PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL
Parks and Wildlife Code
Title 2
9/2/26

TITLE 2. PARKS AND WILDLIFE ADMINISTRATION

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CHAPTER 2001. GENERAL PROVISIONS

Revised Law

Sec. 2001.0101. PARKS AND WILDLIFE DEPARTMENT. (a) The Parks and Wildlife Department is established as an agency of the state.

(b) The department is under the policy direction of the commission. (Parks & Wild. Code, Sec. 11.011.)

Source Law

> Sec. 11.011. PARKS AND WILDLIFE DEPARTMENT. The Parks and Wildlife Department is established as an agency of the state. It is under the policy direction of the Parks and Wildlife Commission.

Revised Law

Sec. 2001.0102. SUNSET PROVISION. The department is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished September 1, 2035. (Parks & Wild. Code, Sec. 11.0111.)

Source Law

> Sec. 11.0111. SUNSET PROVISION. The Parks and Wildlife Department is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished September 1, 2035.

CHAPTER 2002. PARKS AND WILDLIFE COMMISSION

SUBCHAPTER A. ORGANIZATION

Revised Law

Sec. 2002.0101. MEMBERSHIP. (a) The commission consists

of nine members appointed by the governor with the advice and consent of the senate.

(b) A commissioner must be a member of the public.

(c) The governor shall attempt to appoint commissioners with expertise in diverse fields, including historic preservation, conservation, and outdoor recreation. (Parks & Wild. Code, Secs. 11.012(a), (c), (d).)

Source Law

> Sec. 11.012. COMMISSION. (a) The commission consists of nine members appointed by the governor with the advice and consent of two-thirds of the members of the senate present and voting.
>
> (c) Commission members must be members of the general public and meet the qualifications provided by Section 11.0121.
>
> (d) In making appointments under this section, the governor shall attempt to include persons with expertise in diverse fields, including fields such as historic preservation, conservation, and outdoor recreation.

Revisor's Note

(1) Section 11.012(a), Parks and Wildlife Code, provides in part that members of the Parks and Wildlife Commission are appointed by the governor with the advice and consent of "two-thirds of the members of" the senate "present and voting." Section 12, Article IV, Texas Constitution, provides that an appointment made by the governor of a state or district officer must be made with the advice and consent of the two-thirds of the senate present. Section 11.012(a) duplicates in substance Sections 12(b) and (c), Article IV, Texas Constitution, except Section 11.012(a) includes the requirement that two-thirds of the members of the senate must be voting in addition to being present. Texas courts have determined that the procedure by which the governor may appoint state and district officers under Section 12, Article IV, Texas Constitution, is the exclusive procedure by which the governor may make such appointments and the

legislature is not authorized to add conditions to that procedure. See Walker v. Baker, 196 S.W.2d 324, 327 (Tex. 1946). Accordingly, the revised law omits the quoted language but retains for the purpose of clarity the provision of Section 11.012(a) that states that members of the commission are appointed by the governor with the advice and consent of the senate even though the provision duplicates Section 12, Article IV, Texas Constitution.

(2) Section 11.012(b), Parks and Wildlife Code, provides for the appointment of members of the Parks and Wildlife Commission when the senate is not in session. The revised law omits that provision because it duplicates in substance Section 12(c), Article IV, Texas Constitution. The omitted law reads:

> (b) If the senate is not in session, the governor shall appoint the members and issue commissions to them as provided by law, and their appointment shall be submitted to the next session of the senate for its advice and consent in the manner that appointments to fill vacancies under the constitution are submitted to the senate.

(3) Section 11.012(c), Parks and Wildlife Code, requires that a member of the Parks and Wildlife Commission "meet the qualifications provided by Section 11.0121." The revised law omits the quoted language as unnecessary because the requirements of Section 11.0121, revised as Sections 2002.0103(b)(4), (5), (6), and (7), apply on their own terms.

Revised Law

Sec. 2002.0102. DISCRIMINATION PROHIBITED. The governor shall make each appointment to the commission without regard to the race, color, disability, sex, religion, age, or national origin of the appointee. (Parks & Wild. Code, Secs. 11.012(a) (part), 11.0124.)

Source Law

[Sec. 11.012]

(a) [The commission consists of nine members appointed] by the governor. . . .

Sec. 11.0124. DISCRIMINATION IN APPOINTMENTS PROHIBITED. Appointments to the commission shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Revised Law

Sec. 2002.0103. ELIGIBILITY RESTRICTIONS. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist the association's members and the members' industry or profession in dealing with mutual business or professional problems and in promoting the members' common interest.

(b) A person may not be a commissioner if:

(1) the person is a paid or compensated officer, employee, or paid consultant of a Texas trade association in the field of conservation, outdoor recreation, or commercial fishing;

(2) the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department;

(3) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of conservation, outdoor recreation, or commercial fishing;

(4) the person or the person's spouse is registered, certified, or licensed by a regulatory agency in the field of conservation, outdoor recreation, or commercial fishing, unless the license is a noncommercial hunting or fishing license or a license issued under Subchapter A, Chapter 5157;

(5) the person or the person's spouse is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the department;

(6) the person or the person's spouse owns or controls,

directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the department; or

(7) the person or the person's spouse uses or receives a substantial amount of tangible goods, services, or money from the department other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses. (Parks & Wild. Code, Secs. 11.0121, 11.0122(a), (b) (part), 11.0123 (part).)

Source Law

Sec. 11.0121. QUALIFICATIONS. A person may not be a public member of the commission if the person or the person's spouse:

(1) is registered, certified, or licensed by a regulatory agency in the field of conservation, outdoor recreation, or commercial fishing, unless the license is a noncommercial hunting or fishing license or a license issued under Subchapter D, Chapter 43;

(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the department;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the department; or

(4) uses or receives a substantial amount of tangible goods, services, or money from the department other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses.

Sec. 11.0122. CONFLICT OF INTEREST. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the commission and . . . if:

(1) the person is a paid or compensated officer, employee, or paid consultant of a Texas trade association in the field of conservation, outdoor recreation, or commercial fishing; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of conservation, outdoor recreation, or commercial fishing.

Sec. 11.0123. LOBBYIST PROHIBITION. A person may not be a member of the commission or . . . if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department.

Revisor's Note

Section 11.0121, Parks and Wildlife Code, refers

to a "public" member of the Parks and Wildlife Commission. Section 11.012(c), Parks and Wildlife Code, revised as Section 2002.0101(b), requires that a member of the commission be a member of the public. Throughout this chapter, in this and similar contexts, the revised law omits the quoted language as unnecessary because a member of the commission is necessarily a public member of the commission.

Revised Law

Sec. 2002.0104. TERM OF OFFICE. Commissioners hold office for staggered terms of six years, with the terms of three members expiring on January 31 of odd-numbered years. (Parks & Wild. Code, Sec. 11.013 (part).)

Source Law

> Sec. 11.013. TERMS. The members of the commission hold office for staggered terms of six years, with the terms of three members expiring every two years. . . . The terms expire on January 31 of odd-numbered years.

Revisor's Note

(1) Section 11.013, Parks and Wildlife Code, provides that the terms of three members of the Parks and Wildlife Commission expire "every two years," and further provides that terms expire on January 31 of odd-numbered years. The revised law omits the quoted language as unnecessary because odd-numbered years occur every two years.

(2) Section 11.013, Parks and Wildlife Code, provides that a member of the Parks and Wildlife Commission holds office until the member's successor is appointed and has qualified. The revised law omits that provision because it duplicates Section 17, Article XVI, Texas Constitution, which provides that an officer in this state continues to perform the officer's official duties until a successor has qualified. The omitted law reads:

> Sec. 11.013. . . . Each member holds office until his successor is appointed and has qualified. . . .

Revised Law

Sec. 2002.0105. PRESIDING OFFICER. (a) The governor shall designate a commissioner as the presiding officer of the commission.

(b) The presiding officer serves at the will of the governor.

(c) A vacancy in the office of presiding officer is filled in the same manner as the original designation. (Parks & Wild. Code, Sec. 11.014.)

Source Law

> Sec. 11.014. PRESIDING OFFICER. (a) The governor shall designate a member of the commission as the presiding officer of the commission to serve in that capacity at the pleasure of the governor.
>
> (b) A vacancy in the office of presiding officer is filled in the same manner as the original designation.

Revisor's Note

Section 11.014(a), Parks and Wildlife Code, provides that the presiding officer of the Parks and Wildlife Commission serves as the presiding officer "at the pleasure of" the governor. Sections 11.018, 11.020(a), and 11.0201(i), Parks and Wildlife Code, revised in pertinent part as Sections 2003.0102(b), 2004.0202(b), and 2004.0302(b), respectively, provide that certain appointees serve "at the will of" the executive director of the Parks and Wildlife Department. The revised law substitutes "at the will of" for "at the pleasure of" to provide consistency in phrasing in the revised code and because serves "at the will of" is the more commonly used phrase to describe the termination of an individual's appointment that is at the discretion of another person.

Revised Law

Sec. 2002.0106. EXPENSES; PER DIEM. Each commissioner is

entitled to:

(1) reimbursement for actual expenses incurred in attending meetings; and

(2) the per diem provided by the General Appropriations Act. (Parks & Wild. Code, Sec. 11.016.)

Source Law

> Sec. 11.016. EXPENSES, PER DIEM. Members of the commission are entitled to reimbursement for their actual expenses incurred in attending meetings and to the per diem as provided in the general appropriations act.

Revised Law

Sec. 2002.0107. ADVISORY COMMITTEES. (a) The presiding officer may appoint committees to advise the commission on issues under the commission's jurisdiction.

(b) The presiding officer may adopt rules that set the membership, terms of service, qualifications, operating procedures, and other standards to ensure the effectiveness of an advisory committee appointed under this section. (Parks & Wild. Code, Sec. 11.0162.)

Source Law

> Sec. 11.0162. ADVISORY COMMITTEES TO COMMISSION. (a) The presiding officer may appoint committees to advise the commission on issues under its jurisdiction.
>
> (b) The presiding officer may adopt rules that set the membership, terms of service, qualifications, operating procedures, and other standards to ensure the effectiveness of an advisory committee appointed under this section.

Revised Law

Sec. 2002.0108. PROHIBITED GIFTS. A commissioner may not accept a gift, gratuity, or other thing of value, including travel, from a person who:

(1) is employed by or participates in the management of a business entity or other organization that receives funds from the department;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization that receives funds from the department;

(3) is a person a significant portion of whose business consists of providing goods or services to an entity or organization described by Subdivision (1) or (2); or

(4) is an agent, representative, attorney, employee, officer, owner, director, or partner of an entity, organization, or person described by Subdivision (1), (2), or (3). (Parks & Wild. Code, Sec. 11.0261(a) (part).)

Source Law

> (a) . . . a person who is a member of the commission or . . . may not accept a gift, gratuity, or other thing of value, including travel, from a person who:
>
> (1) is employed by or participates in the management of a business entity or other organization that receives funds from the department;
>
> (2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization that receives funds from the department;
>
> (3) is a person a significant portion of whose business consists of furnishing goods or services to an entity or organization described by Subdivision (1) or (2); or
>
> (4) is an agent, representative, attorney, employee, officer, owner, director, or partner of an entity, organization, or person described by Subdivision (1), (2), or (3).

Revised Law

Sec. 2002.0109. REMOVAL OF COMMISSIONER. (a) It is a ground for removal from the commission that a commissioner:

(1) was at the time of taking office, or is at any time during service on the commission, ineligible for membership under Section 2002.0103(b)(4), (5), (6), or (7);

(2) is ineligible for membership under Section 2002.0101(b) or 2002.0103(b)(1), (2), or (3);

(3) cannot, because of illness or disability, discharge the commissioner's duties for a substantial part of the commissioner's term; or

(4) is absent from more than half of the regularly scheduled commission meetings that the commissioner is eligible to attend during a calendar year without an excuse approved by a majority vote of the commission.

(b) The validity of an action of the commission is not

affected by the fact that the action is taken when a ground for removal of a commissioner exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the commission, who shall then notify the governor and the attorney general that a potential ground for removal exists. (Parks & Wild. Code, Sec. 11.0125.)

Source Law

Sec. 11.0125. REMOVAL OF A COMMISSION MEMBER. (a) It is a ground for removal from the commission that:

(1) a public member does not have at the time of taking office the qualifications required by Section 11.0121;

(2) a public member does not maintain during service on the commission the qualifications required by Section 11.0121;

(3) a member is ineligible for membership under Section 11.012(c), 11.0122, or 11.0123;

(4) a member cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) a member is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the commission.

(b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.

(c) If the director has knowledge that a potential ground for removal exists, the director shall notify the presiding officer of the commission of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the director shall notify the next highest ranking officer of the commission, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Revisor's Note

(1) Section 11.0125(a)(3), Parks and Wildlife Code, refers to a member of the Parks and Wildlife Commission who is ineligible for membership under

Section 11.0122 or 11.0123 of that code. Section 11.0122 is revised in pertinent part as Sections 2002.0103(b)(1) and (3). Section 11.0123 is revised in pertinent part as Section 2002.0103(b)(2). The revised law is drafted accordingly.

(2) Section 11.0125(c), Parks and Wildlife Code, refers to the presiding officer "of the commission," meaning the Parks and Wildlife Commission. The revised law omits the quoted language as unnecessary because Section 11.001(4), Parks and Wildlife Code, revised as Section 1001.0104(7), defines presiding officer for purposes of the Parks and Wildlife Code as "the presiding officer of the Parks and Wildlife Commission."

SUBCHAPTER B. MEETINGS

Revised Law

Sec. 2002.0201. MEETINGS. (a) The commission may meet as often as is necessary but shall meet at least once during each quarter of the year.

(b) The commission shall hold an annual public meeting to receive public comments concerning any issue relating to the commission's regulatory powers and duties. (Parks & Wild. Code, Secs. 11.015(a) (part), (b).)

Source Law

> Sec. 11.015. MEETINGS, QUORUM. (a) The commission may meet as often as is necessary but shall meet at least once during each quarter of the year.
>
> . . .
>
> (b) The commission shall hold an annual public meeting to receive public comments concerning any issue relating to the commission's regulatory powers and duties.

Revised Law

Sec. 2002.0202. PUBLIC TESTIMONY. (a) In this section, "major decision" means a decision in which a vote is taken on:

(1) a rule;

(2) a proclamation;

(3) a contract;

(4) a budget;

(5) a grant;

(6) a development plan for a geographical area managed by the department;

(7) a memorandum of understanding with another governmental entity; or

(8) any other issue as determined by the commission.

(b) The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the commission's jurisdiction.

(c) The commission, or a committee of the commission with at least five commissioners, shall provide an opportunity for public testimony in a public meeting before making a major decision. (Parks & Wild. Code, Sec. 11.0151.)

Source Law

> Sec. 11.0151. PUBLIC HEARINGS. (a) In this section, "major decision" means a decision in which a vote is taken on:
>
> (1) a rule;
>
> (2) a proclamation;
>
> (3) a contract;
>
> (4) a budget;
>
> (5) a grant;
>
> (6) a development plan for a geographical area managed by the department;
>
> (7) a memorandum of understanding with another governmental entity; or
>
> (8) any other issue as determined by the commission.
>
> (b) The commission shall develop and implement policies that will provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.
>
> (c) The commission, or any committee of the commission with at least five commission members serving on the committee, shall provide an opportunity for public testimony in an open meeting before making a major decision.

Revised Law

Sec. 2002.0203. TRAINING PROGRAM. (a) A person who is appointed to and qualifies for office as a commissioner may not vote, deliberate, or be counted as a member in attendance at a

meeting of the commission until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the law governing department operations;

(2) the programs, functions, rules, and budget of the department;

(3) the scope of and limitations of the rulemaking authority of the commission;

(4) the results of the most recent formal audit of the department;

(5) the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and

(B) other laws applicable to members of a state policy-making body in performing their duties; and

(6) any applicable ethics policies adopted by the department or the Texas Ethics Commission.

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

(d) The executive director shall create a training manual that includes the information required by Subsection (b). The executive director shall distribute a copy of the training manual annually to each commissioner. Each commissioner shall sign and submit to the executive director a statement acknowledging that the commissioner received and has reviewed the training manual. (Parks & Wild. Code, Sec. 11.0126.)

Source Law

Sec. 11.0126. TRAINING PROGRAM FOR COMMISSION MEMBERS. (a) A person who is appointed to and qualifies for office as a member of the commission may

not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the law governing department operations;

(2) the programs, functions, rules, and budget of the department;

(3) the scope of and limitations of the rulemaking authority of the commission;

(4) the results of the most recent formal audit of the department;

(5) the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and

(B) other laws applicable to members of a state policy-making body in performing their duties; and

(6) any applicable ethics policies adopted by the department or the Texas Ethics Commission.

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

(d) The director shall create a training manual that includes the information required by Subsection (b). The director shall distribute a copy of the training manual annually to each member of the commission. Each member of the commission shall sign and submit to the director a statement acknowledging that the member received and has reviewed the training manual.

Revisor's Note
(End of Subchapter)

Section 11.015(a), Parks and Wildlife Code, provides that five members of the Parks and Wildlife Commission, which is a majority of the full membership of the commission, constitute a quorum. The revised law omits that provision because it duplicates in substance Section 311.013, Government Code (Code Construction Act), which provides that a quorum of a public body is a majority of the number of members fixed by statute. The omitted law reads:

> (a) . . . Five members constitute a quorum.

CHAPTER 2003. DEPARTMENT ADMINISTRATIVE PROVISIONS

SUBCHAPTER A. EXECUTIVE DIRECTOR

Revised Law

Sec. 2003.0101. EXECUTIVE DIRECTOR. (a) The commission may appoint an executive director to be the department's chief executive officer and to perform the department's administrative duties.

(b) The executive director serves at the will of the commission. (Parks & Wild. Code, Sec. 11.017.)

Source Law

> Sec. 11.017. EXECUTIVE DIRECTOR. The commission may appoint an executive director who is the chief executive officer of the department and performs its administrative duties. The director serves at the will of the commission.

Revised Law

Sec. 2003.0102. APPOINTMENT AUTHORITY. (a) The executive director may appoint heads of divisions, peace officers, park managers, and other employees authorized by appropriations and necessary for administering the department's duties and services.

(b) Employees appointed under this section serve at the will of the executive director. (Parks & Wild. Code, Sec. 11.018.)

Source Law

> Sec. 11.018. EMPLOYEES. The director may appoint heads of divisions, law enforcement officers, park managers, and other employees authorized by appropriations and necessary for administering the duties and services of the department. These employees serve at the will of the director.

Revisor's Note

> Section 11.018, Parks and Wildlife Code, authorizes the executive director of the Parks and Wildlife Department to appoint "law enforcement officers." The revised law substitutes "peace officers" for "law enforcement officers" because there is no substantive difference between the terms and "peace officer" is the more commonly used term in the Parks and Wildlife Code and in the codes generally.

Revised Law

Sec. 2003.0103. INFORMATION REGARDING REQUIREMENTS FOR

OFFICE OR EMPLOYMENT. The executive director or the executive director's designee shall provide, as often as necessary, to each commissioner and department employee information regarding the requirements for office or employment under this subtitle, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees. (Parks & Wild. Code, Sec. 11.021.)

Source Law

> Sec. 11.021. INFORMATION CONCERNING QUALIFICATIONS AND RESPONSIBILITIES. The director or the director's designee shall provide to commission members and department employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Revisor's Note

> Section 11.021, Parks and Wildlife Code, requires the executive director of the Parks and Wildlife Department or the executive director's designee to provide members of the Parks and Wildlife Commission and department employees with information regarding the requirements for office or employment under Chapter 11 of that code. Chapter 11 is revised in pertinent part as this subtitle, and the revised law is drafted accordingly.

SUBCHAPTER B. DEPARTMENT PERSONNEL

Revised Law

Sec. 2003.0201. CONFLICT OF INTEREST. (a) In this section, "Texas trade association" has the meaning assigned by Section 2002.0103(a).

(b) A person may not be a department employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is a paid or compensated officer,

employee, or paid consultant of a Texas trade association in the field of conservation, outdoor recreation, or commercial fishing; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of conservation, outdoor recreation, or commercial fishing. (Parks & Wild. Code, Secs. 11.0122(a) (part), (b) (part).)

Source Law

Sec. 11.0122. CONFLICT OF INTEREST. (a) In this section, "Texas trade association" [means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.]

