

CHAPTER 679

H.B. No. 706

AN ACT

relating to the establishment of special accounts within the general revenue fund and the allocation of certain revenue from the Limited Sales, Excise, and Use Tax Act to the Parks and Wildlife Department.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subchapter C, Chapter 11, Parks and Wildlife Code, is amended to read as follows:

SUBCHAPTER C. SPECIAL ACCOUNTS [FUNDS]

Sec. 11.031. GAME, FISH, AND WATER SAFETY ACCOUNT [FUND]. There is in the state treasury *an account* [~~a special fund~~] called the "game, fish, and water safety account [fund]."

Sec. 11.032. GAME, FISH, AND WATER SAFETY ACCOUNT; [FUND:] SOURCES.
(a) *The game, fish, and water safety account is a separate account in the general revenue fund.*

(b) The department shall deposit to the credit of the game, fish, and water safety account [fund] all revenue, less allowable costs, from the following sources:

- (1) all types of fishing licenses and stamps and shrimping licenses;
- (2) all types of hunting licenses and stamps;
- (3) trapping licenses and other licenses relating to the taking, propagation, and sale of fur-bearing animals or their pelts;
- (4) sale of marl, sand, gravel, shell, and mudshell;
- (5) oyster bed rentals and permits;
- (6) federal funds received for *fish and wildlife research, management, development and conservation, resource protection, and law enforcement* [~~research and development of commercial fisheries and state funds appropriated for this purpose~~];

(7) sale of property, less advertising costs, purchased from this *account* [~~fund~~] or a special fund or *account* that is now part of this *account* [~~fund~~];

(8) fines and penalties collected for violations of a law pertaining to the protection and conservation of wild birds, wild fowl, wild animals, fish, shrimp, oysters, game birds and animals, fur-bearing animals, alligators, and any other wildlife resources of this state;

(9) sale of rough fish by the department;

(10) fees for importation permits;

(11) fees from supplying fish for or placing fish in water located on private property;

(12) sale of seized pelts;

(13) sale or lease of grazing rights to and the products from game preserves, sanctuaries, and management areas;

(14) contracts for the removal of fur-bearing animals and reptiles from wildlife management areas;

(15) motorboat registration fees;

(16) motorboat manufacturer or dealer registration fee;

(17) fines or penalties imposed by a court for violation of water safety laws contained in Chapter 31 of this code;

(18) alligator hunter's or alligator buyer's licenses;

(19) sale of alligators or any part of an alligator by the department;

(20) fees and revenue collected under Section 11.027(b) or (c) of this code that are associated with the conservation of fish and wildlife; and

(21) any other source provided by law.

Sec. 11.033. USE OF GAME, FISH, AND WATER SAFETY ACCOUNT [FUND].
Money in the [The] game, fish, and water safety *account* [~~fund~~] may be used for the following purposes [only]:

(1) enforcement of fish, shrimp, and oyster laws, game laws, and laws pertaining to sand, shell, and gravel;

(2) dissemination of information pertaining to marine life, wild animal life, wildlife values, and wildlife management;

(3) scientific investigation and survey of marine life for the better protection and conservation of marine life;

(4) establishment and maintenance of fish hatcheries, fish sanctuaries, tidal water fish passes, wildlife management areas, and public hunting grounds;

(5) propagation and distribution of marine life, game animals, and wild birds;

(6) protection of wild birds, fish, and game;

(7) purchase, repair, and operation of boats and dredges;

(8) research, management, and protection of the fish and wildlife resources of this state, including alligators and fur-bearing animals;

(9) salaries of employees and other expenses necessary to carry out the duties of the department under laws relating to fish, shrimp, oysters, game, water safety, and sand, shell, and gravel;

(10) expansion and development of additional opportunities of hunting and fishing in state-owned land and water;

(11) removing rough fish from public water;

(12) construction and maintenance of artificial reefs under Section 12.016 of *this* [the] code;

(13) administration and enforcement of the water safety laws as set out in Chapter 31 of this code;

(14) purchasing all necessary forms and supplies, including reimbursement of the department for any material produced by its existing facilities or work performed by other divisions of the department;

(15) purchase, construction, and maintenance of boat ramps on or near public waters as provided in Chapter 31 of this code;

(16) resource protection activities; and

(17) any other use provided by law.

Sec. 11.034. GAME, FISH, AND WATER SAFETY ACCOUNT [FUND] EXPENDITURES. All expenditures of the department from the game, fish, and water safety account [fund] must be approved by the director. The comptroller shall draw a warrant on the state treasury from the game, fish, and water safety account [fund] for the amount of the expenditure in favor of the person claiming the expenditure.

Sec. 11.035. STATE PARKS ACCOUNT [FUND]. (a) *The state parks account is a separate account in the general revenue fund. [There is in the state treasury a special fund called the "state parks fund."]*

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

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

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

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

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

(5) \$1,125,000 per month and 40 percent of the amount above \$27 million per year of credits made to the department under Section 151.801, Tax Code; and

(6) any other source provided by law.

Sec. 11.037. STATE LAND AND WATER CONSERVATION ACCOUNT [FUND]. (a) *The [There is in the state treasury a special fund called the "state land and water conservation account is a separate account in the general revenue fund."]*

(b) The department shall deposit in the state land and water conservation account [fund] all revenue received from the federal government or any other source for the purpose of administering programs authorized under Sections 13.301 through 13.311 of this code.

(c) The state land and water conservation account [fund] may be used for paying the cost of planning, acquisition, operation, and development of outdoor recreation and conservation resources of the state and the administrative expenses incident to the projects or programs authorized under Sections 13.301 through 13.311 of this code.

