

By: Hilderbran, Guillen, Chisum, Turner,
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H.B. No. 12

A BILL TO BE ENTITLED

AN ACT

1
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.