(b) A person . . . may not be a department employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) and its subsequent amendments, if:

(1) the person is a paid or compensated officer, employee, or paid consultant of a Texas trade association in the field of conservation, outdoor recreation, or commercial fishing; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of conservation, outdoor recreation, or commercial fishing.

Revisor's Note

Section 11.0122(b), Parks and Wildlife Code, refers to the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) "and its subsequent amendments." The revised law omits the quoted language because under Section 311.027, Government Code (Code Construction Act), a reference to a statute or rule applies to all reenactments, revisions, or amendments of the statute or rule unless expressly provided otherwise.

Revised Law

Sec. 2003.0202. LOBBYIST PROHIBITION: GENERAL COUNSEL. A person may not act as the general counsel to the commission or the department if the person is required to register as a lobbyist under

Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department. (Parks & Wild. Code, Sec. 11.0123 (part).)

Source Law

> Sec. 11.0123. LOBBYIST PROHIBITION. A person may not . . . act as the general counsel to the commission or the department if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department.

Revised Law

Sec. 2003.0203. EQUAL OPPORTUNITY EMPLOYMENT POLICY. (a) The executive director or the executive director's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the department to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the department's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must be:

(1) updated annually;

(2) reviewed by the Texas Workforce Commission civil rights division for compliance with Subsection (b); and

(3) filed with the governor's office. (Parks & Wild. Code, Sec. 11.022.)

Source Law

> Sec. 11.022. EQUAL OPPORTUNITY EMPLOYMENT. (a) The director or the director's designee shall prepare and maintain a written policy statement that

implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the department to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the department's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must be:

(1) updated annually;

(2) reviewed by the state Commission on Human Rights for compliance with Subsection (b); and

(3) filed with the governor's office.

Revisor's Note

Section 11.022(c)(2), Parks and Wildlife Code, refers to the "state Commission on Human Rights." The revised law substitutes "Texas Workforce Commission civil rights division" for "state Commission on Human Rights" because Chapter 302, Acts of the 78th Legislature, Regular Session, 2003, abolished the Commission on Human Rights and transferred that agency's functions to the Texas Workforce Commission civil rights division.

Revised Law

Sec. 2003.0204. CAREER LADDER PROGRAM. (a) The executive director or the executive director's designee shall develop an intra-agency career ladder program.

(b) The program must require intra-agency posting of each non-entry-level position concurrently with any public posting. (Parks & Wild. Code, Sec. 11.023.)

Source Law

Sec. 11.023. CAREER LADDER PROGRAM. The director or his designee shall develop an intraagency career ladder program, one part of which shall require the intraagency posting of all nonentry level positions concurrently with any public posting.

Revised Law

Sec. 2003.0205. PERFORMANCE EVALUATION SYSTEM; MERIT PAY.

(a) The executive director or the executive director's designee shall develop a system of annual performance evaluations based on measurable job tasks.

(b) All merit pay for department employees must be based on the system established under this section. (Parks & Wild. Code, Sec. 11.024.)

Source Law

> Sec. 11.024. PERFORMANCE EVALUATIONS. The director or his designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for department employees must be based on the system established under this section.

Revised Law

Sec. 2003.0206. OATHS. A department employee designated in the manner provided by the commission may administer oaths in connection with the permitting, licensing, and other functions of the department. (Parks & Wild. Code, Sec. 11.029.)

Source Law

> Sec. 11.029. ADMINISTRATION OF OATHS. Employees of the department who are designated as provided by the commission may administer oaths in connection with the permitting, licensing, and other functions of the department.

Revised Law

Sec. 2003.0207. EDUCATION AND OUTREACH ACTIVITIES. (a) Through education and outreach, department employees shall:

(1) expand the wise use and conservation of fish and wildlife resources; and

(2) increase participation in outdoor recreation, including recreational activities in urban areas consistent with the department's mission and goals.

(b) The department may use money from any of the department's special accounts to:

(1) pay for education and outreach activities performed by department employees; or

(2) provide grants for education and outreach activities to be performed by other entities.

(c) The department shall manage the education and outreach

activities performed under this section to ensure that the activities:

(1) are consistent with the department's mission and goals;

(2) do not duplicate other efforts by the department or other entities;

(3) provide a cost-effective method for reaching participants; and

(4) can be effectively measured. (Parks & Wild. Code, Sec. 11.0181.)

Source Law

Sec. 11.0181. EMPLOYEES AS EDUCATORS AND OUTREACH PROPONENTS. (a) Employees of the department through education and outreach shall:

(1) expand the wise use and conservation of fish and wildlife resources; and

(2) increase the participation in outdoor recreation, including recreational activities in urban areas consistent with the mission and goals of the department.

(b) The department may use money from any of the department's special accounts to pay for education and outreach activities performed by department employees or to provide grants for education and outreach activities to be performed by other entities.

(c) The department shall manage the outreach and education activities performed under this section to ensure that the activities:

(1) are consistent with the department's mission and goals;

(2) do not duplicate other efforts by the department or other entities;

(3) provide a cost-effective method for reaching participants; and

(4) can be effectively measured.

SUBCHAPTER C. EMPLOYEE SOLICITATION AND RECEIPT OF GIFTS

Revised Law

Sec. 2003.0301. PROHIBITED GIFTS; EXCEPTION. (a) Except as provided by Subsection (b), a department employee may not accept a gift, gratuity, or other thing of value, including travel, from a person described by Section 2002.0108(1), (2), (3), or (4).

(b) A department employee may accept reimbursement for travel expenses from the official nonprofit partner designated by the commission under Section 2060.0301 if:

(1) the employee has sufficiently documented the

expense; and

(2) the expense arose out of the performance of an activity related to an employee's official duties regarding the partner. (Parks & Wild. Code, Secs. 11.0261(a) (part), (b).)

Source Law

> Sec. 11.0261. PROHIBITION AGAINST ACCEPTANCE OF GIFTS, GRATUITIES, AND OTHER THINGS OF VALUE; EXCEPTION. (a) Except as provided by Subsection (b), a person who is . . . an employee of the department may not accept a gift, gratuity, or other thing of value, including travel, from a person who:
>
> (1) is employed by or participates in the management of a business entity or other organization that receives funds from the department;
>
> (2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization that receives funds from the department;
>
> (3) is a person a significant portion of whose business consists of furnishing goods or services to an entity or organization described by Subdivision (1) or (2); or
>
> (4) is an agent, representative, attorney, employee, officer, owner, director, or partner of an entity, organization, or person described by Subdivision (1), (2), or (3).
>
> (b) A department employee may accept reimbursement for travel expenses from the official nonprofit partner designated by the commission under Section 11.205 if:
>
> (1) the employee has sufficiently documented the expense; and
>
> (2) the expense arose out of the performance of an activity related to an employee's official duties regarding the partner.

Revisor's Note

> Section 11.0261(b), Parks and Wildlife Code, refers to the official nonprofit partner designated by the Parks and Wildlife Commission under Section 11.205 of that code. Section 11.205 is revised in pertinent part as Section 2060.0301, and the revised law is drafted accordingly.

Revised Law

Sec. 2003.0302. AUTHORIZED GRATUITIES. (a) An employee of the department's state parks division may accept a gratuity if:

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

the department;

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

(3) the gratuity is offered by a customer:

(A) of the restaurant, cafeteria, food service establishment, or hospitality unit of the state parks division in appreciation of being served food or beverages by the employee; or

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

(4) the department has designated the employee as an employee authorized to accept a gratuity; and

(5) the employee reports the gratuity in accordance with commission rules.

(b) The commission may adopt rules necessary to implement this section. (Parks & Wild. Code, Sec. 11.0262.)

Source Law

Sec. 11.0262. CERTAIN GRATUITIES AUTHORIZED. (a) An employee of the state parks division of the department may accept a gratuity if:

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

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

(3) the gratuity is offered by a customer:

(A) of the restaurant, cafeteria, food service establishment, or hospitality unit of the state parks division in appreciation of being served food or beverages by the employee; or

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

(4) the department has designated the employee as an employee authorized to accept a gratuity; and

(5) the employee reports the gratuity in accordance with commission rules.

(b) The commission may adopt rules necessary to implement this section.

Revised Law

Sec. 2003.0303. EMPLOYEE FUND-RAISING. (a) This section applies only to the solicitation or receipt of a gift, including

money, that has a value of $500 or more.

(b) The commission by rule shall adopt policies to govern fund-raising activities by department employees on behalf of the department. The rules must:

(1) designate the types of employees who may solicit a donation;

(2) restrict where and how fund-raising may occur; and

(3) establish requirements for reports by an employee to the executive director.

(c) The executive director shall approve and manage fund-raising activities by department employees on behalf of the department in accordance with commission rules.

(d) Policies adopted by the commission under Subsection (b) are public information under Chapter 552, Government Code. (Parks & Wild. Code, Secs. 11.0182(a), (b), (c), (e).)

Source Law

> Sec. 11.0182. EMPLOYEE FUND-RAISING. (a) This section applies only to the solicitation or receipt of a gift, including money, that has a value of $500 or more.
>
> (b) The commission by rule shall adopt policies to govern fund-raising activities by department employees on behalf of the department. The rules must:
>
> (1) designate the types of employees who may solicit donations;
>
> (2) restrict where and how fund-raising may occur; and
>
> (3) establish requirements for reports by employees to the director.
>
> (c) The director shall approve and manage fund-raising activities by department employees on behalf of the department in accordance with commission rules.
>
> (e) Policies adopted by the commission under Subsection (b) are public information under Chapter 552, Government Code.

Revised Law

Sec. 2003.0304. AUDIT OF EMPLOYEE FUND-RAISING. (a) The state auditor may audit the fund-raising activities performed under Section 2003.0303, subject to a risk assessment performed by the state auditor and to the legislative audit committee's approval of including the audit in the audit plan under Section 321.013(c), Government Code.

(b) If the state auditor performs an audit authorized by this section, the audit shall disclose:

(1) who has engaged in fund-raising activities for the department; and

(2) the value of gifts each person has received or solicited.

(c) The state auditor shall report the results of the audit to the presiding officer of:

(1) each house of the legislature; and

(2) each committee having primary jurisdiction over the department.

(d) Each member of the legislature may access the report prepared under Subsection (c). (Parks & Wild. Code, Sec. 11.0182(d).)

Source Law

(d) The state auditor may audit the fund-raising activities performed under this section, subject to a risk assessment performed by the state auditor and to the legislative audit committee's approval of including the audit in the audit plan under Section 321.013(c), Government Code. If the state auditor performs an audit, the audit shall disclose who has engaged in fund-raising activities for the department and the value of gifts each person has received or solicited. The state auditor shall report the results of the audit to the presiding officer of each house of the legislature and of each committee having primary jurisdiction over the department. Each member of the legislature may access the report.

Revisor's Note

Section 11.0182(d), Parks and Wildlife Code, provides that the state auditor may audit the fund-raising activities performed under Section 11.0182 of that code. Section 11.0182 is revised in pertinent part as Section 2003.0303, and the revised law is drafted accordingly.

CHAPTER 2004. DEPARTMENT PEACE OFFICERS AND OTHER OFFICERS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 2004.0101. DEPARTMENT PEACE OFFICERS. The executive

director may commission as a peace officer any department employee provided for in the General Appropriations Act. (Parks & Wild. Code, Sec. 11.019(a).)

Source Law

> Sec. 11.019. EMPLOYEES AS PEACE OFFICERS. (a) The director may commission as peace officers any of the employees provided for in the general appropriations act.

Revised Law

Sec. 2004.0102. AUTHORITY OF DEPARTMENT PEACE OFFICERS. A peace officer commissioned by the executive director:

(1) has the same powers, privileges, and immunities as other peace officers coextensive with the boundaries of this state;

(2) has the same authority as a sheriff to arrest, serve criminal or civil process, and require aid in serving criminal or civil process coextensive with the boundaries of this state; and

(3) may arrest without a warrant any person in this state found in the act of violating any law. (Parks & Wild. Code, Secs. 11.019(b), (c), (d).)

Source Law

> (b) Law enforcement officers commissioned by the director have the same powers, privileges, and immunities as peace officers coextensive with the boundaries of this state.
>
> (c) Law enforcement officers commissioned by the director have the same authority as a sheriff to arrest, serve criminal or civil process, and require aid in serving criminal or civil process coextensive with the boundaries of this state.
>
> (d) A law enforcement officer commissioned by the director may arrest without a warrant any person in this state found in the act of violating any law.

Revisor's Note

Sections 11.019(b), (c), and (d), Parks and Wildlife Code, refer to "law enforcement officers" or "law enforcement officer." Throughout this chapter, the revised law substitutes "peace officers" for "law enforcement officers" and "peace officer" for "law enforcement officer" for the reasons stated in the revisor's note to Section 2003.0102.

Revised Law

Sec. 2004.0103. USE OF FUNDS FOR PEACE OFFICER TRAINING. Subject to the approval of the executive director, the department may use appropriated funds to purchase food and beverages for a training function required for department peace officers. (Parks & Wild. Code, Sec. 11.0195.)

Source Law

> Sec. 11.0195. USE OF FUNDS TO SUPPORT PEACE OFFICER TRAINING. The department, subject to director approval, may use appropriated funds to purchase food and beverages for training functions required of peace officers of the department.

Revised Law

Sec. 2004.0104. PURCHASE OF BADGE BY RETIRING PEACE OFFICER OR SURVIVOR. (a) Subject to Subsection (b), a peace officer commissioned by the executive director who is honorably retired from the officer's commission by the department may purchase one badge issued to the officer by the department.

(b) The purchase of the badge must be:

(1) made before the second anniversary of the date of the officer's retirement; and

(2) for an amount set by the department, not to exceed fair market value.

(c) If a peace officer commissioned by the executive director dies while commissioned, regardless of whether the death occurred in the discharge of the officer's official duties as a peace officer, the following persons, in descending order of precedence, may purchase a badge issued to the officer under the conditions provided by Subsection (b):

(1) the surviving spouse of the officer;

(2) any children of the officer; or

(3) the parents of the officer. (Parks & Wild. Code, Sec. 11.0192.)

Source Law

> Sec. 11.0192. PURCHASE OF BADGE BY RETIRING PEACE OFFICER OR SURVIVOR. (a) A peace officer commissioned by the director who is honorably retired

from his commission by the department may purchase for an amount set by the department, not to exceed fair market value, one badge issued to the officer by the department. The purchase must be made before the second anniversary of the date of the officer's retirement.

(b) If a peace officer commissioned by the director dies while commissioned, whether or not the death occurred in the discharge of the officer's official duties as a peace officer, the following persons, in descending order of precedence, may purchase a badge issued to the officer under the same conditions imposed on a purchase by a retiring officer by Subsection (a) of this section:

(1) the surviving spouse of the officer;

(2) any children of the officer; or

(3) the parents of the officer.

Revised Law

Sec. 2004.0105. PURCHASE OF CERTAIN FIREARMS. (a) A peace officer commissioned by the executive director may purchase, for an amount set by the department not to exceed fair market value, a firearm that:

(1) was issued to the peace officer by the department;

(2) is not listed as a prohibited weapon under Section 46.05, Penal Code; and

(3) is retired by the department for replacement purposes.

(b) The commission may adopt rules for the sale of a retired firearm under this section. (Parks & Wild. Code, Sec. 11.0193.)

Source Law

Sec. 11.0193. PURCHASE OF FIREARM FROM DEPARTMENT BY COMMISSIONED PEACE OFFICER. (a) An employee commissioned by the director as a peace officer may purchase for an amount set by the department, not to exceed fair market value, a firearm issued to the person by the department if:

(1) the firearm is not listed as a prohibited weapon under Section 46.05, Penal Code; and

(2) the firearm is retired by the department for replacement purposes.

(b) The commission may adopt rules for the sale of a retired firearm under this section to a peace officer commissioned by the director.

Revised Law

Sec. 2004.0106. DONATION OF ACCRUED COMPENSATORY TIME OR ACCRUED ANNUAL LEAVE FOR LEGISLATIVE PURPOSES. (a) The executive director shall allow a peace officer commissioned by the department to voluntarily transfer to a legislative leave pool up to eight

hours of compensatory time or annual leave per year earned by the peace officer.

(b) The executive director or the executive director's designee shall administer the legislative leave pool.

(c) The commission shall adopt rules and prescribe procedures relating to the operation of the legislative leave pool.

(d) The executive director or the executive director's designee shall credit the legislative leave pool with the amount of time contributed by a peace officer commissioned by the department and deduct a corresponding amount of time from the peace officer's earned compensatory time or annual leave as if the peace officer had used the time for personal purposes.

(e) A peace officer commissioned by the department is entitled to use time contributed to the legislative leave pool if the peace officer uses the time for legislative leave on behalf of a law enforcement association:

(1) related to the peace officer's employment with the department;

(2) that has at least 150 active or retired members; and

(3) that is governed by a board of directors.

(f) The executive director or the executive director's designee shall transfer time from the pool to the peace officer and credit the time to the peace officer.

(g) A peace officer commissioned by the department may only withdraw time from the legislative leave pool in coordination with and with the consent of the president or designee of the law enforcement association described in Subsection (e). A peace officer may not draw more than 80 hours from the pool in a 160-hour work cycle and may not draw more than 480 hours from the pool in a fiscal year.

(h) A peace officer commissioned by the department shall use time from the legislative leave pool in accordance with rules adopted by the commission. (Parks & Wild. Code, Sec. 11.0183.)

Source Law

Sec. 11.0183. DONATION OF ACCRUED COMPENSATORY TIME OR ACCRUED ANNUAL LEAVE FOR LEGISLATIVE PURPOSES. (a) The director shall allow a peace officer commissioned by the department to voluntarily transfer to a legislative leave pool up to eight hours of compensatory time or annual leave per year earned by the peace officer.

(b) The director or the director's designee shall administer the legislative leave pool.

(c) The commission shall adopt rules and prescribe procedures relating to the operation of the legislative leave pool.

(d) The director or the director's designee shall credit the legislative leave pool with the amount of time contributed by a peace officer commissioned by the department and deduct a corresponding amount of time from the peace officer's earned compensatory time or annual leave as if the peace officer had used the time for personal purposes.

(e) A peace officer commissioned by the department is entitled to use time contributed to the legislative leave pool if the peace officer uses the time for legislative leave on behalf of a law enforcement association:

(1) related to the peace officer's employment with the department;

(2) that has at least 150 active or retired members; and

(3) that is governed by a board of directors.

(f) The director or the director's designee shall transfer time from the pool to the peace officer and credit the time to the peace officer.

(g) A peace officer commissioned by the department may only withdraw time from the legislative leave pool in coordination with and with the consent of the president or designee of the law enforcement association described in Subsection (e). A peace officer may not draw more than 80 hours from the pool in a 160-hour work cycle and may not draw more than 480 hours from the pool in a fiscal year.

(h) A peace officer commissioned by the department shall use time from the legislative leave pool in accordance with rules adopted by the commission.

SUBCHAPTER B. DEPUTY GAME WARDENS

Revised Law

Sec. 2004.0201. COMMISSION REGULATIONS. The commission shall adopt regulations to govern the qualifications, conduct, and duties of a deputy game warden. (Parks & Wild. Code, Sec. 11.020(b) (part).)

Source Law

(b) The commission shall make regulations to govern the qualifications, conduct, and duties of commissioned deputy game wardens. . . .

Revisor's Note

Section 11.020(b), Parks and Wildlife Code, refers to "commissioned" deputy game wardens. Throughout this subchapter, the revised law omits the quoted language as unnecessary because a deputy game warden is required to be commissioned.

Revised Law

Sec. 2004.0202. COMMISSION OF DEPUTY GAME WARDENS. (a) The executive director may commission deputy game wardens.

(b) A deputy game warden serves at the will of the executive director. (Parks & Wild. Code, Sec. 11.020(a) (part).)

Source Law

> Sec. 11.020. DEPUTY GAME WARDENS. (a) The director may commission deputy game wardens to serve at the will of the director. . . .

Revised Law

Sec. 2004.0203. TERM OF COMMISSION. (a) The executive director may commission a deputy game warden for a period of not more than four years.

(b) A deputy game warden is eligible for recommission at the expiration of each four-year commission. (Parks & Wild. Code, Sec. 11.020(a) (part).)

Source Law

> (a) . . . Provided, however, that no deputy game warden commissioned under this section may be commissioned for a period of longer than four years. At the expiration of each four-year commission the deputy game warden shall be eligible for recommission.

Revised Law

Sec. 2004.0204. EDUCATION COURSE REQUIRED. (a) The executive director shall implement an education course that includes training in the relevant duties of a game warden.