Sec. 11.038. OPERATING ACCOUNT [FUND]. (a) *The [There is a fund in the state treasury called the "parks and wildlife operating account is a separate account in the general revenue fund."]*

(b) The commission may transfer any funds appropriated to the department for personal services, travel, consumable supplies and materials, current operating expenses, and capital outlay, as these terms are used in the comptroller's object classification codes of the general appropriations act. All expenditures by the department from this account [fund] shall be made only for the purposes for which appropriations are made in the general appropriations act.

(c) The parks and wildlife operating account [fund] shall be used for the purposes specified by law and nothing may be done by any officer or employee of the department or commission to divert or jeopardize the account [fund] or any portion of the account [fund], including any federal aid the department receives or administers.

Sec. 11.040. MISTAKEN DEPOSIT. (a) Any funds deposited in the state treasury by the department by mistake of fact or mistake of law shall be refunded by warrant issued against the fund and credited against the account in the state treasury into which the money

was deposited. Refunds necessary to make the proper correction shall be appropriated by the general appropriations act.

(b) The comptroller may require written evidence from the director of the department to indicate the reason for the mistake of fact or law before issuing the refund warrant authorized in Subsection (a) of this section.

(c) This section does not apply to any funds that have been deposited under a written contract or to any funds on deposit as of June 8, 1971, which are the subject of litigation in any of the courts of this state or the United States.

Sec. 11.041. **TRANSFER OF PROPERTY.** (a) The commission may transfer tangible property, other than money or real estate held for limited purposes, from one division of the department to another division.

(b) If the property to be transferred was acquired with funds the use of which is limited by law or dedicated in any other manner, and the prospective use of the property is different from the use allowed by law, the department shall transfer from available funds to the fund or account from which the property was acquired the value of the property at the time of the transfer.

Sec. 11.042. **FUNDS DEPOSITED IN TREASURY.** All money paid to the department under this code or allocated to the department under Section 151.801, Tax Code, other than money received under Subchapter C, Chapter 12, or Chapter 21 of this code, shall be deposited in the State Treasury and may be used only for the administration of this code.

Sec. 11.043. **TEXAS PARKS AND WILDLIFE CAPITAL ACCOUNT.** (a) *The Texas parks and wildlife capital account is a separate account in the general revenue fund.*

(b) *The account consists of the amount of credits made to the department under Section 151.801, Tax Code, after allocations to the state parks account and the Texas recreation and parks account or any other source authorized by law.*

(c) *Money in the account may be spent only for acquisition and development of parks, fisheries, and wildlife projects that have been individually approved by the commission. Projects that directly provide hunting, fishing, or outdoor recreation opportunity to the public shall be given preference for funding under this section. Approved projects may include:*

(1) *acquiring land or facilities for use in any department program;*

(2) *developing and improving any land or facility owned or controlled by the department;*

(3) *servicing the debt on Texas park development bonds issued under Article III, Section 49-e, of the Texas Constitution or any bonds issued in the future for parks, fisheries, or wildlife projects; and*

(4) *local park grants in Chapter 24 of this code.*

(d) *The treasurer may invest money in the account.*

Sec. 11.044. **DISPOSITION OF INTEREST ON INVESTMENTS.** (a) *Interest received from the investment of money in all accounts of the department in charge of the treasurer shall be allocated monthly to each account in an amount proportionate to the amount of money invested from the account.*

(b) *The treasurer may retain from the interest to be allocated monthly an amount equal to the necessary administrative costs of making the allocations.*

Sec. 11.045. **APPLICATION OF OTHER LAW.** *Section 403.095, Government Code, does not apply to revenues accruing to an account established under this chapter.*

SECTION 2. The title to Subchapter D, Chapter 11, Parks and Wildlife Code, is amended to read as follows:

**SUBCHAPTER D. SPECIAL NONGAME AND ENDANGERED
SPECIES CONSERVATION ACCOUNT [FUND]**

SECTION 3. Section 11.052, Parks and Wildlife Code, is amended to read as follows:

Sec. 11.052. SPECIAL NONGAME AND ENDANGERED SPECIES CONSERVATION ACCOUNT [FUND]. ~~The [There is in the state treasury a special fund called the~~ "special nongame and endangered species conservation account is a separate account in the general revenue fund."^{2]}

SECTION 4. Section 11.053, Parks and Wildlife Code, is amended to read as follows:

Sec. 11.053. SOURCES OF ACCOUNT [FUND]. (a) The department shall deposit to the credit of the special nongame and endangered species conservation account [fund] all money received from:

- (1) private contributions, grants, and donations made to the special nongame and endangered species conservation account [fund];
- (2) the net proceeds from the sale under this chapter of wildlife art prints, decals, and stamps;
- (3) interest income from the investment of money collected under this section; and
- (4) income from entrance fees, easements, mineral leases, grazing leases, and sale of products from lands purchased with funds from the special nongame and endangered species conservation account [fund].

(b) The department may accept private contributions, grants, and donations made to the special nongame and endangered species conservation account [fund].

SECTION 5. Section 11.054, Parks and Wildlife Code, is amended to read as follows:

Sec. 11.054. USES OF ACCOUNT [FUND]. (a) Money in the [The] special nongame and endangered species conservation account [fund] may be used [only] for the following purposes:

- (1) dissemination of information pertaining to nongame and endangered species conservation, management, and values;
- (2) scientific investigation and survey of nongame and endangered species for better protection and conservation;
- (3) propagation, distribution, protection, and restoration of nongame and endangered species;
- (4) research and management of nongame and endangered species;
- (5) development of habitats for nongame and endangered species;
- (6) acquisition of habitats for nongame and endangered species; and
- (7) matching of funds available to the department under federal programs for projects and activities authorized under this section.

