

BILL ANALYSIS

C.S.H.B. 7
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Culture, Recreation & Tourism
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The 80th Legislature, Regular Session, 2007 enacted H.B. 12 to remove the \$32 million cap on the amount of revenue the Texas Parks & Wildlife Department (TPWD) can receive from the sporting goods sales tax. H.B. 12 permitted TPWD to begin addressing the serious backlog of repairs on state parks, to establish an ongoing maintenance program, to acquire land for future parks, and to continue the grant system for local parks. That bill established a large municipal fund to prevent competition for funding between large and small communities. Many management changes included in the bill put TPWD into compliance with the state auditor's recommendations. H.B. 12 allowed for the transfer of certain historic sites from TPWD to the Texas Historical Commission (THC) and set up the financial means to support the sites while providing additional funding for the expansion, renovation, management, operation or financial support of the transferred sites.

C.S.H.B. 7 addresses the transfer of a historic site from TPWD to THC, and the general rulemaking authority of the Parks and Wildlife Commission.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Parks and Wildlife Commission in SECTION 1 of this bill.

It is the committee's opinion that rulemaking authority previously granted to the Parks and Wildlife Commission is transferred to the Texas Historical Commission in SECTION 5 of this bill.

ANALYSIS

C.S.H.B. 7 amends the Parks and Wildlife Code to require the Parks and Wildlife Commission to adopt any rules necessary to carry out its powers and duties under the code and other state laws. The bill requires the commission to adopt procedural rules to be followed in a commission hearing, and authorizes the executive director of the Parks and Wildlife Department (TPWD) to recommend to the commission for its consideration any rules that the executive director considers necessary. The bill requires rules to be adopted in the manner provided by the Administrative Procedure Act and requires the commission to follow its own rules as adopted until it changes them in accordance with that act. The bill requires the commission, as a part of each rule the commission adopts or proposes for adoption after September 1, 2009, to include a citation to the statute that grants the specific regulatory authority under which the rule is justified and a citation of the specific regulatory authority that will be exercised. The bill establishes that if a specific statutory authority does not exist and the agency is depending on the bill's rulemaking provisions for authority to adopt or propose adoption of a rule, citation of those provisions is sufficient.

C.S.H.B. 7 amends the Government Code to add the Lipantitlan State Historic Site to the list of historic sites and parks formerly under the jurisdiction of TPWD that are now under the Texas Historical Commission's jurisdiction. The bill establishes that on January 1, 2010, the following are transferred to the Texas Historical Commission: the Lipantitlan State Historic Site and all obligations and liabilities of TPWD related to the site; all unobligated and unexpended funds appropriated to TPWD designated for the administration of that site; all equipment and property of TPWD used for the administration of or related to that site, and all files and other records of TPWD kept by the department regarding that site. The bill makes a rule adopted by the Parks and Wildlife Commission that is in effect immediately before January 1, 2010, and that relates to the historic site, a rule of the Texas Historical Commission on January 1, 2010, and provides that such a rule remains in effect until amended or repealed by the Texas Historical Commission. The bill provides that the transfer under the bill's provisions does not diminish or impair the rights of a holder of an outstanding bond or other obligation issued by TPWD in relation to the support of the historic site. The bill makes, on January 1, 2010, a reference in law to a power, duty, obligation, or liability of the TPWD or the Parks and Wildlife Commission that relates to the historic site, a reference to the Texas Historical Commission, the successor agency to TPWD and the Parks and Wildlife Commission for that site. The bill authorizes TPWD, before January 1, 2010, to agree with the Texas Historical Commission to transfer any property of TPWD to the Texas Historical Commission to implement the transfer required by the bill. The bill requires TPWD to continue to operate and maintain the site under applicable law as it existed on January 1, 2009, until the site is transferred to the Texas Historical Commission in accordance with the bill. The bill defines "historic site."

C.S.H.B. 7 repeals Section 151.801(c-1), Tax Code, relating to the prohibition against the comptroller of public accounts crediting to TPWD or to the Texas Historical Commission any amounts, under provisions regarding the disposition of proceeds under the Limited Sales, Excise, and Use Tax Act, that are in excess of the amounts appropriated to TPWD or the Texas Historical Commission for that biennium, less any other amounts to which TPWD or the Texas Historical Commission is entitled. The bill makes a conforming change to the Tax Code.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 7 removes provisions in the original decreasing the amount of money the Parks and Wildlife Department is required to deposit to the credit of the large county and municipality recreation and parks account; providing for state assistance for local parks for special needs populations and establishing a special needs parks account; modifying the conditions under which an operator under 16 years of age may operate certain personal watercraft, including requiring both the operator and the individual accompanying the operator to have successfully completed boater education courses; modifying the conditions under which a person may operate a motor boat of a certain horsepower; and increasing the fee set by statute for a commercial bay shrimp boat license.