(b) The executive director may not commission a person as a deputy game warden unless the person has completed the course described by this section. (Parks & Wild. Code, Sec. 11.020(b) (part).)

Source Law

(b) . . . The director shall implement an education course which includes training in pertinent aspects of a game warden's duties. Completion of this course shall be a prerequisite to any person obtaining a commission as deputy game warden.

Revised Law

Sec. 2004.0205. OATH AND BOND. A deputy game warden must file an oath and a bond in the amount of $2,000 payable to the department at the time the deputy receives the commission. (Parks & Wild. Code, Sec. 11.020(d).)

Source Law

(d) A deputy game warden must file an oath and a bond in the amount of $2,000 payable to the department at the time he receives the commission.

Revised Law

Sec. 2004.0206. AUTHORITY OF DEPUTY GAME WARDEN. A deputy game warden may enforce state laws relating to:

(1) hunting and fishing; and

(2) the preservation and conservation of wildlife and marine animals. (Parks & Wild. Code, Sec. 11.020(c) (part).)

Source Law

(c) A commissioned deputy game warden may enforce state laws relating to hunting and fishing and to the preservation and conservation of wildlife and marine animals. . . .

Revised Law

Sec. 2004.0207. AREA OF DUTY. (a) Subject to Subsection (b), the department shall designate the geographical area in which a deputy game warden may operate.

(b) A deputy game warden may not operate on the coastal waters, bays, or estuaries of this state. (Parks & Wild. Code, Sec. 11.020(c) (part).)

Source Law

(c) . . . The department shall prescribe the geographical area in which a deputy game warden may operate, except that a deputy game warden may not operate on the coastal waters, bays, or estuaries of this state. . . .

Revised Law

Sec. 2004.0208. COMPENSATION. A deputy game warden serves without compensation from the state, but the department may expend necessary funds to support and maintain this responsibility. (Parks & Wild. Code, Sec. 11.020(e).)

Source Law

> (e) Commissioned deputy game wardens serve without compensation from the state, but the department may expend necessary funds to support and maintain this responsibility.

Revised Law

Sec. 2004.0209. IDENTIFICATION AND BADGE. (a) A deputy game warden shall carry official identification and shall wear an official badge that is clearly visible while the deputy is on duty or is acting in an official capacity.

(b) A deputy game warden must present the deputy's official identification to any person the deputy believes is violating this code before the deputy conducts an investigation or makes an arrest. (Parks & Wild. Code, Sec. 11.020(c) (part).)

Source Law

> (c) . . . At all times when any commissioned deputy game warden is on duty or is acting in an official capacity he shall carry official identification and shall wear an official badge which is clearly visible. A commissioned deputy game warden must present his official identification to any person he believes is violating this code before the deputy game warden makes an investigation or arrest. . . .

Revised Law

Sec. 2004.0210. UNIFORM. (a) A deputy game warden shall purchase a uniform prescribed by the department.

(b) A deputy game warden shall wear the uniform while the deputy is on duty or acting in an official capacity. (Parks & Wild. Code, Sec. 11.020(c) (part).)

Source Law

> (c) . . . A commissioned deputy game warden shall purchase and wear at all times when on duty or acting in an official capacity a uniform prescribed by the department.

SUBCHAPTER C. SPECIAL GAME WARDENS

Revised Law

Sec. 2004.0301. COMMISSION RULES. The commission by rule shall:

(1) establish standards governing the conduct and duties of a special game warden; and

(2) determine the compensation for the services of a special game warden, not to exceed the actual value of the services rendered by the special game warden. (Parks & Wild. Code, Secs. 11.0201(g), (j).)

Source Law

> (g) The commission by rule shall establish standards governing the conduct and duties of special game wardens.
>
> (j) The commission by rule shall determine compensation for the services of a special game warden. Compensation for a special game warden may not exceed the actual value of the services rendered by the special game warden.

Revised Law

Sec. 2004.0302. COMMISSION OF SPECIAL GAME WARDENS. (a) The executive director may commission an honorably retired department game warden as a special game warden.

(b) A special game warden serves at the will of the executive director. (Parks & Wild. Code, Secs. 11.0201(a), (i) (part).)

Source Law

> Sec. 11.0201. SPECIAL GAME WARDENS. (a) The director may commission as a special game warden an honorably retired commissioned game warden of the department.
>
> (i) . . . A special game warden serves at the will of the director.

Revisor's Note

Section 11.0201(a), Parks and Wildlife Code, refers to an honorably retired "commissioned" game warden of the Parks and Wildlife Department. The revised law omits the quoted language as unnecessary because a game warden of the department is commissioned by the department.

Revised Law

Sec. 2004.0303. TERM OF COMMISSION. (a) The commission of a special game warden expires on August 31 of the second calendar year following the year in which the commission is granted.

(b) A special game warden is eligible for recommission at the expiration of the commission. (Parks & Wild. Code, Sec. 11.0201(i) (part).)

Source Law

> (i) A special game warden commission expires on August 31 of the second calendar year following the year in which the commission is granted. At expiration of the commission, a special game warden is eligible for recommission. . . .

Revised Law

Sec. 2004.0304. ELIGIBILITY. An applicant for a special game warden commission must meet the minimum standards for licensing of a peace officer under the rules adopted by the Texas Commission on Law Enforcement. (Parks & Wild. Code, Sec. 11.0201(b).)

Source Law

> (b) An applicant for a special game warden commission must meet the minimum standards for licensing of a peace officer under the rules adopted by the Texas Commission on Law Enforcement.

Revised Law

Sec. 2004.0305. OATH AND BOND. (a) The executive director may not issue a special game warden commission to an applicant unless the applicant has filed an oath and a bond in the amount of $2,500.

(b) The bond must:

(1) be executed by a surety company authorized to do business in this state;

(2) indemnify all persons against damages resulting from an unlawful act of the special game warden; and

(3) be payable to the department at the time the applicant receives the commission. (Parks & Wild. Code, Sec. 11.0201(h).)

Source Law

(h) Before the director may issue a special game warden commission, the applicant must file an oath and a bond in the amount of $2,500. The bond must be executed by a surety company authorized to do business in this state, must indemnify all persons against damages resulting from an unlawful act of the special game warden, and must be payable to the department at the time the applicant receives the commission.

Revised Law

Sec. 2004.0306. AUTHORITY OF SPECIAL GAME WARDEN. A special game warden may enforce only:

(1) the provisions of this code;

(2) the regulations adopted by the commission;

(3) the provisions of the Penal Code; and

(4) other state laws intended to protect life or property, except a law that regulates the use of a motor vehicle on state highways. (Parks & Wild. Code, Sec. 11.0201(d).)

Source Law

(d) A special game warden may enforce only:
(1) provisions of this code;
(2) regulations promulgated by the commission;
(3) provisions of the Penal Code; and
(4) other state laws intended to protect life or property, except a law that regulates the use of a motor vehicle on state highways.

Revisor's Note

Section 11.0201(d)(2), Parks and Wildlife Code, refers to regulations "promulgated" by the Parks and Wildlife Commission. The revised law substitutes "adopted" for "promulgated" because, in context, the terms are synonymous and "adopted" is more commonly used.

Revised Law

Sec. 2004.0307. AUTHORITY OF EXECUTIVE DIRECTOR. (a) Except as provided by Section 2004.0306, a special game warden is subject to the orders of the executive director for special duty to the same extent as other peace officers commissioned under this chapter.

(b) The executive director has authority over the law

enforcement activities of a special game warden regardless of whether the special game warden is on active or inactive status. (Parks & Wild. Code, Secs. 11.0201(c), (f).)

Source Law

> (c) Except as provided by Subsection (d) of this section, a special game warden is subject to the orders of the director for special duty to the same extent as other law enforcement officers commissioned under this subchapter.
>
> (f) The director has authority over the law enforcement activities of a special game warden regardless of whether the special game warden is on active or inactive status.

Revisor's Note

Section 11.0201(c), Parks and Wildlife Code, provides that a special game warden is subject to the orders of the executive director of the Parks and Wildlife Department to the same extent as other law enforcement officers commissioned under Subchapter B, Chapter 11, of that code. Subchapter B is revised in pertinent part as this chapter, and the revised law is drafted accordingly.

Revised Law

Sec. 2004.0308. AREA OF DUTY. (a) The department may assign a special game warden for duty in any area of the state.

(b) A special game warden assigned to duty under this section is under the authority of the department's supervisory personnel in that area. (Parks & Wild. Code, Sec. 11.0201(e).)

Source Law

> (e) The department may assign a special game warden for duty in any area of the state, under the authority of the department's supervisory personnel in that area.

CHAPTER 2005. DEPARTMENT VOLUNTEERS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 2005.0101. USE OF VOLUNTEER SERVICES. (a) Except as provided by Subsection (b), the department may use the services of volunteers to help carry out the department's duties and

responsibilities.

(b) A volunteer may not be used to enforce a provision of this code or carry out department duties and responsibilities on private property unless the landowner has consented to the activity. (Parks & Wild. Code, Sec. 11.028(a).)

Source Law

> Sec. 11.028. VOLUNTEER SERVICES. (a) The department may use the services of volunteers to help carry out the duties and responsibilities of the department, provided, however, that volunteers shall not be used to enforce provisions of this code or to carry out department duties and responsibilities on private property unless the landowner has consented to the activity.

Revised Law

Sec. 2005.0102. EXPENDITURE OF FUNDS. The executive director may expend funds appropriated to the department from dedicated funding sources to:

(1) establish an insurance program to protect volunteers in the performance of volunteer service; and

(2) recognize the services of a volunteer or volunteer group. (Parks & Wild. Code, Sec. 11.028(d).)

Source Law

> (d) The executive director may expend funds appropriated to the department from dedicated funding sources for:
>
> (1) the establishment of an insurance program to protect volunteers in the performance of volunteer service;
>
> (2) recognition of the services of a volunteer or volunteer groups.

Revisor's Note

Section 11.028(d), Parks and Wildlife Code, authorizes the executive director of the Parks and Wildlife Department to expend certain funds for the two purposes stated in Sections 11.028(d)(1) and (2). The revised law adds the conjunction "and" between the two purposes for which funds may be expended under Section 11.028(d) because it is clear from the context of the provision that the executive director is authorized to expend funds for both purposes.

Revised Law

Sec. 2005.0103. FUNDS RAISED BY VOLUNTEERS. The department may:

(1) accept funds raised by a volunteer or volunteer group to promote the work of the department and to help carry out the department's duties and responsibilities; and

(2) use the funds for the specific project or purpose for which the funds are intended. (Parks & Wild. Code, Sec. 11.028(b).)

Source Law

(b) The department may accept funds raised by a volunteer or volunteer group to promote the work of the department and to help carry out its duties and responsibilities. The department may use the funds for the specific project or purpose for which the funds are intended.

Revised Law

Sec. 2005.0104. WAIVER OF ENTRANCE AND USE FEES. The executive director may waive park entrance fees and facility use fees for a volunteer in order to assist in the accomplishment of the volunteer's service to the department. (Parks & Wild. Code, Sec. 11.028(c).)

Source Law

(c) The director may waive park entrance fees and facility use fees for a volunteer to assist in the accomplishment of the volunteer's service to the department.

Revised Law

Sec. 2005.0105. PASSES FOR NONPROFIT YOUTH GROUPS. (a) In this section, "nonprofit youth group" means a nonprofit organization that:

(1) is chartered as a national or statewide organization;

(2) is organized and operated exclusively for youth recreational or educational purposes;

(3) includes, as part of the group's program, components relating to:

(A) character development;

(B) citizenship training;

(C) physical and mental fitness; and

(D) prevention of drug abuse;

(4) has been in existence for at least 10 years; and

(5) has a membership of which at least 65 percent are younger than 22 years of age.

(b) The commission shall authorize the administrator of a state park to provide passes to the state park to members of a nonprofit youth group who volunteer to help carry out the duties and responsibilities of the department at the park. (Parks & Wild. Code, Sec. 11.028(e).)

Source Law

> (e) The commission shall authorize the administrator of a state park to provide passes to the state park to members of nonprofit youth groups who volunteer to help carry out the duties and responsibilities of the department at the park. For purposes of this subsection, "nonprofit youth group" means a nonprofit organization that:
>
> (1) is chartered as a national or statewide organization;
>
> (2) is organized and operated exclusively for youth recreational or educational purposes and that includes, as part of the group's program, components relating to:
>
> (A) character development;
>
> (B) citizenship training;
>
> (C) physical and mental fitness; and
>
> (D) prevention of drug abuse;
>
> (3) has been in existence for at least 10 years; and
>
> (4) has a membership of which at least 65 percent are younger than 22 years of age.

SUBCHAPTER B. VOLUNTEER LIABILITY AND IMMUNITY

Revised Law

Sec. 2005.0201. DEFINITION. In this subchapter, "volunteer" means a person rendering services for or on behalf of the department without the expectation of receiving monetary compensation from the department other than reimbursement for expenses incurred by the person during the performance of the service. The term does not include:

(1) a person performing services as a result of a community service or community supervision sentence; or

(2) an inmate providing labor under Section 497.091,

Government Code, or similar law. (Parks & Wild. Code, Sec. 11.0281(a).)

Source Law

> Sec. 11.0281. VOLUNTEER LIABILITY AND IMMUNITY. (a) In this section, "volunteer" means a person rendering services for or on behalf of the department without the expectation of receiving monetary compensation from the department other than reimbursement for expenses incurred by the person during the performance of the service. The term does not include:
>
> (1) a person performing services as a result of a community service or community supervision sentence; or
>
> (2) an inmate providing labor pursuant to Section 497.091, Government Code, or similar law.

Revised Law

Sec. 2005.0202. APPLICABILITY OF SUBCHAPTER. This subchapter does not apply to an act or omission that is:

(1) intentional;

(2) wilfully negligent; or

(3) done with conscious indifference or reckless disregard for the safety of others. (Parks & Wild. Code, Sec. 11.0281(c).)

Source Law

> (c) This section does not apply to an act or omission that is intentional, wilfully negligent, or done with conscious indifference or reckless disregard for the safety of others.

Revised Law

Sec. 2005.0203. LIABILITY NOT CREATED; IMMUNITY NOT WAIVED. Except as provided by Section 2005.0204(b), this subchapter does not create any liability of or waive any immunity of the department, a department employee, or a department volunteer. (Parks & Wild. Code, Sec. 11.0281(g).)

Source Law

> (g) Except as provided by Subsection (d), this section does not create any liability of or waive any immunity of the department, employees of the department, or volunteers for the department.

Revised Law

Sec. 2005.0204. VOLUNTEER LIABILITY AND IMMUNITY. (a) Except as provided by Section 2005.0202, a volunteer acting within

the course and scope of the volunteer's assignment for the department is immune from civil liability for any act or omission of the volunteer resulting from the operation or use of a motor-driven vehicle or motor-driven equipment owned or leased by the department.

(b) The department shall, from any funds appropriated to the department, compensate a claimant for property damage, personal injury, or death proximately caused by the wrongful act or omission or the negligence of a volunteer acting within the scope of the volunteer's assignment if:

(1) the property damage, personal injury, or death arises from the operation or use of a motor-driven vehicle or motor-driven equipment owned or leased by the department; and

(2) the volunteer would be personally liable to the claimant under the laws of this state in the absence of the immunity provided by this subchapter.

(c) The amount of compensation paid under Subsection (b) may not exceed the maximum amount applicable to a state agency as specified by Section 101.023(a), Civil Practice and Remedies Code. (Parks & Wild. Code, Secs. 11.0281(b), (d), (e).)

Source Law

> (b) Except as provided by Subsection (c), a volunteer while acting within the course and scope of the volunteer's assignment for the department is immune from civil liability for any act or omission of the volunteer resulting from the operation or use of a motor-driven vehicle or motor-driven equipment owned or leased by the department.
>
> (d) The department shall, from any funds appropriated to the department, compensate a claimant for property damage, personal injury, or death proximately caused by the wrongful act or omission or the negligence of a volunteer acting within the scope of the volunteer's assignment if:
>
> (1) the property damage, personal injury, or death arises from the operation or use of a motor-driven vehicle or motor-driven equipment owned or leased by the department; and
>
> (2) the volunteer would be personally liable to the claimant under the laws of this state in the absence of the immunity provided by this section.
>
> (e) The amount of compensation paid under Subsection (d) may not exceed the maximum amount applicable to a state agency as specified by Section 101.023(a), Civil Practice and Remedies Code.

Revised Law

Sec. 2005.0205. EXEMPTION FROM TEXAS MOTOR VEHICLE SAFETY RESPONSIBILITY ACT. A volunteer operating or using a motor-driven vehicle or motor-driven equipment owned or leased by the department who is acting within the course and scope of a volunteer assignment for the department is exempt from the requirements of Chapter 601, Transportation Code. (Parks & Wild. Code, Sec. 11.0281(f).)

Source Law

(f) A volunteer operating or using a motor-driven vehicle or motor-driven equipment owned or leased by the department who is acting within the course and scope of a volunteer assignment for the department is exempt from the requirements of Chapter 601, Transportation Code.

CHAPTER 2006. OFFICE OF INTERNAL AFFAIRS

Revised Law

Sec. 2006.0101. DEFINITION. In this chapter, "office" means the office of internal affairs. (New.)

Revisor's Note

The definition of "office" is added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definition.

Revised Law

Sec. 2006.0102. ESTABLISHMENT; JURISDICTION. (a) The executive director shall establish the office of internal affairs.

(b) The office has original departmental jurisdiction over the investigation of a case alleging criminal conduct:

(1) occurring on department property;

(2) engaged in by an on-duty department employee; or

(3) engaged in by an officer commissioned by the department while performing off-duty work related to the officer's official duties. (Parks & Wild. Code, Secs. 11.0174(a), (b).)

Source Law

Sec. 11.0174. INTERNAL AFFAIRS OFFICE. (a) The executive director shall establish the office of internal affairs.

(b) The office of internal affairs has original

departmental jurisdiction over all investigations of cases alleging criminal conduct:

(1) occurring on department property;

(2) engaged in by on-duty department employees; or

(3) engaged in by officers commissioned by the department performing off-duty work related to their official duties.

Revised Law

Sec. 2006.0103. INVESTIGATION OVERSIGHT AND REVIEW. The office shall oversee and review, but is not required to conduct, an investigation under this chapter. (Parks & Wild. Code, Sec. 11.0174(c).)

Source Law

(c) The office of internal affairs shall oversee and review, but need not conduct, all investigations under this section.

Revised Law

Sec. 2006.0104. INITIATION OF INVESTIGATION. An investigation under this chapter may be initiated only by the executive director or the commission. (Parks & Wild. Code, Sec. 11.0174(d).)

Source Law

(d) An investigation under this section may be initiated only by the executive director or the commission.

Revised Law

Sec. 2006.0105. HEAD OF INTERNAL AFFAIRS. (a) The executive director shall appoint the head of the office. The head of the office serves at the will of the executive director.

(b) The head of the office shall:

(1) report directly to the executive director regarding performance of and activities related to investigations;

(2) report to the executive director for administrative purposes; and

(3) provide the executive director or commission with information regarding investigations as appropriate. (Parks & Wild. Code, Secs. 11.0174(e), (f).)

Source Law

(e) The executive director shall appoint the

head of the office of internal affairs. The head of the office of internal affairs serves until removed by the executive director.

(f) The head of the office of internal affairs shall:

(1) report directly to the executive director regarding performance of and activities related to investigations;

(2) report to the executive director for administrative purposes; and

(3) provide the executive director or commission with information regarding investigations as appropriate.

Revisor's Note

Section 11.0174(e), Parks and Wildlife Code, provides that the head of the office of internal affairs serves "until removed by" the executive director of the Parks and Wildlife Department. The revised law substitutes "at the will of" for the quoted language for the reasons stated in the revisor's note to Section 2002.0105.

Revised Law

Sec. 2006.0106. INVESTIGATION SUMMARY. (a) The head of the office shall present, at each regularly scheduled commission meeting and at other appropriate times, a summary of information relating to investigations under this chapter.

(b) The summary must include:

(1) analysis of the number, type, and outcome of the investigations;

(2) trends in the investigations; and

(3) any recommendations to avoid future complaints. (Parks & Wild. Code, Sec. 11.0174(g).)

Source Law

(g) The head of the office of internal affairs shall present at each regularly scheduled commission meeting and at other appropriate times a summary of information relating to investigations conducted under this section that includes analysis of the number, type, and outcome of investigations, trends in the investigations, and any recommendations to avoid future complaints.