(b) Appropriations from the special nongame and endangered species conservation account [fund] are supplemental, and other accounts [funds] may be appropriated for the purposes for which the fund was established.

SECTION 6. Subchapter E, Chapter 11, Parks and Wildlife Code, is amended to read as follows:

SUBCHAPTER E. LIFETIME LICENSE ENDOWMENT ACCOUNT [FUND]

Sec. 11.061. LIFETIME LICENSE ENDOWMENT ACCOUNT [FUND]. ~~The [There is within the State Treasury a special fund called the]~~ lifetime license endowment account is a separate account in the general revenue fund.

Sec. 11.062. SOURCES OF ACCOUNT [FUND]. (a) The department shall deposit to the credit of the lifetime license endowment account [fund] all money received from:

- (1) lifetime hunting, fishing, or combination licenses;
- (2) private contributions, grants, and donations made for purposes of this subchapter;
- (3) interest income from the investment of money collected under this section; and
- (4) any other source provided by law.

(b) The department may accept private contributions, grants, and donations made to the lifetime license endowment *account* [fund].

Sec. 11.063. USES OF ACCOUNT [FUND]. [(a)] Interest earned on the lifetime license endowment *account* [fund] may be used only to:

- (1) acquire public hunting and fishing areas; and
- (2) develop, manage, and repair public hunting and fishing areas.

Sec. 11.064. RESTRICTIONS. No expenditures shall be made from the principal of the lifetime license endowment *account* [fund] except as provided by law.

Sec. 11.065. INVESTMENTS. The commission shall adopt rules for the investment of the lifetime license endowment *account* [fund].

SECTION 7. Section 11.072(c), Parks and Wildlife Code, is amended to read as follows:

(c) Reasonable attorney's fees shall also be recoverable, with reimbursement to the operating fund *or account* from which the expenditure occurred.

SECTION 8. Section 11.073, Parks and Wildlife Code, is amended to read as follows:

Sec. 11.073. DISPOSITION OF CIVIL PENALTIES. All civil penalties recovered in suits under this subchapter shall be paid to the appropriate fund *or account* of the department.

SECTION 9. Section 12.006(d), Parks and Wildlife Code, is amended to read as follows:

(d) Money received under this section shall be deposited in the State Treasury to the credit of the fund *or account* from which expenses for the publication were paid.

SECTION 10. Section 12.008(d), Parks and Wildlife Code, is amended to read as follows:

(d) All money derived from a sale or lease under this section shall be deposited in the state treasury to the credit of the game, fish, and water safety *account* [fund].

SECTION 11. Section 12.109(b), Parks and Wildlife Code, is amended to read as follows:

(b) The confiscated aquatic life shall be sold to the highest of three bidders. The proceeds of the sale shall be deposited in the state treasury to the credit of suspense *account* [fund] No. 900 pending the outcome of the action taken against the person charged with illegal possession.

SECTION 12. Section 12.1106(f), Parks and Wildlife Code, is amended to read as follows:

(f) The department shall deposit money received under this section in the state treasury to the credit of the game, fish, and water safety *account* [fund].

SECTION 13. Section 12.307, Parks and Wildlife Code, is amended to read as follows:

Sec. 12.307. DISPOSITION OF RECOVERY. (a) Any damages for injury to fish, shellfish, reptiles, amphibians, birds, or animals recovered in a suit brought by the attorney general shall be deposited to the credit of the game, fish, and water safety *account* [fund].

(b) Fifty percent of any damages for injury to fish, shellfish, reptiles, amphibians, birds, or animals recovered in a suit brought by a county attorney shall be deposited in the general fund of the county. The remainder shall be deposited to the credit of the game, fish, and water safety *account* [fund].

SECTION 14. Section 12.507(e), Parks and Wildlife Code, is amended to read as follows:

(e) Civil penalties received by the department under this section shall be deposited to the credit of the game, fish, and water safety *account* [fund].

SECTION 15. Section 13.004(a), Parks and Wildlife Code, is amended to read as follows:

(a) The operation, maintenance, and improvement of state parks shall be financed from the general revenue fund, the state parks *account* [fund], other *accounts* [funds] that may be authorized by law, and donations, grants, and gifts received by the department for these purposes.

SECTION 16. Section 13.0061(d), Parks and Wildlife Code, is amended to read as follows:

(d) All revenue derived from a lease or from the sale of livestock or crops under this section shall be deposited in the state treasury to the credit of the state parks *account* [fund].

SECTION 17. Section 13.015(c), Parks and Wildlife Code, is amended to read as follows:

(c) The department shall deposit any revenue received from the contracts, user fees, or operations authorized by this section in the state treasury to the credit of the state parks *account* [fund].

SECTION 18. Section 13.017(d), Parks and Wildlife Code, is amended to read as follows:

(d) Money received under this section shall be deposited in the State Treasury to the credit of the *account* [fund] from which expenses for the publication were paid.

SECTION 19. Section 13.310(c), Parks and Wildlife Code, is amended to read as follows:

(c) The department shall deposit all funds received for the development of outdoor recreation resources in the state treasury to the credit of the state land and water conservation *account* [fund].

SECTION 20. Section 21.108, Parks and Wildlife Code, is amended to read as follows:

Sec. 21.108. INTEREST AND SINKING FUND: FINAL TRANSFER. After all bonds have been paid, the balance of the interest and sinking fund shall be transferred to the state parks *account* [fund].

