amend Section 151.801(c) of the Tax Code to remove the \$32 million cap on the amount of sporting goods sales tax credited to the Texas Parks and Wildlife Department (TPWD). It would allocate all proceeds from the sporting goods sales tax to four General Revenue-Dedicated accounts associated with the TPWD, plus a new Historic Sites Account that would be administered by the Texas Historical Commission. The specific percentage allocations to these accounts are not

10  
~~1015~~



specified in the bill.

The TPWD accounts that would receive sporting goods sales tax proceeds are three existing accounts, the State Parks Account Number 64, the Parks and Wildlife Conservation and Capital Account Number 5004, the Texas Recreation and Parks Account Number 467, and a new Large County and Municipality Recreation and Parks Account.

The bill would amend Chapter 442 of the Government Code and Chapter 22 of the Parks and Wildlife Code to transfer 22 historical sites from the TPWD to the Texas Historical Commission (THC). It would allow the THC to use money from the new Historic Site account to provide for the administration, operation, and overall capital-related functions associated with the 22 historic sites; as well as acquire historic items appropriate to any site.

On September 1, 2007 all obligations, liabilities, unobligated balances and unexpended funds, equipment, property, files and records associated with the 22 historic sites are to be transferred from the TPWD to the THC.

The bill would amend Section 11.035, Parks and Wildlife Code so that a one-time appropriation of unencumbered balances from the three existing park-related accounts could be used to provide funding for the transfer of the 22 sites. 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 new Historic Site account would be subject to funds consolidation review by the current Legislature.

### **Methodology**

Because the percentage allocation of the Sporting Goods Sales Tax to the various General Revenue Dedicated Accounts mentioned above is not specified in the bill, the fiscal impact of those provisions is not reflected in this fiscal note.

Based on the assumption that the THC can manage the 22 historic sites with the same level of resources as the TPWD, there would be no significant fiscal impact to the state resulting from THC administration of the sites.

It is worthwhile to note that in fiscal year 2007, the department is projected to expend \$1,961,000 for site specific operating costs, and \$670,000 in direct and indirect administrative costs, for a total of \$2,631,000, to operate the 22 historic sites.

Also, an estimated 60 full time equivalent employees are involved in the administration and operation of the sites. This includes 49 site-specific full time equivalent employees and 11 direct and indirect administrative full time equivalent employees.

The Texas Historical Commission estimates the total repairs, renovations, maintenance, and other one time transfer costs to be \$8,000,000 for fiscal year 2008, \$12,000,000 for fiscal year 2009, and \$11,745,000 for fiscal year 2010, for a total of \$31.7 million. These costs are reflected in the fiscal impact table because of the bill's provisions regarding funding to implement the site transfers.

The estimated unencumbered balances in the three TPWD accounts as of August 31, 2007 are as follows: State Parks Account No. 64 = \$9,829,826; Texas Recreation and Local Parks Account No. 467 = \$35,940,478; and Parks and Wildlife Conservation Account No. 5004 = \$5,801,290. This latter amount includes receipts from motor vehicle registration fees, which are restricted by statute for other purposes. The sum total, \$31.7 million, of the amounts shown in the fiscal impact table out of the aforementioned unencumbered balances equate to the total amount estimated by the THC for improvements to the 22 historic sites.

The bill would authorize the Historic Site account to receive donations and site-related revenue. The Texas Parks and Wildlife Department estimates this account revenue to be \$385,000. This amount,



which is currently deposited into State Parks Account Number 64, would be deposited into the new Historic Site account under the provisions of this bill.

**Local Government Impact**

The fiscal impact to local governments would depend on the percentage allocation and funding for local park grants.

**Source Agencies:** 304 Comptroller of Public Accounts, 802 Parks and Wildlife Department, 808 Historical Commission

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