SUBTITLE B. GENERAL POWERS AND DUTIES OF COMMISSION AND DEPARTMENT

CHAPTER 2051. GENERAL POWERS AND DUTIES

SUBCHAPTER A. GENERAL POWERS AND DUTIES

Revised Law

Sec. 2051.0101. DIVISION OF RESPONSIBILITIES. The commission shall develop and implement policies that clearly separate the policymaking responsibilities of the commission and the management responsibilities of the executive director and the department staff. (Parks & Wild. Code, Sec. 11.002.)

Source Law

> Sec. 11.002. POLICY IMPLEMENTATION. The commission shall develop and implement policies that clearly separate the policymaking responsibilities of the commission and the management responsibilities of the director and the department staff.

Revised Law

Sec. 2051.0102. WILDLIFE RESOURCE PROTECTION. The department is the state agency with primary responsibility for protecting the state's fish and wildlife resources. (Parks & Wild. Code, Sec. 12.0011(a).)

Source Law

> Sec. 12.0011. RESOURCE PROTECTION. (a) The department is the state agency with primary responsibility for protecting the state's fish and wildlife resources.

Revised Law

Sec. 2051.0103. ADMINISTRATION OF WILDLIFE LAWS. The department shall administer the laws relating to game, fish, oysters, and marine life, as set out in this code. (Parks & Wild. Code, Sec. 12.001(a).)

Source Law

> Sec. 12.001. GENERAL DUTIES. (a) The department shall administer the laws relating to game, fish, oysters, and marine life, as set out in this code.

Revised Law

Sec. 2051.0104. CONTROL OF STATE PARKS AND HISTORIC SITES. Except as otherwise provided by law, the following are under the department's control and custody:

(1) all recreational and natural areas designated as state parks; and

(2) all historic sites under the department's jurisdiction. (Parks & Wild. Code, Sec. 13.001(a).)

Source Law

Sec. 13.001. CONTROL BY DEPARTMENT. (a) Except as otherwise provided by law, the following are under the department's control and custody:

(1) all recreational and natural areas designated as state parks; and

(2) all historical sites under the jurisdiction of the department.

Revisor's Note

Section 13.001(a)(2), Parks and Wildlife Code, refers to "historical sites." The revised law substitutes "historic sites" for the quoted language to provide consistency in terminology in the revised code and because, in context, the terms are synonymous and "historic sites" is more commonly used.

Revised Law

Sec. 2051.0105. DEVELOPMENT AND ACQUISITION OF OUTDOOR AREAS. The department may:

(1) develop, operate, and maintain outdoor areas and facilities of the state; and

(2) acquire land, water, and interests in land and water for outdoor recreation areas and facilities. (Parks & Wild. Code, Sec. 13.002.)

Source Law

Sec. 13.002. DEVELOPMENT AND ACQUISITION OF OUTDOOR AREAS. The department may:

(1) develop, operate, and maintain outdoor areas and facilities of the state; and

(2) acquire land, water, and interests in land and water for outdoor recreation areas and facilities.

Revised Law

Sec. 2051.0106. AUTHORITY TO CONTRACT. (a) Subject to Section 5002.0302, for the purpose of carrying out the department's powers, duties, and responsibilities, the executive director or the

executive director's designee may negotiate, contract, or enter an agreement with:

(1) the United States;

(2) another state;

(3) a political subdivision of this state or another state;

(4) a nonprofit organization for research and field work; or

(5) a person for professional services relating to a department project, including project management, design, bid, and construction administration, consistent with Subchapter A, Chapter 2254, Government Code.

(b) If the value of a contract under Subsection (a)(5) for constructing, altering, or repairing a public building or carrying out or completing any public work exceeds $150,000, the department, the executive director, or the executive director's designee shall require the contractor to execute a performance bond and a payment bond to the department before beginning work.

(c) The executive director may negotiate with and award a contract for goods or services to any qualified vendor if the executive director:

(1) solicits bids for the goods or services through a competitive process in compliance with all applicable laws, including Chapters 2155, 2254, and 2269, Government Code, that fails to result in competitive responsive bids;

(2) makes a written determination that resoliciting bids for the goods or services would:

(A) be unlikely to result in responsive bids;

(B) increase costs to the department; or

(C) delay the ability of the department to address a critical need; and

(3) determines that the vendor meets the requirements of the original solicitation.

(d) To the extent practicable, the executive director may

combine the procurement of multiple goods or services into a single competitively bid contract to enhance the contract's attraction for potential vendors.

(e) To meet the business needs of the department and increase revenue potential, the department may procure goods and services related to items for resale by the department by any method approved by the commission, provided the method provides the best value to the department.

(f) The commission by rule shall adopt policies and procedures consistent with applicable state procurement practices for soliciting and awarding contracts under this section. (Parks & Wild. Code, Sec. 11.0171.)

Source Law

Sec. 11.0171. AUTHORITY TO CONTRACT. (a) Subject to Section 12.0251, for the purpose of carrying out the powers, duties, and responsibilities of the department, the executive director, or the executive director's designee, may negotiate, contract, or enter an agreement:

(1) with:

(A) the United States or any of its agencies;

(B) another state or a political subdivision of another state or of this state; or

(C) a nonprofit organization for research and field work; or

(2) for professional services relating to a project of the department, including project management, design, bid, and construction administration, consistent with Subchapter A, Chapter 2254, Government Code.

(a-1) If the value of a contract under Subsection (a)(2) for constructing, altering, or repairing a public building or carrying out or completing any public work exceeds $150,000, the department, the executive director, or the executive director's designee shall require the contractor to execute a performance bond and a payment bond to the department before beginning work.

(b) The commission by rule shall adopt policies and procedures consistent with applicable state procurement practices for soliciting and awarding the contracts under this section.

(c) The executive director may negotiate with and award a contract for goods or services to any qualified vendor if the executive director:

(1) solicits bids for the goods or services through a competitive process in compliance with all applicable laws, including Chapters 2155, 2254, and 2269, Government Code, that fails to result in competitive responsive bids;

(2) makes a written determination that resoliciting bids for the goods or services would:

(A) be unlikely to result in

responsive bids;

(B) increase costs to the department; or

(C) delay the ability of the department to address a critical need; and

(3) determines that the vendor meets the requirements of the original solicitation.

(d) To the extent practicable, the executive director may combine the procurement of multiple goods or services into a single competitively bid contract to enhance the contract's attraction for potential vendors.

(e) To meet the business needs of the department and increase revenue potential, the department may procure goods and services related to items for resale by the department by any method approved by the commission, provided the method provides the best value to the department.

Revisor's Note

Section 11.0171(a)(1)(A), Parks and Wildlife Code, refers to the United States "or any of its agencies." The revised law omits the quoted language because Section 311.005(9), Government Code (Code Construction Act), defines the United States to include its agencies.

Revised Law

Sec. 2051.0107. EMERGENCY RULES. The commission or the executive director may adopt emergency rules as provided by Chapter 2001, Government Code, if the commission or the executive director finds that:

(1) there is an immediate danger to a species the department is authorized to regulate; or

(2) strict compliance with existing department rules would in any way prevent, hinder, or delay necessary action in coping with a disaster declared by the governor. (Parks & Wild. Code, Sec. 12.027.)

Source Law

Sec. 12.027. ADOPTION OF EMERGENCY RULES. If the commission or the executive director finds that there is an immediate danger to a species authorized to be regulated by the department, or that strict compliance with existing department rules would in any way prevent, hinder, or delay necessary action in coping with a disaster declared by the governor, the commission or the executive director may adopt emergency rules as provided by Chapter 2001, Government Code.

Revised Law

Sec. 2051.0108. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of department rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the department's jurisdiction.

(b) The commission shall designate a trained person to:

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

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

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

(c) To the extent possible, the department's procedures relating to alternative dispute resolution must conform to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies. (Parks & Wild. Code, Sec. 11.0164.)

Source Law

Sec. 11.0164. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of department rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the department's jurisdiction.

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

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

(1) coordinate the implementation of the

policy adopted under Subsection (a);

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

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

SUBCHAPTER Y. MISCELLANEOUS POWERS AND DUTIES

Revised Law

Sec. 2051.9801. INFORMATION OF PUBLIC INTEREST. The commission shall:

(1) prepare information of public interest describing the commission's functions; and

(2) make the information available to the public and appropriate state agencies. (Parks & Wild. Code, Sec. 11.0161.)

Source Law

Sec. 11.0161. NOTIFICATION OF COMMISSION ACTIVITIES. (a) The commission shall prepare information of public interest describing the functions of the commission. The commission shall make the information available to the general public and appropriate state agencies.

Revised Law

Sec. 2051.9802. USE OF TECHNOLOGY. The commission shall implement a policy that:

(1) requires the department to use appropriate technological solutions to improve the department's ability to perform the department's functions; and

(2) ensures that the public is able to interact with the department on the Internet. (Parks & Wild. Code, Sec. 11.0163.)

Source Law

Sec. 11.0163. USE OF TECHNOLOGY. The commission shall implement a policy requiring the department to use appropriate technological solutions to improve the department's ability to perform its functions. The policy must ensure that the public is able to interact with the department on the Internet.

Revised Law

Sec. 2051.9803. GIFTS. (a) Except as provided by Subsection (b), the department may accept gifts of property or money in support of any department purpose authorized by this code.

(b) The department may not accept a gift or other donation

from a person who holds a commercial license issued by the department other than a license issued under Subchapter A, Chapter 5157. (Parks & Wild. Code, Sec. 11.026.)

Source Law

> Sec. 11.026. GIFTS OF PROPERTY OR MONEY. (a) Except as provided by Subsection (b), the department may accept gifts of property or money in support of any department purpose authorized in this code.
>
> (b) The department may not accept a gift or other donation from a person who holds a commercial license issued by the department. For the purposes of this section, a license issued under Subchapter D, Chapter 43, is not a commercial license.

Revised Law

Sec. 2051.9804. SALE OR RESALE OF ITEMS. To provide funding for programs administered by the department, the department may:

(1) sell any item in the department's possession in which the state has title; or

(2) acquire and resell an item for profit. (Parks & Wild. Code, Sec. 11.027(c).)

Source Law

> (c) The department may sell any item in the possession of the department in which the state has title, or acquire and resell items if a profit can be made, to provide funding for programs administered by the department.

Revised Law

Sec. 2051.9805. SALE OF WILDLIFE ART PRINTS, DECALS, AND STAMPS. (a) The commission may authorize an agent, including a nonprofit wildlife conservation organization, to sell wildlife art prints, decals, and stamps, and shall provide for the widespread availability of those items to the public.

(b) The commission may contract with and pay a person for designing and producing the wildlife art prints, decals, and stamps authorized by this section.

(c) The price of a wildlife art decal or stamp sold under this section is $5.00 or a greater amount set by the commission. The department may issue other editions of the stamp and decal at amounts set by the commission.

(d) The department shall establish the royalty and a

reasonable price to be paid for a wildlife art print sold under this section. (Parks & Wild. Code, Secs. 11.055, 11.056.)

Source Law

> Sec. 11.055. WILDLIFE ART PRINTS, DECALS, AND STAMPS. (a) The commission may contract with and pay a person for designing and producing the wildlife art prints, decals, and stamps authorized by this subchapter.
>
> (b) The commission may authorize an agent, including a nonprofit wildlife conservation organization, to sell the wildlife art prints, decals, and stamps, and shall provide for the widespread availability of those items to the public.
>
> Sec. 11.056. COSTS OF WILDLIFE ART PRINTS, DECALS, AND STAMPS. (a) The price of a wildlife art decal or stamp sold under this subchapter is $5.00 or an amount set by the commission, whichever amount is more. The department may issue other editions of the stamp and decal at amounts set by the commission.
>
> (b) The department shall establish the royalty and a reasonable price to be paid for a wildlife art print sold under this subchapter.

Revisor's Note

Section 11.055(a), Parks and Wildlife Code, refers to wildlife art prints, decals, and stamps authorized by Subchapter D, Chapter 11, of that code, and Section 11.056 of that code refers to a wildlife art print, decal, or stamp sold under that subchapter. The pertinent parts of Subchapter D relating to wildlife art prints, decals, and stamps are revised as this section, and the revised law is drafted accordingly.

Revised Law

Sec. 2051.9806. CONSTRUCTION PROJECT EVALUATION. (a) The department shall calculate the costs of each department construction project as the project is completed.

(b) In calculating the costs under Subsection (a), the department shall consider both direct and indirect costs of department employees who perform project tasks.

(c) On request, the comptroller shall provide technical assistance to the department.

(d) Using the costs calculated under this section for completed projects, the department shall evaluate the costs and

benefits of contracting with private entities or individuals to manage proposed construction-related tasks or projects. (Parks & Wild. Code, Sec. 11.0255.)

Source Law

> Sec. 11.0255. EVALUATION OF CONSTRUCTION PROJECTS. (a) The department shall calculate the costs of each department construction project as the project is completed.
>
> (b) In calculating the costs under Subsection (a), the department shall consider both direct and indirect costs of department employees who perform project tasks.
>
> (c) On request, the comptroller shall provide technical assistance to the department.
>
> (d) Using the costs calculated under this section for completed projects, the department shall evaluate the costs and benefits of contracting with private entities or individuals to manage proposed construction-related tasks or projects.

Revised Law

Sec. 2051.9807. COMMISSION DETERMINATION OF BIOLOGICAL MANAGEMENT PRACTICES. The commission has the exclusive authority to determine sound biological management practices for all land under the commission's control. (Parks & Wild. Code, Sec. 13.001(e).)

Source Law

> (e) The commission shall have the exclusive authority to determine sound biological management practices for all lands under its control.

Revised Law

Sec. 2051.9808. POWERS AND DUTIES REGARDING TEXAS WATER TRUST. (a) In this section, "Texas Water Trust" means the trust established under Section 15.7031, Water Code.

(b) Consistent with Section 11.0235(b), Water Code, and the department's duties and responsibilities, the department shall encourage and facilitate the dedication of water rights in the Texas Water Trust through lease, donation, purchase, or other means of voluntary transfer for environmental needs, including for the purpose of maintaining or improving:

(1) instream flows;

(2) water quality;

(3) fish and wildlife habitat; and

(4) bay and estuary inflows.

(c) The department may manage rights in the Texas Water Trust in a manner that is consistent with:

(1) the manner in which a holder of the rights may manage the rights;

(2) the dedication of the rights, including the dedication's terms;

(3) Sections 11.0237, 11.027, and 11.122, Water Code; and

(4) maximizing environmental benefits.

(d) This section may not be construed to authorize the department to exercise any authority expressly granted to the Texas Water Development Board or the Texas Commission on Environmental Quality under Subchapter K, Chapter 15, Water Code. (Parks & Wild. Code, Sec. 12.028.)

Source Law

Sec. 12.028. POWERS AND DUTIES REGARDING TEXAS WATER TRUST. (a) In this section, "Texas Water Trust" means the trust established under Section 15.7031, Water Code.

(b) Consistent with Section 11.0235(b), Water Code, and the department's duties and responsibilities, the department shall encourage and facilitate the dedication of water rights in the Texas Water Trust through lease, donation, purchase, or other means of voluntary transfer for environmental needs, including for the purpose of maintaining or improving:

(1) instream flows;

(2) water quality;

(3) fish and wildlife habitat; and

(4) bay and estuary inflows.

(c) The department may manage rights in the Texas Water Trust in a manner that is consistent with:

(1) the manner in which a holder of the rights may manage the rights;

(2) the dedication of the rights, including the dedication's terms and conditions;

(3) Sections 11.0237, 11.027, and 11.122, Water Code; and

(4) maximizing environmental benefits.

(d) This section may not be construed to authorize the department to exercise any authority expressly granted to the Texas Water Development Board or the Texas Commission on Environmental Quality under Subchapter K, Chapter 15, Water Code.

Revisor's Note

Section 12.028(c)(2), Parks and Wildlife Code,

refers to the "terms and conditions" of the dedication of the rights. The revised law omits "conditions" because, in context, the meaning of "conditions" is included in the meaning of "terms."

Revised Law

Sec. 2051.9809. CONSTRUCTION AND MAINTENANCE OF ISLAND CHANNEL. (a) The department may construct and maintain a channel through Padre Island, Mustang Island, or San Jose Island.

(b) The department may contract for the construction of a channel under this section on approval by the commission and approval from the federal government of an application for authority to construct channels.

(c) The cost of the construction and maintenance of a channel constructed under this section may be paid only from the game, fish, and water safety account. (Parks & Wild. Code, Sec. 82.651.)

Source Law

Sec. 82.651. ISLAND CHANNEL. (a) The department may construct and maintain a channel through Padre Island, Mustang Island, and St. Jo Island, or any of them.

(b) The department may contract for the construction of a channel under this section on approval by the commission and approval from the federal government of an application for authority to construct channels.

(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 only.

Revisor's Note

Section 82.651(a), Parks and Wildlife Code, refers to "St. Jo Island." The revised law substitutes "San Jose Island" for "St. Jo Island" to reflect the official name of the island.

CHAPTER 2052. FINANCIAL PROVISIONS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 2052.0101. COLLECTION OF CERTAIN PAYMENTS. The department may collect and enforce the payment of all taxes,

license fees, fines, and forfeitures due to the department. (Parks & Wild. Code, Sec. 12.001(b)(1).)

Source Law

> (b) The department may:
>
> (1) collect and enforce the payment of all taxes, licenses, fines, and forfeitures due to the department;
>
> . . .

Revisor's Note

Section 12.001(b)(1), Parks and Wildlife Code, authorizes the Parks and Wildlife Department to "collect and enforce the payment of all taxes, licenses, fines, and forfeitures due to the department." Throughout this chapter, in this and similar contexts, the revised law substitutes "license fees" for "licenses" because it is clear that the department is authorized to collect and enforce the payment of license fees, not licenses.

Revised Law

Sec. 2052.0102. DISPOSITION AND USE OF DEPARTMENT MONEY. (a) Except as provided by Subsection (b), all money paid to the department under this code or allocated to the department under Section 151.801, Tax Code, shall be deposited in the state treasury and may be used only for the administration of this code.

(b) This section does not apply to money received under:

(1) Subchapter E or M;

(2) Section 3003.0103(a) or 3003.0201; or

(3) Subchapter B, Chapter 3005. (Parks & Wild. Code, Sec. 11.042.)

Source Law

> 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.

Revisor's Note

Section 11.042, Parks and Wildlife Code, refers

to money received under Subchapter C, Chapter 12, or Chapter 21 of that code. Subchapter C is revised in pertinent part as Subchapter M of this chapter. Chapter 21 is revised in pertinent part in this code as Subchapter E of this chapter, Sections 3003.0103(a) and 3003.0201, and Subchapter B, Chapter 3005. The revised law is drafted accordingly.

Revised Law

Sec. 2052.0103. MISTAKEN DEPOSITS. (a) The comptroller shall refund money deposited in the state treasury by the department by mistake of fact or law.

(b) The comptroller shall make a refund required by this section 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.

(c) The comptroller may require written evidence from the executive director to indicate the reason for the mistake of fact or law before issuing a refund warrant under Subsection (b).

(d) This section does not apply to money deposited under a written contract or to money on deposit as of June 8, 1971, that is the subject of litigation in any of the courts of this state or the United States. (Parks & Wild. Code, Sec. 11.040.)

Source Law

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.

Revisor's Note

Sections 11.040(a) and (c), Parks and Wildlife Code, refer to deposited "funds." Throughout this chapter, the revised law substitutes "money" for "funds" when the meaning is the same in context because "money" is more commonly used.

Revised Law

Sec. 2052.0104. INTEREST ON INVESTMENTS. (a) The comptroller shall allocate monthly to each department account in the charge of the comptroller the interest received from the investment of money in that account.

(b) The comptroller may retain from the interest to be allocated an amount equal to the necessary administrative costs of making the allocations. (Parks & Wild. Code, Sec. 11.044.)

Source Law

> 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 comptroller shall be allocated monthly to each account in an amount proportionate to the amount of money invested from the account.
>
> (b) The comptroller may retain from the interest to be allocated monthly an amount equal to the necessary administrative costs of making the allocations.

Revised Law

Sec. 2052.0105. APPLICATION OF OTHER LAW. Section 403.095, Government Code, does not apply to revenues accruing to an account or subaccount established under Subchapter B, C, D, I, K, L, N, O, or P. (Parks & Wild. Code, Secs. 11.045, 32.058(d) (part), 47.041(e), 76.021(a) (part).)