SECTION 21. Section 22.059, Parks and Wildlife Code, is amended to read as follows:

Sec. 22.059. DISPOSITION OF FUNDS. Money received from the sale of timber or iron ore from the land in the park shall be placed in the state treasury to the credit of the state parks *account* [fund].

SECTION 22. Section 22.076, Parks and Wildlife Code, is amended to read as follows:

Sec. 22.076. DISPOSITION OF FUNDS. Money received from the sale of timber cut from the park shall be placed in the state treasury to the credit of the state parks *account* [fund].

SECTION 23. Section 22.095, Parks and Wildlife Code, is amended to read as follows:

Sec. 22.095. DISPOSITION OF FUNDS. Money received from the sale of timber cut from the park shall be placed in the state treasury to the credit of the state parks *account* [fund].

SECTION 24. Section 22.182(a), Parks and Wildlife Code, is amended to read as follows:

(a) Except as provided in Subsection (b) of this section, the department may operate any part of the Texas State Railroad as a part of the state parks system for park and recreational purposes. All revenues collected from leases or concessions shall be deposited in the state treasury to the credit of the state parks *account* [fund].

SECTION 25. Section 22.184(d), Parks and Wildlife Code, is amended to read as follows:

(d) All revenue received under this section shall be deposited in the state treasury to the credit of the state parks *account* [fund].

SECTION 26. Section 22.222(c), Parks and Wildlife Code, is amended to read as follows:

(c) The department shall acquire the land with money from the Texas Park Development Fund, or any fund or *account* created to finance the acquisition of state parks.

SECTION 27. Section 23.014(b), Parks and Wildlife Code, is amended to read as follows:

(b) Unless reversion is waived by the legislature during the biennium following the happening of a condition of reversion, all state-owned land conveyed to the United States for the creation of the Padre Island National Seashore reverts to the state and to the fund or *account* to which it belonged before conveyance if:

(1) the United States fails to acquire two-thirds of all privately owned land in the area described by Section 1, Chapter 38, Acts of the 58th Legislature, 1963, within 10 years after the date that the state-owned land was acquired; or

(2) the United States fails to use as a national seashore the privately owned land it has acquired.

SECTION 28. Section 24.001(8), Parks and Wildlife Code, is amended to read as follows:

(8) "Account" ["Fund"] means the Texas [local parks,] recreation and parks *account* [, and open space fund].

SECTION 29. Section 24.002, Parks and Wildlife Code, is amended to read as follows:

Sec. 24.002. *TEXAS RECREATION AND PARKS ACCOUNT* [~~FUND ESTABLISHED~~]. The Texas [~~local parks,~~] recreation and parks account[, and open space fund] is a separate account [~~established~~] in the general revenue fund [~~state treasury~~].

SECTION 30. Section 24.003, Parks and Wildlife Code, is amended to read as follows:

Sec. 24.003. *ACCOUNT REVENUE SOURCE*. The department shall deposit to the credit of the Texas recreation and parks account:

(1) \$1,125,000 per month and 40 percent of the amount above \$27 million per year of credits made to the department under Section 151.801, Tax Code; or

(2) any other source authorized by law. [~~USE OF FUND. (a) Appropriations from the fund may be used only for assistance grants under Section 24.004 of this code, direct grants under Section 24.005 of this code, and the uses permitted under Section 24.006 of this code.~~

[~~(b) The department is authorized to spend up to 20 percent of the amount of the fund appropriated each fiscal year if adequate federal funds are not available for assistance grants, matching grants, and direct expenditures for use in rural areas in this state.~~]

SECTION 31. Section 24.004(a), Parks and Wildlife Code, is amended to read as follows:

(a) The department may make grants of money from the account [fund] to a political subdivision for use by the political subdivision as all or part of the subdivision's required share of funds for eligibility for receiving a federal rehabilitation and recovery grant.

SECTION 32. Section 24.005, Parks and Wildlife Code, is amended to read as follows:

Sec. 24.005. *DIRECT STATE MATCHING GRANTS*. (a) The department shall [may] make grants of money from the account [fund] to a political subdivision to provide one-half of the costs of the planning, acquisition, or development of a park, recreational area, or open space area to be owned and operated by the political subdivision.

(b) In establishing the program of grants under this section, the department shall adopt [~~those allocation formulas, conditions for fund uses, and other procedural requirements, to the extent not inconsistent with this chapter, as are provided for the land and water conservation fund established by Section 4601-4, Title 16, United States Code, and the~~] rules and regulations for grant assistance [~~made from that fund~~].

(c) Money granted to a political subdivision under this section may not be used for the operation and maintenance of parks, recreational areas, and open space areas.

SECTION 33. Section 24.006, Parks and Wildlife Code, is amended to read as follows:

Sec. 24.006. *FUNDS FOR GRANTS TO LOCAL GOVERNMENTS*. When revenues to the Texas recreation and parks account exceed \$14 million per year, an amount not to exceed 15 percent shall be made available for grants to local governments for up to 50 percent of the cost of acquisition or development of indoor public recreation facilities for indoor recreation programs, sports activities, nature programs, or exhibits. [~~ACQUISITION AND DEVELOPMENT OF STATE PARKS. The department may acquire and develop a state park, recreational area, open space area, or natural area with money appropriated from the fund.~~]

SECTION 34. Section 24.007, Parks and Wildlife Code, is amended to read as follows:

Sec. 24.007. *ACCOUNT [FUND] USE TO BE CONSISTENT WITH PLANS*. No grant may be made under Section 24.005 of this code nor may account [fund] money be used under Section 24.006 of this code unless:

