

BILL ANALYSIS

Senate Research Center

C.S.H.B. 12
By: Hilderbran et al. (Estes)
Finance
5/21/2007
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

This legislation relates to certain powers, duties, and responsibilities of the Texas Parks and Wildlife Department (TPWD) and the Texas Historical Commission (THC).

C.S.H.B. 12 allows THC to set fees and use services of volunteers, establishes eligibility criteria for inclusion of real property, addresses facility and lodging fees, creates a management and efficiency review system, creates a preference for certain park programs, and creates eligibility criteria for inclusion of real property in the state parks system. This bill establishes park speed limits, allows for park promotion and revenue enhancement, allows for inmate labor, allows for evaluation and modification of facility reservation systems, addresses facility and lodging fees, and provides that TPWD complies with Audit Report No. 07-021. The bill also requires THC and TPWD to conduct a joint interim study to examine the need for and terms and conditions of any transfer of certain historic sites.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Historical Commission in SECTION 2 (Sections 442.0051 and 442.0053, Government Code) of this bill.

Rulemaking authority is expressly granted to the Texas Parks and Wildlife Commission in SECTION 4 (Sections 11.251 and 11.252, Parks and Wildlife Code) and SECTION 7 (Section 13.0075, Parks and Wildlife Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. (a) Provides that the legislative task force on the use of the sales tax on sporting goods is composed of eight members, and sets forth the composition of the task force.

(b) Requires the speaker of the house of representatives to designate one member of the task force to serve as a joint presiding officer of the task force, and requires the lieutenant governor to designate another task force member to serve as the other joint presiding officer.

(c) Provides that the task force meets at the call of a joint presiding officer.

(d) Requires the task force to review the items that are included in the definition of "sporting goods" under Section 151.801(e), Tax Code, and determine if there is a correlation between each individual item included and activities related to state parks, including the use of those parks, and determine the amount of revenue that must be generated to fund the policy decisions made by the 80th Legislature regarding state parks.

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

(f) Prohibits any funds allocated pursuant to Section 151.801(c), Tax Code, not previously dedicated by a previous legislature, from being dedicated to a specific purpose or account until the task force review is completed and its recommendations are delivered to each member of the legislature.

(g) Provides that this section expires March 1, 2009.

SECTION 2. Amends Subchapter A, Chapter 442, Government Code, by adding Sections 442.0051, 442.0052, and 442.0053, as follows:

Sec. 442.0051. FEES. Authorizes Texas Historical Commission (THC) by rule to establish reasonable fees for THC purposes under this chapter (Texas Historical Commission), including an admission fee appropriate to a historic site under its jurisdiction.

Sec. 442.0052. VOLUNTEER SERVICES. (a) Authorizes THC to use the services of volunteers to help carry out the duties and responsibilities of THC, except as provided by Subsection (b).

(b) Prohibits a volunteer from enforcing this code.

Sec. 442.0053. ELIGIBILITY CRITERIA FOR INCLUSION OF REAL PROPERTY IN STATE HISTORIC SITES SYSTEM. (a) Requires THC by rule to adopt criteria for determining the eligibility of real property donated to THC for inclusion in the historic sites system.

(b) Authorizes THC to accept a donation of real property that satisfies the criteria adopted under Subsection (a).

(c) Authorizes THC to renovate or restore donated real property, including improvements to the property, or construct improvements on the donated real property as necessary and prudent.

SECTION 3. Requires THC and the Texas Parks and Wildlife Department (TPWD) to assist in a joint interim study of the need for and the terms and conditions of any transfer of certain state historic sites by the legislative audit committee and the legislative committees of each house with jurisdiction over THC and TPWD and submission of that report to the governor, the lieutenant governor, the members of the legislature, and the members of the governing boards and the executive directors of THC and TPWD by January 1, 2009. Requires the study, at a minimum, to include a public hearing component that includes one or more hearings at or near affected historical sites. Requires THC to develop a base operating plan for each historic site proposed for transfer to THC. Requires the base operating plan for each site to be completed by THC on or before September 1, 2008. Requires the base operating plan for each site to include a mission statement and certain plans.

SECTION 4 Amends Chapter 11, Parks and Wildlife Code, by adding Subchapter K, as follows:

SUBCHAPTER K. MANAGEMENT AND EFFICIENCY REVIEWS

Sec. 11.251. MAINTENANCE EQUIPMENT REVIEW SYSTEM. (a) Defines "maintenance equipment" and "outdated equipment."

(b) Requires the Texas Parks and Wildlife Commission (TPWC) by rule to establish an equipment review system through which TPWD annually determines whether any of TPWD's maintenance equipment has become outdated equipment since the last date TPWD conducted an equipment review under this section.

(c) Requires the equipment review system established under Subsection (b) to require TPWD to sell any outdated equipment in the manner and at the time specified by TPWC by rule.

(d) Requires TPWD to deposit proceeds from the sale of equipment under this section to the credit of the appropriate parks and wildlife account.

Sec. 11.252. MAINTENANCE PROVIDER REVIEW SYSTEM. (a) Defines "maintenance."

(b) Requires TPWC by rule to establish a maintenance provider review system through which TPWD annually determines whether a maintenance task performed by TPWD could be performed by a third-party contractor in a certain manner.

(c) Requires the maintenance provider review system established under Subsection (b) to require TPWD to contract with a third party for the performance of any maintenance task performed by TPWD that could be performed by a third-party contractor in the manner that meets the criteria described by Subsection (b) after TPWD's cost of administering the contract is added to the cost of performance by the third party.