Source Law

> 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.
>
> [Sec. 32.058]
>
> (d) [The floating cabin purchase account is created as a separate account in the general revenue fund.] . . . Section 403.095, Government Code, does not apply to the account.
>
> [Sec. 47.041]
>
> (e) The commercial license buyback subaccount

is not subject to Section 403.095, Government Code.

[Sec. 76.021]

(a) . . . The account is exempt from the application of Section 403.095, Government Code.

Revisor's Note

Section 11.045, Parks and Wildlife Code, provides that Section 403.095, Government Code, does not apply to revenues accruing to an account established under Chapter 11 of that code. The pertinent parts of Chapter 11 relating to accounts established under that chapter are revised as Subchapters B, C, D, I, K, L, N, and O of this chapter, and the revised law is drafted accordingly.

Revised Law

Sec. 2052.0106. RECORDS OF COLLECTIONS AND DISBURSEMENTS. The department shall keep a record of all department collections and disbursements, including the amount of all special taxes collected. (Parks & Wild. Code, Secs. 12.003(a)(1), (6).)

Source Law

Sec. 12.003. RECORDS. (a) The department shall keep a record containing the following information:

(1) the amount of all special taxes collected;

. . .

(6) all collections and disbursements of the department.

Revised Law

Sec. 2052.0107. ESTABLISHMENT OF FEES. (a) In setting the amounts of the fees authorized by this code, the commission shall establish reasonable and necessary fees for the administration of department programs but may not maintain unnecessary fund balances.

(b) The commission by rule may establish and provide for the collection of a fee for:

(1) covering costs associated with the review of an application for a permit required by this code; or

(2) entering, reserving, or using a facility or property owned or managed by the department.

(c) The commission may set and charge a fee for the use of a

credit card to pay a fee assessed by the department in an amount reasonable and necessary to reimburse the department for the costs involved in the use of the card. The department shall deposit the money in the state treasury. (Parks & Wild. Code, Secs. 11.027(a), (b), (d), (e).)

Source Law

> Sec. 11.027. ESTABLISHMENT OF FEES; REVENUE. (a) In setting the amounts of the fees authorized by this code, the commission shall establish reasonable and necessary fees for the administration of department programs but may not maintain unnecessary fund balances.
>
> (b) The commission by rule may establish and provide for the collection of a fee to cover costs associated with the review of an application for a permit required by this code.
>
> (d) The commission may set and charge a fee for the use of a credit card to pay a fee assessed by the department in an amount reasonable and necessary to reimburse the department for the costs involved in the use of the card. The department shall deposit the money in the state treasury.
>
> (e) The commission by rule may establish and provide for the collection of a fee for entering, reserving, or using a facility or property owned or managed by the department.

Revised Law

Sec. 2052.0108. REPORT OF FINES AND FEES. The department shall file at the end of each calendar month a written report with the comptroller showing fines, license fees, and other fees collected, their disposition, and any other necessary information. (Parks & Wild. Code, Sec. 12.004.)

Source Law

> Sec. 12.004. LIST OF FEES AND FINES. (b) The department shall file at the end of each calendar month a written report with the comptroller showing fines, licenses, and other fees collected, their disposition, and any other necessary information.

Revisor's Note
(End of Subchapter)

Section 11.025, Parks and Wildlife Code, provides that the financial transactions of the Parks and Wildlife Department are subject to audit by the state auditor in accordance with Chapter 321, Government Code. The revised law omits that provision as

unnecessary because Section 321.013, Government Code, requires the state auditor to conduct audits of all departments as specified in the audit plan as defined by Section 321.001 of that code. The omitted law reads:

> Sec. 11.025. AUDIT. The financial transactions of the department are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

SUBCHAPTER B. PARKS AND WILDLIFE OPERATING ACCOUNT

Revised Law

Sec. 2052.0201. PARKS AND WILDLIFE OPERATING ACCOUNT. The parks and wildlife operating account is a separate account in the general revenue fund. (Parks & Wild. Code, Sec. 11.038(a).)

Source Law

> Sec. 11.038. OPERATING ACCOUNT. (a) The parks and wildlife operating account is a separate account in the general revenue fund.

Revised Law

Sec. 2052.0202. SOURCES OF ACCOUNT. The commission may transfer to the parks and wildlife operating account any money 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. (Parks & Wild. Code, Sec. 11.038(b) (part).)

Source Law

> (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. . . .

Revisor's Note

Section 11.038(b), Parks and Wildlife Code, provides that the Parks and Wildlife Commission "may transfer any funds appropriated" to the Parks and Wildlife Department for certain purposes. The revised law clarifies that the commission is authorized to

transfer that money "to the parks and wildlife operating account" because it is clear from the context of that section that the commission is authorized to transfer that money to that account.

Revised Law

Sec. 2052.0203. USE OF ACCOUNT. (a) The parks and wildlife operating account shall be used for the purposes specified by law.

(b) All expenditures by the department from the parks and wildlife operating account shall be made only for the purposes for which appropriations are made in the General Appropriations Act. (Parks & Wild. Code, Secs. 11.038(b) (part), (c) (part).)

Source Law

> (b) . . . All expenditures by the department from this account shall be made only for the purposes for which appropriations are made in the general appropriations act.
>
> (c) The parks and wildlife operating account shall be used for the purposes specified by law and . . . .

Revised Law

Sec. 2052.0204. DIVERSION OF MONEY PROHIBITED. An officer or employee of the department or commission may not divert or jeopardize the parks and wildlife operating account or any portion of the account, including any federal aid the department receives or administers. (Parks & Wild. Code, Sec. 11.038(c) (part).)

Source Law

> (c) . . . nothing may be done by any officer or employee of the department or commission to divert or jeopardize the account or any portion of the account, including any federal aid the department receives or administers.

SUBCHAPTER C. GAME, FISH, AND WATER SAFETY ACCOUNT

Revised Law

Sec. 2052.0301. GAME, FISH, AND WATER SAFETY ACCOUNT. The game, fish, and water safety account is a separate account in the general revenue fund. (Parks & Wild. Code, Secs. 11.031, 11.032(a).)

Source Law

> Sec. 11.031. GAME, FISH, AND WATER SAFETY

ACCOUNT. There is in the state treasury an account called the "game, fish, and water safety account."

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

Revised Law

Sec. 2052.0302. SOURCES OF ACCOUNT. The department shall deposit to the credit of the game, fish, and water safety account all revenue, less allowable costs, received from:

(1) fishing licenses and stamps;

(2) shrimping licenses;

(3) hunting licenses and stamps;

(4) trapping licenses and other licenses relating to the taking, propagation, and sale of fur-bearing animals or pelts;

(5) oyster bed rentals or permits;

(6) fees related to cultivated oyster mariculture;

(7) field trial permit fees collected under Subchapter N, Chapter 5159;

(8) importation permit fees;

(9) participation fees collected under Section 5159.0602;

(10) vessel registration fees;

(11) vessel manufacturer or dealer license fees;

(12) vessel or outboard motor title fees;

(13) boater education program courses and equivalency examinations administered under Section 4103.0101;

(14) boater education deferrals issued under the program established under Section 4103.0106;

(15) the sale of marl, sand, gravel, shell, mudshell, rough fish, seized pelts, alligators, or alligator parts;

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

(17) the sale of property, less advertising costs, purchased from the account or a special fund or account that is part of the account;

(18) carbon sequestration or similar ecosystem

services projects described by Section 2053.0107(b)(1);

(19) fees for fish supplied for or placed in water located on private property;

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

(21) revenue and fees collected under Section 2051.9804 or 2052.0107(b)(1) that are associated with the conservation of fish and wildlife;

(22) fines and penalties collected for violations of laws pertaining to:

(A) the protection and conservation of wild birds, wild fowl, wild animals, fish, shrimp, oysters, game birds, game animals, fur-bearing animals, alligators, or any other wildlife resources of this state; or

(B) water safety under Title 4, other than Chapter 4151 and Section 4901.0104;

(23) federal money received for fish and wildlife research, management, development and conservation, resource protection, and law enforcement, unless the money is received for the specific purposes of Subchapter L, Chapter 5251; and

(24) any other source provided by law. (Parks & Wild. Code, Sec. 11.032(b).)

Source Law

(b) The department shall deposit to the credit of the game, fish, and water safety account 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, unless the funds are received for the specific purposes of Subchapter F, Chapter 77;

(7) sale of property, less advertising costs, purchased from this account or a special fund or

account that is now part of this account;

(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) vessel registration fees;

(16) vessel manufacturer or dealer licensing fees;

(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;

(21) fees related to cultivated oyster mariculture;

(22) vessel and outboard motor titling fees;

(23) participation fees collected under Section 43.976;

(24) money received by the department from:

(A) boater education program courses and examinations administered under Section 31.108; and

(B) boater education deferrals issued under the program established under Section 31.110(c);

(25) money received by the department from carbon sequestration or similar ecosystem services projects described by Section 11.302(b)(1);

(26) field trial permit fees collected under Subchapter J, Chapter 43; and

(27) any other source provided by law.

Revisor's Note

(1) Section 11.032(b)(18), Parks and Wildlife Code, requires the Parks and Wildlife Department to deposit to the credit of the game, fish, and water safety account revenue from "alligator hunter's or alligator buyer's licenses." The requirement that a person hold an alligator hunter's license was repealed by Chapter 992, Acts of the 79th Legislature, Regular

Session, 2005. The requirement that a person hold an alligator buyer's license was repealed by Chapter 1256, Acts of the 75th Legislature, Regular Session, 1997. The revised law omits the reference to alligator hunter's and alligator buyer's licenses because those licenses no longer exist.

(2) Section 11.032(b)(24)(A), Parks and Wildlife Code, refers to boater education program courses and examinations administered under Section 31.108 of that code. Section 31.108 is revised in pertinent part as Section 4103.0101, and the revised law is drafted accordingly.

Revised Law

Sec. 2052.0303. USE OF ACCOUNT. (a) To the extent allowed by federal law and subject to Subsection (b), money in the game, fish, and water safety account may be used for:

(1) enforcement of laws pertaining to fish, shrimp, oysters, game, 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) protection of resources;

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

(9) cleanup of illegal or abandoned cultivated oyster mariculture equipment and related debris in public water;

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

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

(12) removal of rough fish from public water;

(13) administration and enforcement of the water safety laws under Title 4, including administration of the boater education program established under Section 4103.0101, other than Chapter 4151 or Section 4901.0104;

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

(15) purchase, construction, and maintenance of boat ramps on or near public waters as provided in Title 4;

(16) purchase of all necessary forms and supplies, including reimbursement of the department for any material produced by the department's existing facilities or work performed by other department divisions; and

(17) any other use provided by law.

(b) The department may use money from hunting and fishing license fees only for those functions required to manage the fish and wildlife resources of this state. (Parks & Wild. Code, Sec. 11.033.)

Source Law

Sec. 11.033. USE OF GAME, FISH, AND WATER SAFETY ACCOUNT. (a) To the extent allowed by federal law, money in the game, fish, and water safety account may be used for the following purposes:

(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) administration and enforcement of the water safety laws as set out in Chapter 31, including administration of the boater education program established under Section 31.108;

(13) 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;

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

(15) resource protection activities;

(16) the cleanup of illegal or abandoned cultivated oyster mariculture equipment and related debris in public water; and

(17) any other use provided by law.

(b) The department may use money from license fees paid by hunters and fishermen only for those functions required to manage the fish and wildlife resources of this state.

Revisor's Note

(1) Section 11.033(a)(12), Parks and Wildlife Code, refers to the boater education program established under Section 31.108 of that code. Section 31.108 is revised in pertinent part as Section 4103.0101, and the revised law is drafted accordingly.

(2) Section 11.033(a)(14), Parks and Wildlife Code, authorizes the use of money in the game, fish, and water safety account for the purchase, construction, and maintenance of boat ramps on or near public waters as provided in "Chapter 31" of that code. Chapter 31 is revised in Title 4 of this code. Although Title 4 also includes the revision of provisions not derived from Chapter 31, the revised

law substitutes a reference to "Title 4" for the reference to "Chapter 31" because the additional provisions revised in Title 4 are not applicable to the purchase, construction, and maintenance of boat ramps.

Revised Law

Sec. 2052.0304. EXPENDITURES. The executive director must approve all department expenditures from the game, fish, and water safety account. (Parks & Wild. Code, Sec. 11.034 (part).)

Source Law

> Sec. 11.034. GAME, FISH, AND WATER SAFETY ACCOUNT EXPENDITURES. All expenditures of the department from the game, fish, and water safety account must be approved by the director. . . .

Revised Law

Sec. 2052.0305. TRANSFER OF CERTAIN MONEY. Not later than the 10th day of each month, the department may transfer an amount not to exceed 15 percent of all amounts collected during the previous month from sources described by Section 2052.0302(10), (11), or (12) to the state parks account. (Parks & Wild. Code, Sec. 11.032(c).)

Source Law

> (c) Not later than the 10th day of each month the department may transfer an amount not to exceed 15 percent of all amounts collected during the previous month from sources described by Subsection (b)(15), (16), or (22) to the state parks account.

Revised Law

Sec. 2052.0306. COMMERCIAL LICENSE BUYBACK SUBACCOUNT. (a) The commercial license buyback subaccount is a subaccount in the game, fish, and water safety account. The subaccount consists of money deposited to the credit of the subaccount under this section.

(b) The department shall deposit to the credit of the commercial license buyback subaccount revenue from the following sources:

(1) revenue set aside under Section 5158.0418(b);

(2) revenue set aside under Section 5253.0209(c);

(3) a fee collected under Section 5251.1208(b);

(4) $25 of each wholesale fish dealer's license issued under Subchapter H, Chapter 5158;

(5) $25 of each wholesale fish dealer's truck license issued under Subchapter I, Chapter 5158;

(6) $6 of each retail fish dealer's license issued under Subchapter J, Chapter 5158;

(7) $11 of each retail dealer's truck license issued under Subchapter K, Chapter 5158;

(8) $25 of each commercial bay shrimp boat license issued under Subchapter C, Chapter 5251;

(9) $25 of each commercial bait shrimp boat license issued under Subchapter D, Chapter 5251;

(10) $25 of each commercial gulf shrimp boat license issued under Subchapter E, Chapter 5251;

(11) $15 of each bait shrimp dealer's license issued under Subchapter H, Chapter 5251; and

(12) revenue from any other source authorized by law.

(c) The department may accept grants and donations of money or materials from private or public sources to be applied to the commercial license buyback subaccount.

(d) Money in the commercial license buyback subaccount may be used only to buy back a commercial license from a willing license holder. (Parks & Wild. Code, Secs. 47.041(a), (b), (c), (d).)

Source Law

Sec. 47.041. COMMERCIAL LICENSE BUYBACK SUBACCOUNT. (a) The commercial license buyback subaccount is a subaccount in the game, fish, and water safety account. The subaccount consists of money deposited to the subaccount under this section.

(b) The department shall deposit to the credit of the commercial license buyback subaccount revenue from the following sources:

(1) revenue set aside under Section 47.081(d);

(2) revenue set aside under Section 78.111(d);

(3) a fee collected under Section 77.115;

(4) $25 of each wholesale fish dealer's license issued under Section 47.009;

(5) $25 of each wholesale truck dealer's fish license issued under Section 47.010;

(6) $6 of each retail fish dealer's license issued under Section 47.011;

(7) $11 of each retail dealer's truck license issued under Section 47.013;

(8) $25 of each commercial bay shrimp boat license issued under Section 77.031;

(9) $25 of each commercial bait-shrimp boat license issued under Section 77.033;

(10) $25 of each commercial gulf shrimp boat license issued under Section 77.035;

(11) $15 of each bait-shrimp dealer's license issued under Section 77.043; and

(12) revenue from any other source authorized by law.

(c) The department may accept grants and donations of money or materials from private or public sources to be applied to the commercial license buyback subaccount.

(d) Money in the commercial license buyback subaccount may be used only to buy back a commercial license from a willing license holder.

Revisor's Note

(1) Section 47.041(b)(4), Parks and Wildlife Code, refers to a wholesale fish dealer's license issued under Section 47.009 of that code. Section 47.009 is revised in pertinent part in Subchapter H, Chapter 5158, of this code, and the revised law is drafted accordingly. Although Subchapter H also includes the revision of a provision not derived from Section 47.009, it is appropriate to refer to Subchapter H in its entirety because the additional provision does not provide for the issuance of a wholesale fish dealer's license or any other type of license.

(2) Section 47.041(b)(5), Parks and Wildlife Code, refers to a "wholesale truck dealer's fish license" issued under Section 47.010 of that code, which is revised as Subchapter I, Chapter 5158. The revised law substitutes "wholesale fish dealer's truck license" for the quoted language to conform to the terminology used in Subchapter I, Chapter 5158.

(3) Section 47.041(b)(6), Parks and Wildlife Code, refers to a retail fish dealer's license issued under Section 47.011 of that code. Section 47.011 is revised in pertinent part in Subchapter J, Chapter

5158, of this code, and the revised law is drafted accordingly. Although Subchapter J also includes the revision of a provision not derived from Section 47.011, it is appropriate to refer to Subchapter J in its entirety because the additional provision does not provide for the issuance of a retail fish dealer's license or any other type of license.

(4) Section 47.041(b)(10), Parks and Wildlife Code, refers to a commercial gulf shrimp boat license issued under Section 77.035 of that code. Section 77.035 is revised in Subchapter E, Chapter 5251, of this code, and the revised law is drafted accordingly. Although Subchapter E also includes the revision of provisions not derived from Section 77.035, it is appropriate to refer to Subchapter E in its entirety because the additional provisions do not provide for the issuance of a commercial gulf shrimp boat license or any other type of license.

(5) Section 47.041(b)(11), Parks and Wildlife Code, refers to a bait-shrimp dealer's license issued under Section 77.043 of that code. Section 77.043 is revised in Subchapter H, Chapter 5251, of this code, and the revised law is drafted accordingly. Although Subchapter H also includes the revision of provisions not derived from Section 77.043, it is appropriate to refer to Subchapter H in its entirety because each additional provision either does not provide for the issuance of a bait-shrimp dealer's license or any other type of license or only imposes a requirement that must be met before the Parks and Wildlife Department issues the license.

Revised Law

Sec. 2052.0307. CULTIVATED OYSTER MARICULTURE CLEANUP SUBACCOUNT. (a) The cultivated oyster mariculture cleanup

subaccount is a subaccount in the game, fish, and water safety account. The subaccount consists of money deposited to the credit of the subaccount under Section 5305.0204(b).

(b) Money deposited to the credit of the cultivated oyster mariculture cleanup subaccount may be used only for the cleanup of illegal or abandoned cultivated oyster mariculture equipment and related debris in public water. (Parks & Wild. Code, Secs. 75.0105(b), (c) (part).)

Source Law

> (b) The cultivated oyster mariculture cleanup subaccount is a subaccount in the game, fish, and water safety account. The subaccount consists of money deposited to the subaccount under this section.
>
> (c) . . . [That money shall be deposited to the credit of the cultivated oyster mariculture cleanup subaccount in the game, fish, and water safety account and] may be used only for the cleanup of illegal or abandoned cultivated oyster mariculture equipment and related debris in public water.

Revisor's Note

Section 75.0105(b), Parks and Wildlife Code, provides that the cultivated oyster mariculture cleanup subaccount consists of money deposited to the subaccount under Section 75.0105 of that code. Section 75.0105 is revised in pertinent part as Section 5305.0204(b), and the revised law is drafted accordingly.

Revised Law

Sec. 2052.0308. SUBACCOUNT FOR OYSTER SHELL RECOVERY AND REPLACEMENT PROGRAM. (a) The oyster shell recovery and replacement program account is a subaccount in the game, fish, and water safety account. The account consists of money deposited to the credit of the account under Section 5301.0402.

(b) Money in the oyster shell recovery and replacement program account may be appropriated only for the recovery and enhancement of public oyster reefs under Section 5301.0401. (Parks & Wild. Code, Secs. 76.021(a) (part), (e).)

Source Law

Sec. 76.021. OYSTER SHELL RECOVERY AND REPLACEMENT PROGRAM ACCOUNT; FEE. (a) The oyster shell recovery and replacement program account is a separate account in the game, fish, and water safety account. The account consists of money deposited to the account under this section. . . .

(e) Money in the oyster shell recovery and replacement program account may be appropriated only for the recovery and enhancement of public oyster reefs under Section 76.020.

Revisor's Note

Section 76.021(a), Parks and Wildlife Code, provides that the oyster shell recovery and replacement program account consists of money deposited to the account under Section 76.021 of that code. Section 76.021 is revised in pertinent part as Section 5301.0402, and the revised law is drafted accordingly.