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

(2) [~~the acquisition and development is consistent with the local parks, recreational, and open space plan and the Texas outdoor recreation plan; and~~

[~~(3) a written statement is obtained from the regional planning commission having jurisdiction of the area in which the property is to be acquired and developed that the acquisition and development is consistent with [the local parks, recreational, and open space plan most closely reflecting] local needs.~~

SECTION 35. Sections 24.008(e) and (f), Parks and Wildlife Code, are amended to read as follows:

(e) If land or water designated for park, recreational, or open space use is included in the local and regional park, recreational, and open space plans for two or more contiguous jurisdictions [~~and that land or water is also included in the Texas outdoor recreation plan~~], the two or more jurisdictions may cooperate under state law to secure assistance from the *account [fund]* to acquire or develop the property. In those cases, the department must be assured that a cooperative management plan for the land or water can be developed and effectuated.

(f) All land or water purchased with assistance from the *account [fund]* shall be dedicated for park, recreational, *indoor recreation center*, and open space purposes in perpetuity and may not be used for any other purpose, except where the use is compatible with park, recreational, and open space objectives, and the use is approved in advance by the department.

SECTION 36. Section 24.009(a), Parks and Wildlife Code, is amended to read as follows:

(a) On the approval of a grant under this chapter and on the written request by the director, the comptroller of public accounts shall issue a warrant drawn against the *Texas recreation and parks account [fund]* and payable to the political subdivision in the amount specified by the director.

SECTION 37. Section 24.010, Parks and Wildlife Code, is amended to read as follows:

Sec. 24.010. ANNUAL REPORT. (a) The commission shall report to the governor and legislature on August 31 of each year, or as soon as practicable, but not later than October 1 of each year, showing the condition of the *account [fund]*. The report must contain:

(1) a statement of the amount of money deposited to the credit of the *account [fund]* for the year;

(2) a statement of the amount of money disbursed by the department for department projects and for qualified political subdivision projects for the year;

(3) a listing of political subdivisions that applied for matching assistance from the *account [fund]*, to include information for each political subdivision that shows the amount of money applied for, the scope of the proposed acquisition or development project, and the priority assigned the application during department review;

(4) a listing of political subdivisions and state parks which have received money from the *account [fund]*, to include information for each political subdivision and state park that shows the amount of money, number of parks, recreational areas, *indoor recreation centers*, and open space areas, and number of acres acquired or developed by park, recreational, *indoor recreation center*, or open space area and summed for each political subdivision for the year;

(5) a listing of political subdivisions which have received ~~*grant funding [park, recreational, and open space operation and maintenance money]*~~ from the *account [fund]*, to include information for each subdivision which shows the amount of money allocated, amount of money spent, and general statements on how the political subdivision used the money [~~for maintenance~~];

(6) a statement of the amount of money annually deposited to the credit of the *account [fund]* that was not disbursed during the year and the reason for nondisbursement; and

(7) a statement of any significant problems encountered in administering the *account [fund]*, with recommendations for their solution.

(b) The annual report on the *account [fund]* may be included as a portion of the department's annual report to the governor.

SECTION 38. Section 24.012, Parks and Wildlife Code, is amended to read as follows:

Sec. 24.012. ACCOUNT [FUND] NOT TO BE USED FOR PUBLICITY. No money credited to the *account [fund]* may be used for publicity or related purposes.

SECTION 39. Section 31.128(b), Parks and Wildlife Code, is amended to read as follows:

(b) In justice court cases, the amount to be remitted to the *game, fish, and water safety account [fund]* shall be 85 percent of the fine. In county court cases the amount to be remitted to the *game, fish, and water safety account [fund]* shall be 80 percent of the fine.

All costs of the court shall be retained by the court having jurisdiction of the offense and deposited as other fees in the proper county fund.

SECTION 40. Section 31.141(b), Parks and Wildlife Code, is amended to read as follows:

(b) On the completion of the work, the department shall prepare and send vouchers to the comptroller of public accounts payable to the department or to any person, firm, or corporation for reimbursement for the work, and the comptroller shall issue warrants on the *game, fish, and water safety account* [~~special boat fund~~] to reimburse the department or any person, firm, or corporation for the work performed.

SECTION 41. Section 31.142, Parks and Wildlife Code, is amended to read as follows:

Sec. 31.142. **BUOYS AND MARKERS.** The department may provide for a standardized buoy-marking program for the inland water of the state. The department may purchase and provide the controlling agency of the water bodies with buoys and markers [~~from funds remaining in the special boat fund in excess of the cost of administering this chapter~~].

SECTION 42. Section 43.112(f), Parks and Wildlife Code, is amended to read as follows:

(f) The department shall deposit money received under this section in the state treasury to the credit of the *game, fish, and water safety account* [fund] for the enforcement of fish, shrimp, and oyster laws, game laws, and laws pertaining to sand, shell, and gravel.

SECTION 43. Section 62.014(e), Parks and Wildlife Code, is amended to read as follows:

(e) The commission may maximize the utilization of volunteer instructors to minimize the costs of the course and is authorized to charge a fee not to exceed \$15 to defray administrative costs. Fees collected under this subsection, *less any instructor expenses approved by the department*, shall be deposited to the credit of the *game, fish, and water safety account* [fund].

SECTION 44. Section 62.065, Parks and Wildlife Code, is amended to read as follows:

Sec. 62.065. **DISPOSITION OF FUNDS.** Revenue received under this subchapter shall be deposited in the state treasury to the credit of the *state parks account* [fund].