Sec. 11.253. MANAGEMENT PLAN AND PRIORITIES LIST. Requires TPWD, not later than January 15 of each odd-numbered year, to submit to the governor, the speaker of the house of representatives, the lieutenant governor, and the chair of each house and senate standing committee having jurisdiction over a matter regulated by TPWD under this code a management plan to address TPWD's maintenance responsibilities under this subchapter and a priorities list that includes certain information.

SECTION 5 Amends Subchapter A, Chapter 13, Parks and Wildlife Code, by adding Section 13.0044, as follows:

Sec. 13.0044. PREFERENCE FOR CERTAIN PARK PROGRAMS. Authorizes TPWD to give a preference to programs in which TPWD matches locally raised money on a dollar-for-dollar basis in selecting parks for capital improvements.

SECTION 6 Amends Section 13.0061(a), Parks and Wildlife Code, to authorize TPWD to harvest and sell, or sell in place, any timber, hay, livestock, or other product grown on state park land that TPWD finds to be in excess of natural resource management, educational, or interpretive objectives, rather than programming needs.

SECTION 7 Amends Subchapter A, Chapter 13, Parks and Wildlife Code, by adding Section 13.0075, as follows:

Sec. 13.0075. ELIGIBILITY CRITERIA FOR INCLUSION OF REAL PROPERTY IN STATE PARKS SYSTEM. (a) Requires TPWC by rule to adopt criteria for determining the eligibility of real property that is donated to TPWD for inclusion in the state parks system.

(b) Authorizes TPWD to accept a donation of real property that satisfies the criteria adopted under Subsection (a).

(c) Authorizes TPWD to renovate or restore donated real property, including improvements to the property, or construct improvements on the donated real property as necessary and prudent.

SECTION 8 Amends Subchapter A, Chapter 13, Parks and Wildlife Code, by adding Section 13.0145, as follows:

Sec. 13.0145. SPEED LIMITS. (a) Requires TPWD to set and enforce speed limits on a road in a state park, wildlife management area, or other site under the control of TPWD in a certain manner.

(b) Requires TPWD to consult with the Texas Department of Transportation to determine if a speed limit under Subsection (a) is reasonable and safe based on an engineering and traffic control study and amend the limit, if necessary.

SECTION 9 Amends Section 13.015, Parks and Wildlife Code, by amending Subsection (b) and adding Subsections (a-1), (b-1), (b-2), and (b-3), as follows:

(a-1) Authorizes TPWD to promote visits and enhance revenue at parks, including amounts necessary for salaries, advertising, consumable supplies and materials, promotional products, fees, and related expenses.

(b) Authorizes TPWD to establish and operate staff concessions, including salaries, consumable supplies and materials, operating expenses, rental and other equipment, and other capital outlays.

(b-1) Authorizes TPWD to purchase products, including food items, for resale or rental at a profit.

(b-2) Requires TPWD to operate any resale concession program using standard business practice models to generate revenue and provide quality customer service while adhering to conservation principles.

(b-3) Authorizes TPWD to recruit and select private service providers to enter into leased concession contracts with TPWD to provide necessary and appropriate visitor services.

SECTION 10 Amends Section 13.016, Parks and Wildlife Code, as follows:

Sec. 13.016. New heading: INMATE LABOR. (a) Authorizes TPWD to use the labor of an inmate confined in a state, county, or local correctional facility, rather than using the labor of trusty state convicts, on or in connection with state parks, wildlife management areas, or other property under the control or jurisdiction of TPWD.

(b) Provides that inmates, rather than convicts, working in connection with lands under the control or jurisdiction of TPWD remain under the control of the Texas Department of Criminal Justice (TDCJ) or county or local correctional facility, as appropriate, and are considered as serving their terms in TDCJ or other correctional facility, rather than in the penitentiary.

(c) Authorizes TPWD to purchase equipment, meals, supplies, and materials for an inmate working at a TWPD site as necessary to facilitate the use of the labor described by this section.

(d) Prohibits TPWD from using the labor of an inmate convicted of an offense listed in Article 62.001(5) (reportable conviction or adjudication), Code of Criminal Procedure.

(e) Prohibits TPWD from using the labor of an inmate convicted of any violent offense.

SECTION 11. Amends Section 13.019, Parks and Wildlife Code, as follows:

Sec. 13.019. New heading: FACILITY RESERVATION SYSTEM AND FEE. (a) Creates this subsection from existing text.

(b) Requires TPWD to make certain evaluations and modifications to the system annually.

SECTION 12. Amends Subchapter A, Chapter 13, Parks and Wildlife Code, by adding Section 13.0191, as follows:

Sec. 13.0191. FACILITY AND LODGING FEES. Authorizes a fee charged by TPWD under this subchapter (General Powers and Duties) for the use of a facility or lodging at a state park to vary on a seasonal basis and to be set in an amount to recover the direct and indirect costs of providing the facility or lodging and provide a reasonable rate of return

to TPWD. Provides that items to be considered in setting a fee include the cost required to provide, maintain, and improve amenities available at the site and seasonal variables such as the cost of staffing to meet demand and costs of heating or air conditioning.

SECTION 13. Requires TPWD to comply with the recommendations contained in the State Auditor's Office *An Audit Report on Financial Processes at the Parks and Wildlife Department Report No. 07-021* in accordance with the dates specified in TPWD's management response included as Appendix 6 to the report and contingent on receiving an appropriation sufficient to fund the implementation of the recommendations.

SECTION 14. Provides that the name of the Peach Point Wildlife Management Area is changed to the Justin Hurst Wildlife Management Area.

SECTION 15. Effective date: upon passage or September 1, 2007.