Revisor's Note
(End of Subchapter)

Section 11.034, Parks and Wildlife Code, requires the comptroller of public accounts to draw a warrant from the game, fish, and water safety account for an expenditure of the Parks and Wildlife Department. The revised law omits that provision because it duplicates in substance provisions contained in Chapter 2103, Government Code, which is a comprehensive law covering procedures for withdrawing money from the state treasury. The omitted law reads:

> Sec. 11.034. . . . The comptroller shall draw a warrant on the state treasury from the game, fish, and water safety account for the amount of the expenditure in favor of the person claiming the expenditure.

SUBCHAPTER D. STATE PARKS ACCOUNT

Revised Law

Sec. 2052.0401. STATE PARKS ACCOUNT. The state parks account is a separate account in the general revenue fund. (Parks & Wild. Code, Sec. 11.035(a).)

Source Law

Sec. 11.035. STATE PARKS ACCOUNT. (a) The state parks account is a separate account in the general revenue fund.

Revised Law

Sec. 2052.0402. SOURCES OF ACCOUNT. (a) The department shall deposit to the credit of the state parks account all revenue, less allowable costs, received from:

(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 under Subchapter A, Chapter 3004;

(4) revenue and fees collected under Section 2051.9804 or 2052.0107(b)(1) that are associated with state park land;

(5) credits made to the department under Section 151.801, Tax Code, in an amount not to exceed the amount of the tax proceeds allocated by the legislature to the account under Subsection (c-1) of that section, to be used only for the purposes provided by that subsection;

(6) money received by the department from carbon sequestration or similar ecosystem services projects described by Section 2053.0107(b)(2); and

(7) any other source provided by law.

(b) The department may deposit to the credit of the state parks account all revenue, less allowable costs, received from:

(1) private contributions, grants, and donations received for state parks-related purposes; and

(2) federal money received for state parks-related purposes. (Parks & Wild. Code, Secs. 11.035(b), (c).)

Source Law

(b) The department shall deposit to the credit of the state parks account 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;

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

(5) credits made to the department under Section 151.801, Tax Code, in an amount not to exceed the amount of the tax proceeds allocated by the legislature to the account under Section 151.801(c-1), Tax Code, to be used only for the purposes provided by that section;

(6) money received by the department from carbon sequestration or similar ecosystem services projects described by Section 11.302(b)(2); and

(7) any other source provided by law.

(c) The department may deposit to the credit of the state parks account all revenue, less allowable costs, from the following sources:

(1) private contributions, grants, and donations received for state parks-related purposes; and

(2) federal funds received for state parks-related purposes.

Revisor's Note

Section 11.035(b)(3), Parks and Wildlife Code, refers to violations of regulations governing parks issued pursuant to Subchapter B, Chapter 13, of that code. Subchapter B is revised in pertinent part as Subchapter A, Chapter 3004, of this code, and the revised law is drafted accordingly.

SUBCHAPTER E. TEXAS PARK DEVELOPMENT FUND

Revised Law

Sec. 2052.0501. DEFINITIONS. In this subchapter:

(1) "Development fund" means the Texas Park Development Fund.

(2) "Interest and sinking fund" means the Texas park development bonds interest and sinking fund.

(3) "Park development bond" has the meaning assigned by Section 3005.0201. (Parks & Wild. Code, Secs. 21.101(a) (part), 21.105 (part); New.)

Source Law

Sec. 21.101. TEXAS PARK DEVELOPMENT FUND. (a) The Texas Park Development Fund, referred to as the "development fund," . . . .

Sec. 21.105. INTEREST AND SINKING FUND. The Texas park development bonds interest and sinking fund, referred to as the "interest and sinking fund," . . . .

Revisor's Note

The definition of "park development bond" is added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definition. The revised law defines "park development bond" by cross-reference to Section 3005.0201 of this code to mean a Texas Park Development Bond authorized to be issued and sold under Section 49-e, Article III, Texas Constitution. Throughout this subchapter, the revised law also substitutes "park development bonds" for "bonds" or other similar references when it is clear from the context that the reference is to a Texas Park Development Bond.

Revised Law

Sec. 2052.0502. TEXAS PARK DEVELOPMENT FUND. The Texas Park Development Fund is created pursuant to Section 49-e, Article III, Texas Constitution. (Parks & Wild. Code, Sec. 21.101(a) (part).)

Source Law

Sec. 21.101. TEXAS PARK DEVELOPMENT FUND. (a) The Texas Park Development Fund, . . . is created pursuant to the provisions of Article III, Section 49-e, of the Texas Constitution.

Revised Law

Sec. 2052.0503. SOURCES OF DEVELOPMENT FUND. Proceeds from the sale of park development bonds shall be deposited to the credit of the development fund. (Parks & Wild. Code, Sec. 21.101(b).)

Source Law

(b) Proceeds derived from the sale of Texas Park Development Bonds shall be deposited in the development fund.

Revised Law

Sec. 2052.0504. USE OF DEVELOPMENT FUND. The department may use the development fund only to:

(1) acquire a state park site from the United States, an agency of this state, or any other person;

(2) improve, develop, beautify, and equip an acquired park site; and

(3) pay expenses incurred in issuing park development bonds. (Parks & Wild. Code, Sec. 21.102.)

Source Law

Sec. 21.102. USE OF DEVELOPMENT FUND. The department may use the development fund only for:

(1) acquiring state park sites from the United States or any of its agencies, agencies of the state, or any other person;

(2) improving, developing, beautifying, and equipping acquired park sites; and

(3) paying expenses incurred in issuing bonds.

Revisor's Note

Section 21.102(1), Parks and Wildlife Code, refers to the United States "or any of its agencies." The revised law omits the quoted language for the reason stated in the revisor's note to Section 2051.0106.

Revised Law

Sec. 2052.0505. TEXAS PARK DEVELOPMENT BONDS INTEREST AND SINKING FUND. The Texas park development bonds interest and sinking fund is created to be used exclusively to:

(1) pay the principal of park development bonds as they mature;

(2) pay the interest on the bonds as the interest comes due; and

(3) pay exchange and collection charges in connection with the bonds. (Parks & Wild. Code, Sec. 21.105 (part).)

Source Law

Sec. 21.105. INTEREST AND SINKING FUND. The Texas park development bonds interest and sinking fund, . . . is created to be used exclusively for:

(1) paying the principal of Texas Park Development Bonds as they mature;

(2) paying the interest on the bonds as it comes due; and

(3) paying exchange and collection charges in connection with the bonds.

Revised Law

Sec. 2052.0506. SOURCES OF INTEREST AND SINKING FUND. (a) The following shall be credited to the interest and sinking fund:

(1) accrued interest received in the sale of park development bonds;

(2) net income received from entrance fees to state park sites; and

(3) income from investments of the development fund and the interest and sinking fund.

(b) A portion of the net income from the sale of conservation permits authorized by Subchapter J, Chapter 5159, may be credited to the interest and sinking fund. (Parks & Wild. Code, Sec. 21.106(a).)

Source Law

Sec. 21.106. CREDITS TO INTEREST AND SINKING FUND. (a) Accrued interest received in the sale of bonds, net income received from entrance or gate fees to state park sites, and income from investments of the development fund and the interest and sinking fund shall be credited to the interest and sinking fund. A portion of the net income from the sale of conservation permits authorized by Chapter 43 of the Parks and Wildlife Code may be credited to the interest and sinking fund.

Revisor's Note

(1) Section 21.106(a), Parks and Wildlife Code, refers to net income received from "entrance or gate fees" to state park sites. The revised law omits the reference to "gate fees" because, in context, "gate fees" is included in the meaning of "entrance fees."

(2) Section 21.106(a), Parks and Wildlife Code, refers to conservation permits authorized by Chapter 43 of that code. Chapter 43 is revised in pertinent part as Subchapter J, Chapter 5159, of this code, and the revised law is drafted accordingly.

Revised Law

Sec. 2052.0507. TRANSFER IN EVENT OF INSUFFICIENT INTEREST AND SINKING FUND BALANCE. (a) If the amount credited to the

interest and sinking fund at the end of a fiscal year is insufficient to pay the interest coming due and the principal maturing on park development bonds for the next fiscal year, the comptroller shall transfer from the first money coming into the treasury not otherwise appropriated by the constitution an amount stipulated in the certification of the executive director as is necessary to pay the interest and principal on the bonds.

(b) The executive director shall certify the amount required to be stipulated by Subsection (a) as of August 15 of each fiscal year. (Parks & Wild. Code, Sec. 21.107.)

Source Law

> Sec. 21.107. ADDITIONAL TRANSFERS. (a) If the amount credited to the sinking and interest fund at the end of the fiscal year is insufficient to pay the interest coming due and the principal maturing on bonds for the next fiscal year, the comptroller shall transfer from the first money coming into the treasury, not otherwise appropriated by the constitution, an amount stipulated in the certification of the director as is necessary to pay the interest and principal on the bonds.
>
> (b) The director shall certify the amount required to be stipulated by Subsection (a) of this section as of August 15 of each fiscal year.

Revised Law

Sec. 2052.0508. TRANSFER OF INTEREST AND SINKING FUND TO STATE PARKS ACCOUNT. The comptroller shall transfer the balance of the interest and sinking fund to the state parks account after all park development bonds have been paid. (Parks & Wild. Code, Secs. 21.108, 21.109.)

Source Law

> 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.
>
> Sec. 21.109. TRANSFERS REQUIRED. The state comptroller shall make any transfer required by this chapter.

Revisor's Note

(1) Section 21.108, Parks and Wildlife Code, provides that the balance of the Texas park development bonds interest and sinking fund shall be transferred to the state parks account after the

balance on all bonds has been paid. For clarity, the revised law provides that the comptroller of public accounts shall make the transfer required by Section 21.108 because Section 21.109, Parks and Wildlife Code, requires the comptroller to make any transfer required by Chapter 21 of that code. Additionally, Section 21.109 is revised only with Section 21.108 because the only provisions of Chapter 21 that require a transfer are Sections 21.107 and 21.108, revised as Section 2052.0507 and this section, respectively, and Section 21.107 already provides that the comptroller shall make the transfer contemplated by that section.

(2) Section 21.109, Parks and Wildlife Code, refers to the "state comptroller." The revised law substitutes "comptroller" for the quoted language because Section 403.001, Government Code, defines "comptroller" in any state statute to mean the comptroller of public accounts of the State of Texas.

Revised Law

Sec. 2052.0509. INVESTMENT. (a) The department may invest the development fund and, in making the investments, is governed by Chapter 401, Acts of the 60th Legislature, Regular Session, 1967.

(b) The department may invest the interest and sinking fund only in direct obligations of the United States or in obligations the principal and interest of which are guaranteed by the United States. (Parks & Wild. Code, Sec. 21.110.)

Source Law

Sec. 21.110. INVESTMENT OF FUNDS. (a) The department may invest the development fund and, in making the investments, is governed by the provisions of Chapter 401, Acts of the 60th Legislature, Regular Session, 1967.

(b) The department may invest the interest and sinking fund only in direct obligations of the United States or in obligations the principal and interest of which are guaranteed by the United States.

Revisor's Note

Section 21.110(a), Parks and Wildlife Code,

provides that the Parks and Wildlife Department, in making investments in the Texas Park Development Fund, is governed by Chapter 401, Acts of the 60th Legislature, Regular Session, 1967. Chapter 401, Acts of the 60th Legislature, was codified by Chapter 268, Acts of the 73rd Legislature, Regular Session, 1993, as Sections 2256.101, 2256.102, 2256.103, and 2256.104, Government Code. However, Chapter 402, Acts of the 74th Legislature, Regular Session, 1995, made substantial revisions to Chapter 2256, Government Code, including renumbering Sections 2256.102, 2256.103, and 2256.104, as Sections 2256.053, 2256.054, and 2256.055, Government Code, respectively, and repealing Section 2256.101. Although Chapter 402, Acts of the 74th Legislature, Regular Session, 1995, repealed Section 2256.101, Sections 2256.009 and 2256.010, Government Code, as redesignated and amended by that Act, contained provisions that partially overlapped with but were not substantively identical to former Section 2256.101. Because it is not clear if only Sections 2256.053, 2256.054, and 2256.055, Government Code, apply to the Texas Park Development Fund or if Sections 2256.009 and 2256.010, Government Code, also apply to the fund, the revised law retains the reference to Chapter 401, Acts of the 60th Legislature, Regular Session, 1967, to preserve any ambiguity.

Revised Law

Sec. 2052.0510. REPORT TO BOND REVIEW BOARD. (a) The commission shall file with the Bond Review Board a report on the performance of the development fund and the interest and sinking fund.

(b) The Bond Review Board shall review each report filed under this section to assess the performance of the funds in

repaying park development bonds.

(c) The filing dates and the contents of each report required to be filed under this section must comply with rules adopted by the Bond Review Board. (Parks & Wild. Code, Sec. 21.1061.)

Source Law

Sec. 21.1061. REPORT TO BOND REVIEW BOARD. The commission shall file with the Bond Review Board a report on the performance of the interest and sinking fund and the development fund. The board shall review the reports filed by the commission under this section to assess the performance of the funds in repaying bonds issued under this chapter. The filing dates and the contents of the reports must comply with any rules adopted by the board.

SUBCHAPTER F. CENTENNIAL PARKS CONSERVATION FUND

Revised Law

Sec. 2052.0601. DEFINITIONS. In this subchapter:

(1) "Fund" means the centennial parks conservation fund established under Section 49-e-1, Article III, Texas Constitution.

(2) "Trust company" means the Texas Treasury Safekeeping Trust Company. (Parks & Wild. Code, Sec. 21A.001.)

Source Law

Sec. 21A.001. DEFINITIONS. In this chapter:
(1) "Fund" means the centennial parks conservation fund established under Section 49-e-1, Article III, Texas Constitution.
(2) "Trust company" means the Texas Treasury Safekeeping Trust Company.

Revised Law

Sec. 2052.0602. CENTENNIAL PARKS CONSERVATION FUND. The centennial parks conservation fund is a trust fund held outside the treasury by the trust company and administered by the department for the purpose of the creation and improvement of state parks. (Parks & Wild. Code, Sec. 21A.002(a).)

Source Law

Sec. 21A.002. ADMINISTRATION AND MANAGEMENT OF FUND. (a) The centennial parks conservation fund is a trust fund held outside the treasury by the trust company and administered by the department for the purpose of the creation and improvement of state parks.

Revised Law

Sec. 2052.0603. MANAGEMENT OF FUND. (a) The trust company shall hold and invest the fund, taking into account the purposes for which the money in the fund may be used. The overall objective for the investment of the fund is to maintain sufficient liquidity to meet the needs of the fund.

(b) The expenses of managing the fund and its assets shall be paid from the fund. Except as otherwise provided by this subchapter and Section 49-e-1, Article III, Texas Constitution, money in the fund may not be used for any other purpose.

(c) In managing the assets of the fund, through procedures and subject to restrictions the trust company considers appropriate, the trust company may acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, liquidity requirements, and other circumstances of the fund then prevailing, taking into consideration the investment of all the fund assets rather than a single investment. The fund may be invested with the state treasury pool and may be pooled with other state assets for purposes of investment.

(d) The department shall provide the trust company with a cash flow forecast at least annually, and more frequently as appropriate, to ensure the trust company is able to satisfy the objectives specified by Subsection (a). (Parks & Wild. Code, Secs. 21A.002(b), (c), (d), (e).)

Source Law

> (b) The trust company shall hold and invest the fund, taking into account the purposes for which the money in the fund may be used. The overall objective for the investment of the fund is to maintain sufficient liquidity to meet the needs of the fund.
>
> (c) The expenses of managing the fund and its assets shall be paid from the fund. Except as otherwise provided by this chapter and Section 49-e-1, Article III, Texas Constitution, money in the fund may not be used for any other purpose.
>
> (d) In managing the assets of the fund, through procedures and subject to restrictions the trust company considers appropriate, the trust company may

acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, liquidity requirements, and other circumstances of the fund then prevailing, taking into consideration the investment of all the fund assets rather than a single investment. The fund may be invested with the state treasury pool and may be pooled with other state assets for purposes of investment.

(e) The department shall provide the trust company with a cash flow forecast at least annually, and more frequently as appropriate, to ensure the trust company is able to satisfy the objectives specified by Subsection (b).

Revised Law

Sec. 2052.0604. REQUEST FOR DISTRIBUTION. The department may request from the trust company a distribution from the fund for the purpose of acquiring real property in this state for the creation and improvement of publicly accessible state parks. (Parks & Wild. Code, Sec. 21A.003.)

Source Law

Sec. 21A.003. REQUEST FOR DISTRIBUTION. The department may request from the trust company a distribution from the fund for the purpose of acquiring real property in this state for the creation and improvement of publicly accessible state parks.

Revised Law

Sec. 2052.0605. REQUIRED APPROVAL OF ACQUISITION. (a) The department must submit to the Legislative Budget Board a request for approval of a proposed acquisition of real property under this subchapter before the property is acquired.

(b) A request to the Legislative Budget Board under this section shall be considered approved on the 30th day after the date the request is submitted unless the request is approved or disapproved before that date. (Parks & Wild. Code, Sec. 21A.004.)

Source Law

Sec. 21A.004. REQUIRED APPROVAL OF ACQUISITION. (a) The department must submit to the Legislative Budget Board a request for approval of a proposed acquisition of real property under this chapter before the property is acquired.

(b) A request to the Legislative Budget Board under this section shall be considered approved on the 30th day after the date the request is submitted unless the request is approved or disapproved before that date.

Revised Law

Sec. 2052.0606. PROHIBITED EXPENDITURES. Money in the fund may not be used:

(1) to pay salaries, employee benefits, costs associated with employee benefits, or administration, operating, or program costs of the department; or

(2) for the maintenance or operation of state parks. (Parks & Wild. Code, Sec. 21A.005.)

Source Law

> Sec. 21A.005. PROHIBITED EXPENDITURES. Money in the fund may not be used:
>
> (1) to pay salaries, employee benefits, costs associated with employee benefits, or administration, operating, or program costs of the department; or
>
> (2) for the maintenance or operation of state parks.

Revised Law

Sec. 2052.0607. EXPENDITURES SUBJECT TO AUDIT. All expenditures by the department under this subchapter are subject to audit by the state auditor. (Parks & Wild. Code, Sec. 21A.006.)

Source Law

> Sec. 21A.006. EXPENDITURES SUBJECT TO AUDIT. All expenditures by the department under this chapter are subject to audit by the state auditor.

Revised Law

Sec. 2052.0608. STRATEGIC PLAN. The department shall include in each strategic plan submitted under Section 2056.002, Government Code, a report on each acquisition funded using money in the fund during the two-year period preceding the date the department submits the plan. (Parks & Wild. Code, Sec. 21A.007.)

Source Law

> Sec. 21A.007. STRATEGIC PLAN. The department shall include in each strategic plan submitted under Section 2056.002, Government Code, a report on each acquisition funded using money in the fund during the two-year period preceding the date on which the department submits the plan.

SUBCHAPTER G. LARGE COUNTY AND MUNICIPALITY RECREATION AND PARKS ACCOUNT

Revised Law

Sec. 2052.0701. DEFINITION. In this subchapter, "account" means the large county and municipality recreation and parks account. (Parks & Wild. Code, Sec. 24.051(1).)

Source Law

> Sec. 24.051. DEFINITIONS. In this subchapter:
> (1) "Account" means the large county and municipality recreation and parks account.

Revised Law

Sec. 2052.0702. LARGE COUNTY AND MUNICIPALITY RECREATION AND PARKS ACCOUNT. The large county and municipality recreation and parks account is a separate account in the general revenue fund. (Parks & Wild. Code, Sec. 24.052 (part).)

Source Law

> Sec. 24.052. LARGE COUNTY AND MUNICIPALITY RECREATION AND PARKS ACCOUNT. The large county and municipality recreation and parks account is a separate account in the general revenue fund. . . .

Revised Law

Sec. 2052.0703. SOURCES OF ACCOUNT. (a) The department shall deposit to the credit of the account:

(1) credits made to the department under Section 151.801, Tax Code, in an amount not to exceed the amount of the tax proceeds allocated by the legislature to the account under Subsection (c-1) of that section; and

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

(b) The department may deposit to the credit of the account:

(1) private contributions, grants, and donations received in connection with:

(A) Chapter 3006;

(B) Section 3008.0107;

(C) Subchapter B, Chapter 3011;

(D) Sections 5451.0104 and 5451.0105; or

(E) Section 340.001, Local Government Code; and

(2) federal funds received in connection with any law listed in Subdivision (1). (Parks & Wild. Code, Secs. 24.053(a) (part), (b).)