SECTION 45. Section 68.018, Parks and Wildlife Code, is amended to read as follows:

Sec. 68.018. **DISPOSITION OF FUNDS; APPROPRIATIONS.** All revenue received under this chapter shall be deposited in the state treasury to the credit of the *special nongame and endangered species conservation account* [fund].

SECTION 46. Section 76.019(c), Parks and Wildlife Code, is amended to read as follows:

(c) The department shall deposit fees and penalties collected under this section to the credit of the general revenue fund to be allocated each quarter as follows:

(1) 50 percent to the Texas Department of Health to contract with an institute of higher education for oyster-related research and other activities, including the:

- (A) study of organisms in oysters that are harmful to consumers of oysters;
- (B) education of the public on health issues relating to oyster consumption;
- (C) sanitary handling of oysters at the wholesale, retail, and consumer level; and
- (D) optional additional marking of the boundaries of areas declared closed by the commissioner; and

(2) 50 percent to the credit of the *game, fish, and water safety account* [fund] for:

- (A) research into control of oyster diseases and predators;
- (B) research into reef enhancement in, and increased oyster production from, Texas water;
- (C) studies of the potential of leasing the bottom in unapproved areas for enhanced oyster production;
- (D) other oyster-related research approved by the department; and
- (E) enhanced enforcement of this chapter.

SECTION 47. Section 77.027, Parks and Wildlife Code, is amended to read as follows:

Sec. 77.027. **CONFISCATION AND DISPOSAL OF SHRIMP.** When an enforcement officer of the department believes that a person has unlawful possession of any shrimp taken

in violation of this chapter, all shrimp aboard any vessel involved or in the trawl, whether in storage, on deck, and whether alive or dead, whole or headed, frozen or fresh, shall be deemed to have been taken in violation of the chapter and shall be confiscated by the arresting officer. The cargo of shrimp shall be sold to the highest of three bidders by the officer. The proceeds of the sale shall be deposited in the state treasury to the credit of suspense *account* [fund] number 900, pending the outcome of the action taken against the person charged with the illegal possession. Unless the person is found guilty, all the proceeds shall be paid to the defendant.

SECTION 48. Section 81.104, Parks and Wildlife Code, is amended to read as follows:

Sec. 81.104. CONDEMNATION SUITS. Condemnation suits under this subchapter shall be brought in the name of the State of Texas by the attorney general at the request of the department and shall be held in Travis County. All costs in the proceedings shall be paid by the state or by the person against whom the proceedings are had, to be determined as in the case of railroad condemnation proceedings. All damages and pay or compensation for property awarded in the proceedings shall be paid by the comptroller against any fund or *account* in state treasury that is limited in use for fish or wildlife purposes and that is appropriated to the department.

SECTION 49. Section 82.202, Parks and Wildlife Code, is amended to read as follows:

Sec. 82.202. ACCEPTANCE OF GIFTS. The department may accept gifts of land in Culberson and Hudspeth counties or money to be deposited in the game, fish, and water safety *account* [fund]. The gifts shall be used for the Texas Bighorn Sheep management unit.

SECTION 50. Section 82.203, Parks and Wildlife Code, is amended to read as follows:

Sec. 82.203. LAND PURCHASE; SCHOOL LANDS. The department may purchase the surface rights in not more than eight sections of public school lands located in Culberson and Hudspeth counties in the following blocks: Blocks 65 and 66, T. & P. Ry. Co. land; Blocks 42½, 43, 54½, Public School Lands. The minerals on the land purchased shall be reserved to the school fund and managed by the school land board. The price to be paid for the land shall not exceed \$1 per acre and shall be paid for by the department out of the game, fish, and water safety *account* [fund].

SECTION 51. Section 82.204, Parks and Wildlife Code, is amended to read as follows:

Sec. 82.204. OTHER LAND; TITLE APPROVAL. The department may purchase other land in Culberson and Hudspeth counties as necessary for the operation of the game management unit. The department may pay for the land out of the game, fish, and water safety *account* [fund] on approval of the title by the attorney general.

SECTION 52. Section 82.206, Parks and Wildlife Code, is amended to read as follows:

Sec. 82.206. CONDEMNATION. The method of condemnation, assessment, and payment of damages is the same as is provided by law for railroads. Condemnation suits brought under this subchapter shall be brought in the name of the State of Texas by the attorney general at the request of the department. All costs in the proceedings shall be paid by the state or by the person against whom the proceedings are had, to be determined as in the case of railroad proceedings. All damages and pay or compensation for property awarded in the proceedings shall be paid by the state by warrant drawn on the game, fish, and water safety *account* [fund].

SECTION 53. Section 82.207, Parks and Wildlife Code, is amended to read as follows:

Sec. 82.207. EXPENDITURES. All expenditures provided under this subchapter shall be made from the game, fish, and water safety *account* [fund].

SECTION 54. Section 82.603, Parks and Wildlife Code, is amended to read as follows:

Sec. 82.603. CONDEMNATION; MANNER AND MEANS. The method of condemnation, assessment, and payment of damages is the same as is provided for railroads. Condemnation suits brought under this subchapter shall be brought in the name of the State of Texas by the attorney general at the request of the department. All costs in the proceedings shall be paid by the state or by the person against whom the proceedings are had, to be determined as in the case of railroad condemnation proceedings. All damages and pay or compensation for property awarded in the proceedings shall be paid by the state by

warrant drawn by the comptroller against any *account* [fund] in the state treasury appropriated to the department for the use of constructing and maintaining fish hatcheries.

SECTION 55. Section 82.651(c), Parks and Wildlife Code, is amended to read as follows:

(c) The cost of the construction and maintenance of a channel constructed under this section may be paid from the *game, fish, and water safety account* [~~special game and fish fund~~] only.

SECTION 56. Section 83.002(b), Parks and Wildlife Code, is amended to read as follows:

(b) Funds received from the federal government and appropriated by the state for research and development of commercial fisheries shall be deposited in the state treasury to the credit of the [~~special~~] *game, [and] fish, and water safety account* [fund].

SECTION 57. Section 86.016, Parks and Wildlife Code, is amended to read as follows:

Sec. 86.016. DEPOSIT OF FUNDS. The proceeds from the sale of marl, sand, gravel, shell, and mudshell shall be deposited in the *special game, [and] fish, and water safety account* [fund].

SECTION 58. Section 89.002(b), Parks and Wildlife Code, is amended to read as follows:

(b) In carrying out the duties under Subsection (a) of this section, the department shall:

- (1) plan and review permit applications for artificial reefs;
- (2) coordinate with relevant state and federal agencies;
- (3) hold public hearings on proposed artificial reefs;
- (4) oversee maintenance and placement requirements of artificial reefs; and
- (5) develop rules and guidelines, in conjunction with the advisory committee, in the collection of fees, grants, and donations to the artificial reef *account* [fund].

SECTION 59. Section 89.022, Parks and Wildlife Code, is amended to read as follows:

Sec. 89.022. REQUIRED PROVISIONS. The state artificial reef plan must include:

- (1) operational guidelines for the plan, including specific participant roles, and projected funding requirements for the plan;
- (2) geographic, hydrographic, geological, biological, ecological, social, economic, and other criteria for permitting and siting artificial reefs;
- (3) design, materials, and other criteria for establishing, constructing, and maintaining artificial reefs;
- (4) mechanisms and methodologies for monitoring artificial reefs in compliance with the requirements of permits issued under the National Fishing Enhancement Act;
- (5) mechanisms and methodologies for managing the use of artificial reefs;
- (6) a map that depicts priority areas for artificial reef development consistent with this chapter and the National Fishing Enhancement Act; and
- (7) provisions for managing the artificial reef *account* [fund] in a manner that will assure successful implementation of the plan.

SECTION 60. Subchapter C, Chapter 89, Parks and Wildlife Code, is amended to read as follows:

SUBCHAPTER C. ARTIFICIAL REEF ACCOUNT [FUND]

Sec. 89.041. ARTIFICIAL REEF ACCOUNT [FUND]. (a) The artificial reef *account* [fund] is a separate account in the general revenue fund [~~created in the State Treasury~~].

(b) The *account* [fund] is composed of all funds received under Section 89.043 of this code [~~by the state~~], including interest and earnings [~~on the funds, under this chapter~~].

(c) No state general revenue funds shall be expended in the development or implementation of this plan.

Sec. 89.042. DEDICATION. The funds received under Section 89.043 of this code are [~~artificial reef fund is~~] dedicated to the department for the purpose of carrying out this

chapter, including siting, designing, constructing, monitoring, and otherwise managing an artificial reef or artificial reef system.

Sec. 89.043. GRANTS, DONATIONS, AND OTHER ASSISTANCE. The department may accept grants, donations of money or materials, and other forms of assistance from private and public sources.

SECTION 61. Section 26.124(b), Water Code, is amended to read as follows:

(b) Whenever it appears that a violation or a threat of violation of any provision of Section 26.121 of this code or any rule, permit, or order of the commission has occurred or is occurring that affects aquatic life or wildlife, the Parks and Wildlife Department, in the same manner as the commission in Section 26.123 of this code, may have a suit instituted in a district court for injunctive relief or civil penalties or both, as authorized in Section 26.123(a) of this code, against the person who committed or is committing or is threatening to commit the violation. The suit shall be brought in the name of the State of Texas by the attorney general or by the county attorney or the district attorney, as appropriate, of the county in which venue for the suit is proper. The suit may be brought in the county where the defendant resides or in the county where the violation or threat of violation occurs. In a suit brought under this section for a violation that is a proximate cause of injury to aquatic life or wildlife normally taken for commercial or sport purposes or to species on which this life is directly dependent for food, the Parks and Wildlife Department is entitled to recover damages for the injury. In determining damages, the court may consider the valuation of the injured resources established in rules adopted by the Parks and Wildlife Commission under Subchapter D, Chapter 12, Parks and Wildlife Code, or the replacement cost of the injured resources. Any recovery of damages for injury to aquatic life or wildlife shall be deposited to the credit of the game, fish, and water safety *account* [fund] under Section 11.032, Parks and Wildlife Code, and the Parks and Wildlife Department shall use funds recovered under this section to replenish or enhance the injured resources [~~in the geographic area in which the injury occurs~~]. The actual cost of investigation, reasonable attorney's fees, and reasonable expert witness fees may also be recovered, and those recovered amounts shall be credited to the same operating *accounts* [funds] from which expenditures occurred. This section does not limit recovery for damages available under other law.

SECTION 62. Section 34.018, Natural Resources Code, is amended to read as follows:

Sec. 34.018. DEPOSIT OF RECEIPTS. Amounts received under the provisions of this chapter shall be deposited in the State Treasury to the credit of the appropriate special *account* [fund], with the exception that all money received under the provisions of this chapter enuring to the benefit of the Parks and Wildlife Department from land held by the department for game and fish conservation, protection, and management purposes shall be deposited in the State Treasury to the credit of the *game, fish, and water safety account* [~~special game and fish fund~~], and all money received under the provisions of this chapter enuring to the benefit of the Parks and Wildlife Department from park, recreation, and historic land shall be deposited in the State Treasury to the credit of the state parks *account* [fund].