Source Law

> Sec. 24.053. ACCOUNT REVENUE SOURCE; DEDICATION. (a) The department shall deposit to the credit of the large county and municipality recreation and parks account:
>
> (1) credits made to the department under Section 151.801, Tax Code, in an amount not to exceed the amount of the tax proceeds allocated by the legislature to the account under Section 151.801(c-1), Tax Code, . . . ; and
>
> (2) money from any other source authorized by law.
>
> (b) The department may deposit to the credit of the large county and municipality recreation and parks account:
>
> (1) private contributions, grants, and donations received in connection with this subchapter or Subchapter D, Chapter 13; and
>
> (2) federal funds received in connection with this subchapter or Subchapter D, Chapter 13.

Revisor's Note

(1) Section 24.053(b), Parks and Wildlife Code, provides that the Parks and Wildlife Department may deposit to the credit of the large county and municipality recreation and parks account private contributions, grants, and donations received in connection with Subchapter B, Chapter 24, of that code, and federal funds received in connection with that subchapter. Subchapter B is revised in pertinent part as Subchapter B, Chapter 3011, of this code, and the revised law is drafted accordingly.

(2) Section 24.053(b), Parks and Wildlife Code, provides that the Parks and Wildlife Department may deposit to the credit of the large county and municipality recreation and parks account private contributions, grants, and donations received in connection with Subchapter D, Chapter 13, of that code, and federal funds received in connection with that subchapter. Section 13.313, Parks and Wildlife Code, is included in Subchapter D, Chapter 13, but is

omitted from this code because it duplicates in substance Sections 83.001 and 83.003, Parks and Wildlife Code, revised as Section 5451.0105. See the revisor's note to the end of Chapter 5451. Accordingly, throughout this chapter, in this and similar contexts, the revised law substitutes a reference to Section 5451.0105.

Revised Law

Sec. 2052.0704. USE OF ACCOUNT. (a) Except as otherwise provided by this section, money in the account may be used only as provided by:

(1) Chapter 3006;

(2) Section 3008.0107;

(3) Subchapter B, Chapter 3011;

(4) Sections 5451.0104 and 5451.0105; or

(5) Section 340.001, Local Government Code.

(b) Money deposited to the credit of the account under Section 2052.0703(a)(1) may be used only for the purposes described by Section 151.801(c-1), Tax Code.

(c) The department may provide from the account for direct administrative costs of the programs described by Subchapter B, Chapter 3011. (Parks & Wild. Code, Secs. 24.052 (part), 24.053(a)(1) (part), 24.055(e).)

Source Law

Sec. 24.052. . . . Money in the account may be used only as provided by this subchapter or Subchapter D, Chapter 13.

[Sec. 24.053]
(a) [The department shall deposit to the credit of the large county and municipality recreation and parks account:
(1) credits made to the department under Section 151.801, Tax Code, in an amount not to exceed the amount of the tax proceeds allocated by the legislature to the account under Section 151.801(c-1), Tax Code,] to be used only for the purposes provided by that section . . . .

[Sec. 24.055]
(e) The department may provide from the account for direct administrative costs of the programs described by this subchapter.

Revisor's Note

(1) Section 24.052, Parks and Wildlife Code, provides that money in the large county and municipality recreation and parks account may be used only as provided by Subchapter B, Chapter 24, of that code. Subchapter B is revised in pertinent part as Subchapter B, Chapter 3011, of this code, and the revised law is drafted accordingly.

(2) Section 24.055(e), Parks and Wildlife Code, refers to the programs described by Subchapter B, Chapter 24, of that code. Subchapter B is revised in pertinent part as Subchapter B, Chapter 3011, of this code, and the revised law is drafted accordingly.

Revised Law

Sec. 2052.0705. PROHIBITED EXPENDITURES. Money credited to the account may not be used for publicity or related purposes. (Parks & Wild. Code, Sec. 24.061.)

Source Law

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

SUBCHAPTER H. TEXAS RECREATION AND PARKS ACCOUNT

Revised Law

Sec. 2052.0801. DEFINITION. In this subchapter, "account" means the Texas recreation and parks account. (Parks & Wild. Code, Sec. 24.001(8).)

Source Law

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

Revised Law

Sec. 2052.0802. TEXAS RECREATION AND PARKS ACCOUNT. The Texas recreation and parks account is a separate account in the general revenue fund. (Parks & Wild. Code, Sec. 24.002(a) (part).)

Source Law

Sec. 24.002. TEXAS RECREATION AND PARKS ACCOUNT. (a) The Texas recreation and parks account

is a separate account in the general revenue fund. . . .

Revised Law

Sec. 2052.0803. SOURCES OF ACCOUNT. (a) The department shall deposit to the credit of the account:

(1) credits made to the department under Section 151.801, Tax Code, in an amount not to exceed the amount of the tax proceeds allocated by the legislature to the account under Subsection (c-1) of that section; and

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

(b) The department may deposit to the credit of the account:

(1) private contributions, grants, and donations received in connection with:

(A) Chapter 3006;

(B) Section 3008.0107;

(C) Subchapter C, Chapter 3011;

(D) Sections 5451.0104 and 5451.0105; or

(E) Section 340.001, Local Government Code; and

(2) federal funds received in connection with any law listed in Subdivision (1). (Parks & Wild. Code, Sec. 24.003.)

Source Law

Sec. 24.003. ACCOUNT REVENUE SOURCE; REVENUE DEDICATION. (a) The department shall deposit to the credit of the Texas recreation and parks account:

(1) credits made to the department under Section 151.801, Tax Code, in an amount not to exceed the amount of the tax proceeds allocated by the legislature to the account under Section 151.801(c-1), Tax Code; and

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

(b) The department may deposit to the credit of the Texas recreation and parks account:

(1) private contributions, grants, and donations received in connection with this subchapter or Subchapter D, Chapter 13; and

(2) federal funds received in connection with this subchapter or Subchapter D, Chapter 13.

Revisor's Note

Section 24.003(b), Parks and Wildlife Code, provides that the Parks and Wildlife Department may deposit to the credit of the Texas recreation and parks account private contributions, grants, and donations

received in connection with Subchapter A, Chapter 24, of that code, and federal funds received in connection with that subchapter. Subchapter A is revised in pertinent part as Subchapter C, Chapter 3011, of this code, and the revised law is drafted accordingly.

Revised Law

Sec. 2052.0804. USE OF ACCOUNT. (a) Except as otherwise provided by this section, money in the account may be used only for:

(1) grants under Subchapter C, Chapter 3011, to a county or municipality with a population of less than 500,000;

(2) grants under Subchapter C, Chapter 3011, to any other political subdivision that is not a county or municipality; or

(3) planning for and acquisition, operation, and development of outdoor recreation and conservation resources of this state and the administrative expenses incident to the projects or programs authorized under:

(A) Chapter 3006;

(B) Section 3008.0107;

(C) Sections 5451.0104 and 5451.0105; or

(D) Section 340.001, Local Government Code.

(b) Money deposited to the credit of the account under Section 2052.0803(a)(1) may be used only for the purposes described by Section 151.801(c-1), Tax Code.

(c) The department may provide from the account for direct administrative costs of the programs described by Subchapter C, Chapter 3011. (Parks & Wild. Code, Secs. 24.002(a) (part), (b), 24.005(e).)

Source Law

[Sec. 24.002]

(a) . . . Except as provided by Subsection (b), money in the account may be used only for:

(1) grants under this subchapter to a county or municipality with a population of less than 500,000;

(2) grants under this subchapter to any other political subdivision that is not a county or municipality; or

(3) planning for, and acquisition, operation, and development of, outdoor recreation and conservation resources of this state and the administrative expenses incident to the projects or programs authorized under Subchapter D, Chapter 13.

(b) Money deposited to the credit of the account under Section 24.003(a)(1) may be used only for the purposes described by Section 151.801(c-1), Tax Code.

[Sec. 24.005]

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

Revisor's Note

(1) Section 24.002(a), Parks and Wildlife Code, authorizes the use of money in the Texas recreation and parks account for certain grants under Subchapter A, Chapter 24, of that code. Subchapter A is revised in pertinent part as Subchapter C, Chapter 3011, of this code, and the revised law is drafted accordingly.

(2) Section 24.005(e), Parks and Wildlife Code, refers to the programs described by Subchapter A, Chapter 24, of that code. Subchapter A is revised in pertinent part as Subchapter C, Chapter 3011, of this code, and the revised law is drafted accordingly.

Revised Law

Sec. 2052.0805. PROHIBITED EXPENDITURES. Money credited to the account may not be used for publicity or related purposes. (Parks & Wild. Code, Sec. 24.012.)

Source Law

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

SUBCHAPTER I. TEXAS PARKS AND WILDLIFE CONSERVATION AND CAPITAL ACCOUNT

Revised Law

Sec. 2052.0901. TEXAS PARKS AND WILDLIFE CONSERVATION AND CAPITAL ACCOUNT. The Texas parks and wildlife conservation and capital account is a separate account in the general revenue fund. (Parks & Wild. Code, Sec. 11.043(a).)

Source Law

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

Revised Law

Sec. 2052.0902. SOURCES OF ACCOUNT. The Texas parks and wildlife conservation and capital account consists of:

(1) credits made to the department under Section 151.801, Tax Code, in an amount not to exceed the amount of the tax proceeds allocated by the legislature to the account under Subsection (c-1) of that section;

(2) proceeds of revenue bonds issued under Section 3005.0103; and

(3) money from any other source authorized by law.

(Parks & Wild. Code, Sec. 11.043(b).)

Source Law

(b) The account consists of:

(1) credits made to the department under Section 151.801, Tax Code, in an amount not to exceed the amount of the tax proceeds allocated by the legislature to the account under Section 151.801(c-1), Tax Code;

(2) proceeds of revenue bonds issued under Section 13.0045; and

(3) money from any other source authorized by law.

Revised Law

Sec. 2052.0903. USE OF ACCOUNT. (a) Except as provided by Subsection (b), money in the Texas parks and wildlife conservation and capital account may be spent only for acquisition and development, maintenance, or operation 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) paying debt service on Texas park development bonds issued under Section 49-e, Article III, Texas Constitution, or any other bonds issued for parks, fisheries, or wildlife projects;

(4) making local park grants under Chapter 3011;

(5) initiating or participating in partnerships to enhance conservation of historical, cultural, or natural resources;

(6) paying operational and maintenance costs in association with any parks, fisheries, wildlife projects, or department law enforcement efforts in support of this code; and

(7) meeting the requirements for providing matching money for any federal grants for parks, fisheries, or wildlife projects.

(b) The department may spend the proceeds of bonds issued under Section 3005.0103 and deposited to the credit of the Texas parks and wildlife conservation and capital account to finance parks and wildlife projects, including repairing, renovating, improving, and equipping parks and wildlife facilities. The department may use money deposited to the credit of the account under Section 2052.0902(1) only for the purposes described by Section 151.801(c-1), Tax Code. (Parks & Wild. Code, Secs. 11.043(c), (d).)

Source Law

(c) Except as provided by Subsection (d), money in the account may be spent only for acquisition and development, maintenance, or operation 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 other bonds issued for parks, fisheries, or wildlife projects;

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

(5) initiating or participating in partnerships to enhance conservation of historical, cultural, or natural resources;

(6) operational and maintenance costs in association with any parks, fisheries, wildlife projects, or department law enforcement efforts in support of this code; and

(7) meeting the requirements for providing matching money for any federal grants for parks, fisheries, or wildlife projects.

(d) The proceeds of bonds issued under Section 13.0045 and deposited to the account may be spent to finance parks and wildlife projects, including the repair, renovation, improvement, and equipping of parks and wildlife facilities. Money deposited to the credit of the account under Subsection (b)(1) may be used only for the purposes described by Section 151.801(c-1), Tax Code.

Revisor's Note

Section 11.043(c)(4), Parks and Wildlife Code, refers to local park grants under Chapter 24 of that code. Chapter 24 is revised in pertinent part as Chapter 3011 of this code, and the revised law is drafted accordingly.

Revised Law

Sec. 2052.0904. COMPTROLLER INVESTMENT. The comptroller may invest money in the Texas parks and wildlife conservation and capital account. (Parks & Wild. Code, Sec. 11.043(e).)

Source Law

(e) The comptroller may invest money in the account.

SUBCHAPTER J. TEXAS FARM AND RANCH LANDS CONSERVATION FUND

Revised Law

Sec. 2052.1001. DEFINITIONS. In this subchapter:

(1) "Fund" means the Texas farm and ranch lands conservation fund established under Section 2052.1002.

(2) "Purchase of agricultural conservation easement" and "qualified easement holder" have the meanings assigned by Section 5461.0101. (Parks & Wild. Code, Secs. 84.002(4), (7), (8).)

Source Law

(4) "Fund" means the Texas farm and ranch lands conservation fund established under Section

84.008.

(7) "Purchase of agricultural conservation easement" [means the purchase from a willing seller of an agricultural conservation easement.]

(8) "Qualified easement holder" [means a holder that is:

(A) a state agency, a county, or a municipality; or

(B) an organization that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code and that is organized for the purpose of preserving agriculture, open space, or natural resources.]

Revisor's Note

Section 84.002(4), Parks and Wildlife Code, refers to the Texas farm and ranch lands conservation fund established under Section 84.008 of that code. Section 84.008 is revised in pertinent part as Section 2052.1002, and the revised law is drafted accordingly.

Revised Law

Sec. 2052.1002. TEXAS FARM AND RANCH LANDS CONSERVATION FUND. The Texas farm and ranch lands conservation fund is an account in the general revenue fund that may be appropriated only to the department to be used as provided by Section 2052.1004(a). (Parks & Wild. Code, Sec. 84.008(a) (part).)

Source Law

Sec. 84.008. TEXAS FARM AND RANCH LANDS CONSERVATION FUND. (a) The Texas farm and ranch lands conservation fund is an account in the general revenue fund that may be appropriated only to the department to be used as provided by Subsection (b). . . .

Revised Law

Sec. 2052.1003. SOURCES OF FUND. The fund consists of:

(1) money appropriated by the legislature to the fund;

(2) public or private gifts, grants, donations, or contributions;

(3) money from any other source, including proceeds from the sale of bonds, state or federal mitigation funds, or funds from any local, state, or federal program;

(4) proceeds of the sale of real property not required

for the management of real property under Section 31.065(d), Natural Resources Code; and

(5) proceeds of the sale of real property under Section 31.066(d), Natural Resources Code. (Parks & Wild. Code, Sec. 84.008(a) (part).)

Source Law

(a) . . . The fund consists of:

(1) money appropriated by the legislature to the fund;

(2) public or private grants, gifts, donations, or contributions;

(3) funds from any other source, including proceeds from the sale of bonds, state or federal mitigation funds, or funds from any local, state, or federal program;

(4) proceeds of the sale of real property not required for the management of real property under Section 31.065(d), Natural Resources Code; and

(5) proceeds of the sale of real property under Section 31.066(d), Natural Resources Code.

Revised Law

Sec. 2052.1004. USE OF FUND. (a) The fund may be used only:

(1) to award grants to qualified easement holders for the purchase of agricultural conservation easements;

(2) to pay transaction costs related to the purchase of agricultural conservation easements, which may include reimbursement of appraisal costs; and

(3) to pay associated administrative costs of the department, not to exceed five percent of the money in the fund.

(b) The fund may not be used for grants to purchase or acquire any right or interest in property by eminent domain. (Parks & Wild. Code, Secs. 84.008(a) (part), (b).)

Source Law

(a) . . . The fund may not be used for grants to purchase or acquire any right or interest in property by eminent domain. . . .

(b) The fund may be used only:

(1) to award grants to qualified easement holders for the purchase of agricultural conservation easements;

(2) to pay transaction costs related to the purchase of agricultural conservation easements, which may include reimbursement of appraisal costs; and

(3) to pay associated administrative costs

of the department, not to exceed five percent of the money in the fund.

SUBCHAPTER K. STATE LAND AND WATER CONSERVATION ACCOUNT

Revised Law

Sec. 2052.1101. STATE LAND AND WATER CONSERVATION ACCOUNT. The state land and water conservation account is a separate account in the general revenue fund. (Parks & Wild. Code, Sec. 11.037(a).)

Source Law

> Sec. 11.037. STATE LAND AND WATER CONSERVATION ACCOUNT. (a) The state land and water conservation account is a separate account in the general revenue fund.

Revised Law

Sec. 2052.1102. SOURCES OF ACCOUNT. The department may deposit to the credit of the state land and water conservation account any revenue received from the federal government or any other source for the purpose of administering programs authorized under:

(1) Sections 3006.0101-3006.0110;

(2) Section 3008.0107; and

(3) Section 340.001, Local Government Code. (Parks & Wild. Code, Sec. 11.037(b).)

Source Law

> (b) The department may deposit in the state land and water conservation account any 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.

Revised Law

Sec. 2052.1103. USE OF ACCOUNT. The state land and water conservation account may be used for paying:

(1) the cost of planning, acquiring, operating, and developing outdoor recreation and conservation resources of the state; and

(2) administrative expenses relating to projects or programs authorized under:

(A) Sections 3006.0101-3006.0110;

(B) Section 3008.0107; and

(C) Section 340.001, Local Government Code. (Parks & Wild. Code, Sec. 11.037(c).)

Source Law

(c) The state land and water conservation account 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.

SUBCHAPTER L. SPECIAL NONGAME AND ENDANGERED SPECIES CONSERVATION ACCOUNT

Revised Law

Sec. 2052.1201. DEFINITIONS. In this subchapter:

(1) "Endangered species" means those species described by Section 5052.0202.

(2) "Nongame species" means those species of vertebrate and invertebrate wildlife that are not classified as game animals, game birds, game fish, fur-bearing animals, endangered species, alligators, marine penaeid shrimp, or oysters. (Parks & Wild. Code, Sec. 11.051.)

Source Law

Sec. 11.051. DEFINITIONS. In this subchapter:

(1) "Nongame" means those species of vertebrate and invertebrate wildlife that are not classified as game animals, game birds, game fish, fur-bearing animals, endangered species, alligators, marine penaeid shrimp, or oysters.

(2) "Endangered species" means those species listed as provided by Section 68.002 of this code.

Revised Law

Sec. 2052.1202. SPECIAL NONGAME AND ENDANGERED SPECIES CONSERVATION ACCOUNT. The special nongame and endangered species conservation account is a separate account in the general revenue fund. (Parks & Wild. Code, Sec. 11.052.)

Source Law

Sec. 11.052. SPECIAL NONGAME AND ENDANGERED SPECIES CONSERVATION ACCOUNT. The special nongame and endangered species conservation account is a separate account in the general revenue fund.

Revised Law

Sec. 2052.1203. SOURCES OF ACCOUNT. (a) The department shall deposit to the credit of the special nongame and endangered species conservation account all money received from:

(1) private contributions, grants, and donations made to the account;

(2) the net proceeds from the sale under Section 2051.9805 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 land purchased with money from the account.

(b) The department may accept private contributions, grants, and donations made to the special nongame and endangered species conservation account. (Parks & Wild. Code, Sec. 11.053.)

Source Law

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

(1) private contributions, grants, and donations made to the special nongame and endangered species conservation account;

(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.

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

Revisor's Note

Section 11.053(a)(2), Parks and Wildlife Code, refers to the sale of wildlife art prints, decals, and stamps under Chapter 11 of that code. The pertinent parts of Chapter 11 relating to the sale of wildlife art prints, decals, and stamps are revised as Section

2051.9805, and the revised law is drafted accordingly.

Revised Law

Sec. 2052.1204. USE OF ACCOUNT. (a) Money in the special nongame and endangered species conservation account may be used 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) acquisition and development of habitats for nongame and endangered species; and

(6) 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 are supplemental, and other accounts may be appropriated for the purposes for which the fund was established. (Parks & Wild. Code, Sec. 11.054.)

Source Law

Sec. 11.054. USES OF ACCOUNT. (a) Money in the special nongame and endangered species conservation account may be used 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 are supplemental, and other accounts may be appropriated for the purposes for which the fund was established.

SUBCHAPTER M. OPERATION GAME THIEF FUND

Revised Law

Sec. 2052.1301. OPERATION GAME THIEF FUND. The operation game thief fund is a special fund outside the state treasury. (Parks & Wild. Code, Sec. 12.201 (part).)

Source Law

Sec. 12.201. CREATION OF FUND. . . . a special fund outside the state treasury, called the operation game thief fund, ...