SECTION 63. Section 61.166(b), Natural Resources Code, is amended to read as follows:

(b) The filing fee shall be deposited in the state treasury in the *game, fish, and water safety account* [~~Land and Water Recreation and Safety Fund 63~~], and the department may pay from this *account* [fund] the expenses of carrying out the provisions of this subchapter.

SECTION 64. Section 404.060, Government Code, is amended to read as follows:

Sec. 404.060. PRIORITY OF WARRANTS. Warrants on the treasury shall be on an equal basis with each other, except that if a question arises concerning the priority of payment of the warrants and necessity requires, they shall be paid in order of their serial number within each *account* [fund].

This section does not apply to:

(1) warrants drawn on the game, fish, and water safety *account* [fund] or on funds collected for and appropriated to the *Texas* [State] Department of [~~Highways and Public~~] Transportation;

(2) a special fund created or provided for in the constitution; or

(3) a special fund or account consisting of taxes set aside and remitted or donated by the legislature to a county or municipality.

SECTION 65. Section 151.801, Tax Code, is amended to read as follows:

Sec. 151.801. DISPOSITION OF PROCEEDS. (a) Except for the amounts ~~[amount]~~ allocated under ~~Subsections [Subsection]~~ (b) and (c) ~~[of this section]~~, all proceeds from the collection of the taxes imposed by this chapter shall be deposited to the credit of the general revenue fund.

(b) The amount of the proceeds from the collection of the taxes imposed by this chapter on the sale, storage, or use of lubricating and motor oils used to propel motor vehicles over the public roadways shall be deposited to the credit of the state highway fund.

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

(1) *For the period beginning September 1, 1993, and ending August 31, 1995, an amount equal to 50 cents per 1,000 cigarettes shall be deposited to the credit of the general revenue fund, state parks account, and an amount equal to 50 cents per 1,000 cigarettes shall be deposited to the credit of the general revenue fund, Texas recreation and parks account, and the balance shall be retained in the general revenue fund.*

(2) *Beginning September 1, 1995, the taxes collected shall be credited to the Parks and Wildlife Department and deposited as specified in the Parks and Wildlife Code. The comptroller shall not credit in excess of \$32 million in sporting goods tax revenue annually to the Parks and Wildlife Department.*

(d) The comptroller shall certify the amount to be deposited to the highway fund under Subsection (b) ~~[of this section]~~ to the treasurer *according to* ~~[on the basis of]~~ available statistical data indicating the estimated average or actual consumption or sales of lubricants used to propel motor vehicles over the public roadways. *The comptroller shall certify the amounts to be deposited to the funds or accounts under Subsection (c) to the treasurer according to available statistical data indicating the estimated or actual total receipts in this state from taxable sales of sporting goods.* If satisfactory data are not available, the comptroller may require taxpayers who make taxable sales or uses of those lubricants or of sporting goods to report to the comptroller as necessary to make the allocation required by Subsection (b) or (c) ~~[of this section]~~.

(e) ~~[(d)]~~ In this section:

(1) *“Motor, ~~motor~~ vehicle” means a trailer, a semitrailer, or a self-propelled vehicle in or by which a person or property can be transported upon a public highway. “Motor vehicle” does not include a device moved only by human power or used exclusively on stationary rails or tracks, a farm machine, a farm trailer, a road-building machine, or a self-propelled vehicle used exclusively to move farm machinery, farm trailers, or road-building machinery.*

(2) *“Sporting goods” means an item of tangible personal property designed and sold for use in a sport or sporting activity, excluding apparel and footwear except that which is suitable only for use in a sport or sporting activity, and excluding board games, electronic games and similar devices, aircraft and powered vehicles, and replacement parts and accessories for any excluded item.*

SECTION 66. Section 154.603(b), Tax Code, is amended to read as follows:

(b) The revenue remaining after the deductions for the purposes provided by Section 154.602 of this code and allocation under Subsection (a) of this section is allocated:

~~[(1) 50 cents per 1,000 cigarettes to the state parks fund;~~

~~[(2) 50 cents per 1,000 cigarettes to the local parks, recreation and open space fund; and~~

~~[(3) the remainder] to the general revenue fund.~~

SECTION 67. Section 160.121(c), Tax Code, is amended to read as follows:

(c) Five percent of the taxes collected by the department under this chapter shall be deposited to the credit of the game, fish, and water safety *account* ~~[fund]~~ and used by the department for the administration of this chapter.

SECTION 68. Sections 154.603(c) and (d), Tax Code, are repealed.

SECTION 69. Accounts authorized within the Parks and Wildlife Code shall not be included under Section 403.095, Government Code. All dedications of revenue made within the Parks and Wildlife Code or by any other statute to the Parks and Wildlife Department shall continue in full force and effect and none of these revenues may be used for any other purpose.

SECTION 70. This Act takes effect September 1, 1993, except that Section 11.044, Parks and Wildlife Code, as added by this Act, takes effect September 1, 1995.

SECTION 71. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 11, 1993, by a non-record vote; the House refused to concur in Senate amendments to H.B. No. 706 on May 26, 1993, and requested the appointment of a conference committee to consider the differences between the two houses; the House adopted the conference committee report on H.B. No. 706 on May 30, 1993, by a non-record vote; passed by the Senate, with amendments, on May 23, 1993, by a viva-voce vote; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; the Senate adopted the conference committee report on H.B. No. 706 on May 30, 1993, by a viva-voce vote.

Approved June 15, 1993.

Effective Sept. 1, 1993, except § 11.044, Parks and Wildlife Code effective Sept. 1, 1995.