Revised Law

Sec. 2052.1302. SOURCES OF FUND. (a) The department may accept and deposit to the credit of the operation game thief fund a donation from any person made for purposes of this subchapter or Chapter 2061.

(b) The department may establish procedures for voluntary donations to the fund to be collected and sent to the department. (Parks & Wild. Code, Secs. 12.201 (part), 12.205(2).)

Source Law

Sec. 12.201. CREATION OF FUND. The department may accept and deposit in . . . the operation game thief fund, donations from any person made for purposes of this subchapter. . . .

Sec. 12.205. POWERS OF THE DEPARTMENT. The department may:

. . .

(2) establish procedures for voluntary donations to the operation game thief fund to be collected and sent to the department.

Revised Law

Sec. 2052.1303. USE OF FUND. Money deposited in the operation game thief fund may be used only for the:

(1) maintenance of the fund;

(2) promotion of the operation game thief program through advertising and marketing;

(3) development, acquisition, and implementation of technological advancements to facilitate the apprehension and

prosecution of persons who violate laws of this state intended to protect the state's natural or cultural resources or the public safety of persons using those natural or cultural resources; and

(4) payment of rewards and death benefits authorized by Chapter 2061. (Parks & Wild. Code, Sec. 12.201 (part).)

Source Law

> Sec. 12.201. . . . Funds deposited in the operation game thief fund may be used only for the maintenance of that fund, promotion of the operation game thief program through advertisement and marketing, the development, acquisition, and implementation of technological advancements to facilitate the apprehension and prosecution of persons who violate laws of this state intended to protect the state's natural or cultural resources or the public safety of persons using those natural or cultural resources, and payment of rewards and death benefits authorized by this subchapter. . . .

Revisor's Note

Section 12.201, Parks and Wildlife Code, refers to the payment of rewards and death benefits authorized by Subchapter C, Chapter 12, of that code. Subchapter C is revised in pertinent part as Chapter 2061 of this code, and the revised law is drafted accordingly.

Revised Law

Sec. 2052.1304. DONATION TO FUND BY HUNTING OR FISHING LICENSE APPLICANT. (a) An applicant for a hunting or fishing license of any type under this code, including a combination hunting and fishing license, may make a donation of $1, $5, $10, or $20 to the operation game thief fund when applying for the license.

(b) The department shall:

(1) include space on the first page of each application for a hunting or fishing license that allows an applicant to indicate that the applicant is donating $1, $5, $10, or $20 to the operation game thief fund; and

(2) provide an opportunity for an applicant for a hunting or fishing license to donate $1, $5, $10, or $20 to the operation game thief fund through the department's Internet

website.

(c) The department shall deposit a donation made under this section in the operation game thief fund not later than the 14th day of each month. Before depositing the money, the department may deduct money equal to the amount of reasonable expenses for developing and administering this section, not to exceed three percent of the amount deposited. (Parks & Wild. Code, Sec. 12.207.)

Source Law

> Sec. 12.207. DONATION TO FUND BY HUNTING OR FISHING LICENSE APPLICANT. (a) An applicant for a hunting or fishing license of any type under this code, including a combination hunting and fishing license, may make a donation of $1, $5, $10, or $20 to the operation game thief fund when applying for the license.
>
> (b) The department shall:
>
> (1) include space on the first page of each application for a hunting or fishing license that allows an applicant to indicate that the applicant is donating $1, $5, $10, or $20 to the operation game thief fund; and
>
> (2) provide an opportunity for an applicant for a hunting or fishing license to donate $1, $5, $10, or $20 to the operation game thief fund through the department's Internet website.
>
> (c) The department shall deposit a donation made under this section in the operation game thief fund not later than the 14th day of each month. Before depositing the money, the department may deduct money equal to the amount of reasonable expenses for developing and administering this section, not to exceed three percent of the amount deposited.

SUBCHAPTER N. OFF-HIGHWAY VEHICLE TRAIL AND RECREATIONAL AREA ACCOUNT

Revised Law

Sec. 2052.1401. OFF-HIGHWAY VEHICLE TRAIL AND RECREATIONAL AREA ACCOUNT. The off-highway vehicle trail and recreational area account is a separate account in the general revenue fund. (Parks & Wild. Code, Sec. 11.046(a).)

Source Law

> Sec. 11.046. OFF-HIGHWAY VEHICLE TRAIL AND RECREATIONAL AREA ACCOUNT. (a) The off-highway vehicle trail and recreational area account is a separate account in the general revenue fund.

Revised Law

Sec. 2052.1402. SOURCES OF ACCOUNT. The department shall deposit to the credit of the off-highway vehicle trail and

recreational area account all revenue, less allowable costs, received from:

(1) decal fees collected under Chapter 3010;

(2) fines assessed against persons operating off-highway vehicles in violation of Chapter 3010 or any other law relating to the operation of off-highway vehicles;

(3) money received by the department under Section 3010.0206; and

(4) interest that accrues to the account. (Parks & Wild. Code, Sec. 11.046(b).)

Source Law

(b) The department shall deposit to the credit of the off-highway vehicle trail and recreational area account all revenue, less allowable costs, from the following sources:

(1) decal fees collected under Chapter 29;

(2) fines assessed against persons operating off-highway vehicles in violation of Chapter 29 or any other law relating to the operation of off-highway vehicles;

(3) all funding outside the general revenue fund received by the department under Section 29.007; and

(4) all interest that accrues to the account.

Revisor's Note

Section 11.046(b)(3), Parks and Wildlife Code, requires the Parks and Wildlife Department to deposit to the credit of the off-highway vehicle trail and recreational area account all funding "outside the general revenue fund" received by the department under Section 29.007 of that code. The revised law omits the quoted language as unnecessary because all funding received by the department under Section 29.007, revised as Section 3010.0206, is necessarily from sources outside the general revenue fund.

Revised Law

Sec. 2052.1403. USE OF ACCOUNT. Money in the off-highway vehicle trail and recreational area account may be used only as necessary under Chapter 3010 to:

(1) acquire, construct, develop, and maintain trails and other recreational areas for use by owners and riders of off-highway vehicles as defined by Section 3010.0101;

(2) provide access to those trails and recreational areas;

(3) make grants under Section 3010.0205; and

(4) enforce and administer the off-highway vehicle trail and recreational area program. (Parks & Wild. Code, Sec. 11.047.)

Source Law

> Sec. 11.047. USE OF OFF-HIGHWAY VEHICLE TRAIL AND RECREATIONAL AREA ACCOUNT. Money in the off-highway vehicle trail and recreational area account may be used only for expenditures necessary under Chapter 29 to:
>
> (1) acquire, construct, develop, and maintain trails and other recreational areas for use by owners and riders of off-highway vehicles as defined by Section 29.001;
>
> (2) provide access to those trails and recreational areas;
>
> (3) make grants under Section 29.008; and
>
> (4) enforce and administer the off-highway vehicle trail and recreational area program.

SUBCHAPTER O. LIFETIME LICENSE ENDOWMENT ACCOUNT

Revised Law

Sec. 2052.1501. LIFETIME LICENSE ENDOWMENT ACCOUNT. The lifetime license endowment account is a separate account in the general revenue fund. (Parks & Wild. Code, Sec. 11.061.)

Source Law

> Sec. 11.061. LIFETIME LICENSE ENDOWMENT ACCOUNT. The lifetime license endowment account is a separate account in the general revenue fund.

Revised Law

Sec. 2052.1502. SOURCES OF ACCOUNT. (a) The department shall deposit to the credit of the lifetime license endowment account 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. (Parks & Wild. Code, Sec. 11.062.)

Source Law

> Sec. 11.062. SOURCES OF ACCOUNT. (a) The department shall deposit to the credit of the lifetime license endowment account 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.

Revised Law

Sec. 2052.1503. USE OF ACCOUNT. (a) To the extent allowed by federal law, money in the lifetime license endowment account may be used only as provided by this section to manage the fish and wildlife resources of this state.

(b) The principal in the lifetime license endowment account may be used only to make capital expenditures related to fisheries and wildlife resources, including:

(1) land acquisition;

(2) construction; and

(3) the purchase of:

(A) transportation items;

(B) equipment; and

(C) information technology resources.

(c) The interest earned on the lifetime license endowment account may be used only:

(1) to acquire, develop, manage, and repair public hunting and fishing areas; and

(2) for the purpose described by Subsection (b).

(d) Money in the lifetime license endowment account may not

be used to pay salaries or employee benefits. (Parks & Wild. Code, Secs. 11.063, 11.064(b), (c), (d).)

Source Law

Sec. 11.063. USES OF ACCOUNT. To the extent allowed by federal law, money in the lifetime license endowment fund and interest earned on the lifetime license endowment account may be used only for the purpose of managing the fish and wildlife resources of this state, as follows:

(1) acquiring public hunting and fishing areas;

(2) developing, managing, and repairing public hunting and fishing areas; and

(3) making capital expenditures related to fisheries and wildlife resources, including:

(A) land acquisition;

(B) construction; and

(C) the purchase of:

(i) transportation items;

(ii) equipment; and

(iii) information technology resources.

[Sec. 11.064]

(b) The interest earnings on and principal in the lifetime license endowment account may not be used to pay salaries or employee benefits.

(c) The interest earnings on the lifetime license endowment account may be used for any purpose described by Section 11.063.

(d) The principal in the lifetime license endowment account may be used only for the purpose described by Section 11.063(3).

Revisor's Note

Section 11.063, Parks and Wildlife Code, refers to money in the lifetime license endowment "fund and interest earned on the lifetime license endowment" account. The revised law omits the quoted language as unnecessary because under Section 11.062(a), Parks and Wildlife Code, revised as Section 2052.1502(a), the Parks and Wildlife Department is required to deposit interest income from the investment of money collected under that section to the credit of the lifetime license endowment account, and the interest therefore is money in the account.

Revised Law

Sec. 2052.1504. LIMITATION ON EXPENDITURES. An expenditure may not be made from the principal of the lifetime license endowment

account if the expenditure would lower the unencumbered balance of the principal of the account below $20 million. (Parks & Wild. Code, Sec. 11.064(a).)

Source Law

> Sec. 11.064. RESTRICTIONS. (a) No expenditure shall be made from the principal of the lifetime license endowment account if that expenditure would lower the unencumbered balance of the principal of the account below $20 million.

Revised Law

Sec. 2052.1505. INVESTMENT. The commission shall adopt rules for the investment of the lifetime license endowment account. (Parks & Wild. Code, Sec. 11.065.)

Source Law

> Sec. 11.065. INVESTMENTS. The commission shall adopt rules for the investment of the lifetime license endowment account.

SUBCHAPTER P. FLOATING CABIN PURCHASE ACCOUNT

Revised Law

Sec. 2052.1601. FLOATING CABIN PURCHASE ACCOUNT. The floating cabin purchase account is created as a separate account in the general revenue fund. (Parks & Wild. Code, Sec. 32.058(d) (part).)

Source Law

> (d) The floating cabin purchase account is created as a separate account in the general revenue fund. . . .

Revised Law

Sec. 2052.1602. SOURCES OF ACCOUNT. (a) The floating cabin purchase account consists of money deposited to the credit of the account under this subchapter, including interest on that money.

(b) The department may accept grants and gifts of money or materials from public or private sources to be applied to the floating cabin purchase account. (Parks & Wild. Code, Sec. 32.058(d) (part).)

Source Law

> (d) . . . The account consists of money deposited to the account under this section, including interest on that money. The department may accept

grants and gifts of money or materials from private or public sources to be applied to the floating cabin purchase account. . . .

Revisor's Note

Section 32.058(d), Parks and Wildlife Code, provides that the floating cabin purchase account consists of money deposited to the account under Section 32.058 of that code. Section 32.058 is revised in pertinent part as this subchapter, and the revised law is drafted accordingly.

Revised Law

Sec. 2052.1603. USE OF ACCOUNT. Money in the floating cabin purchase account may be used only for the purposes of Section 4151.0403. (Parks & Wild. Code, Sec. 32.058(d) (part).)

Source Law

(d) . . . Money in the floating cabin purchase account may be used only for the purposes of this section. . . .

Revisor's Note

Section 32.058(d), Parks and Wildlife Code, provides that the floating cabin purchase account may be used only for the purposes of Section 32.058 of that code. Section 32.058 is revised in pertinent part as Section 4151.0403, and the revised law is drafted accordingly.

SUBCHAPTER Q. ARTIFICIAL REEF ACCOUNT

Revised Law

Sec. 2052.1701. ARTIFICIAL REEF ACCOUNT. The artificial reef account is a separate account in the general revenue fund. (Parks & Wild. Code, Sec. 89.041(a).)

Source Law

Sec. 89.041. ARTIFICIAL REEF ACCOUNT. (a) The artificial reef account is a separate account in the general revenue fund.

Revised Law

Sec. 2052.1702. SOURCES OF ACCOUNT. The artificial reef account is composed of all money received under Section 5055.0205,

including interest and earnings. (Parks & Wild. Code, Sec. 89.041(b).)

Source Law

(b) The account is composed of all funds received under Section 89.043 of this code, including interest and earnings.

Revised Law

Sec. 2052.1703. DEDICATION. (a) In this section, "artificial reef" has the meaning assigned by Section 5055.0101.

(b) The money received under Section 5055.0205 is dedicated to the department to implement Chapter 5055, including siting, designing, constructing, monitoring, and otherwise managing an artificial reef or artificial reef system. (Parks & Wild. Code, Secs. 89.001(1) (part), 89.042(a).)

Source Law

Sec. 89.001. DEFINITIONS. In this chapter:

(1) "Artificial reef" [means a structure or system of structures constructed, placed, or permitted in water covered under this chapter for the purpose of enhancing fishery resources and commercial and recreational fishing opportunities.]

Sec. 89.042. DEDICATION; APPROPRIATIONS. (a) The funds received under Section 89.043 of this code are 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.

CHAPTER 2053. DEPARTMENT PROPERTY

SUBCHAPTER A. REAL PROPERTY

Revised Law

Sec. 2053.0101. SALE OF LAND. (a) The executive director with the commission's approval may execute a deed selling real property or an interest in real property under the department's jurisdiction if ownership of the real property is no longer in the department's best interest.

(b) The department shall use the receipts from the sale of land under this section for improving or acquiring other real property dedicated to the same purpose for which the land sold was dedicated. (Parks & Wild. Code, Secs. 13.009(a) (part), (d).)

Source Law

(a) . . . The director with the approval of the commission may execute a deed selling real property or an interest in real property under the jurisdiction of the department if ownership of the real property is no longer in the best interest of the department.

(d) The receipts from the sale of land under this section shall be used for improving or acquiring other real property dedicated to the same purpose for which the land sold was dedicated.

Revisor's Note

Section 13.009(d), Parks and Wildlife Code, refers to the sale of land under Section 13.009 of that code. Section 13.009 is revised in pertinent part as this section, and the revised law is drafted accordingly.

Revised Law

Sec. 2053.0102. EXCHANGE OF LAND. (a) The executive director with the commission's approval may execute a deed exchanging real property or an interest in real property as all or partial consideration for other real property or interest in real property.

(b) The department shall receive a good and marketable title to all land exchanged under this section or Section 2053.0103.

(c) All land to be received in an exchange under this section or Section 2053.0103 must be appraised. If the land to be received is of greater value, as determined by an independent and competent appraisal, than the state land exchanged, the department may use funds available for land acquisitions as a partial consideration for the exchange. (Parks & Wild. Code, Secs. 13.009(a) (part), (b), (c).)

Source Law

Sec. 13.009. SALE OR EXCHANGE OF LAND. (a) The director with the approval of the commission may execute a deed exchanging real property or an interest in real property either as all or partial consideration for other real property or interest in real property. . . .

(b) The department shall receive a good and marketable title to all land exchanged under this section.

(c) All land to be received in the exchange must

be appraised and if the land to be received is of greater value, as determined by an independent and competent appraisal, than the state land exchanged, the department may use funds available for land acquisitions as a partial consideration for the exchange.

Revisor's Note

Section 13.009(b), Parks and Wildlife Code, refers to land exchanged under Section 13.009 of that code. Section 13.009 is revised in pertinent part as this section and Section 2053.0103, and the revised law is drafted accordingly.

Revised Law

Sec. 2053.0103. EXCHANGE OF PARK PROPERTIES WITH MUNICIPALITY. Notwithstanding any other law or charter provision, the department and a municipality may agree to exchange park properties under the control or management of the department or municipality if:

(1) the properties continue to be dedicated park properties and used for park purposes;

(2) the municipality does not require an election to authorize the exchange; and

(3) the department complies with Section 2053.0102. (Parks & Wild. Code, Sec. 13.009(e).)

Source Law

(e) Notwithstanding any other law or charter provision to the contrary, the department and a municipality may agree to exchange park properties under the control or management of the department or municipal government on the following conditions:

(1) the properties to be exchanged shall continue to be dedicated park properties and used for park purposes;

(2) no election is required by the municipality to authorize the exchange; and

(3) all of the provisions of Subsections (a) through (d) of this section are complied with by the department.

Revisor's Note

Section 13.009(e), Parks and Wildlife Code, authorizes the Parks and Wildlife Department to exchange certain property with a municipality if, among other conditions, the department complies with

"all of the provisions of Subsections (a) through (d)" of Section 13.009 of that code, revised as Sections 2053.0101 and 2053.0102. The revised law includes a reference to only Section 2053.0102 because that section includes the portions of Sections 13.009(a)-(d) that are applicable to the exchange of real property by the department.

Revised Law

Sec. 2053.0104. DONATION OF LAND. (a) The department may:

(1) solicit and receive donations of land for public purposes; and

(2) refuse donations of land not acceptable for public purposes.

(b) If title to a site has vested in the department and ownership of the site is no longer in the department's best interest, the department may transfer the title:

(1) to another state department or institution requesting the site;

(2) to the donor of the site if the donor requests the return of the site;

(3) to the United States if it has undertaken the development of the site for public purposes;

(4) to the grantor if the deed to the department contains a reversion clause providing that title reverts to the grantor when the site is not used for the purposes for which the site was acquired; or

(5) to any legally authorized entity if the site is to be used for public purposes.

(c) A two-thirds vote of the commission is necessary for action taken under this section. (Parks & Wild. Code, Sec. 13.008.)

Source Law

Sec. 13.008. SOLICITATION, RECEIPT, AND TRANSFER OF LAND. (a) The department may solicit and receive donations of land for public purposes and may refuse donations of land not acceptable for public purposes.

(b) If title to a site has vested in the department and if ownership of the site is no longer in the best interest of the department, the department may transfer the title:

(1) to another state department or institution requesting the site;

(2) to the donor of the land if the donor requests the return of the site;

(3) to the United States if it has undertaken the development of the site for public purposes;

(4) to the grantor if the deed to the department contains a reversion clause providing that title reverts to the grantor when the site is not used for the purposes for which it was acquired; or

(5) to any legally authorized entity if the property is to be used for public purposes.

(c) A two-thirds vote of the commission is necessary for action taken under this section.

Revised Law

Sec. 2053.0105. DONATED BUILDING PROJECTS. (a) The department may accept the donation of a turnkey building project on state land if the department:

(1) approves the plans and engineering in advance; and

(2) has supervision over the project.

(b) A project under this section is not subject to competitive bidding.

(c) The commission may adopt rules to implement this section. (Parks & Wild. Code, Sec. 11.0285.)

Source Law

Sec. 11.0285. DONATED BUILDING PROJECTS. (a) The department may accept the donation of a turnkey building project on state land provided that the department:

(1) approves the plans and engineering in advance; and

(2) has supervision over the project.

(b) A project under this section is not subject to competitive bidding.

(c) The commission may adopt rules to implement this section.

Revised Law

Sec. 2053.0106. USE OF LAND FOR MULTIPLE PURPOSES. A tract of land purchased primarily for a purpose authorized by this code may be used for any authorized department function if the commission determines that multiple use is the best use of the land's resources. (Parks & Wild. Code, Sec. 12.026.)

Source Law

> Sec. 12.026. MULTIPLE USE OF LAND. A tract of land purchased primarily for a purpose authorized by this code may be used for any authorized function of the department if the commission determines that multiple use is the best utilization of the land's resources.

Revised Law

Sec. 2053.0107. USE OF LAND FOR CARBON SEQUESTRATION AND SIMILAR ECOSYSTEM SERVICES PROJECTS. (a) Except as otherwise provided by this subsection, the department may enter into an agreement with a public or private entity for the purpose of developing a nature-based carbon sequestration or similar ecosystem services project on department land. This subsection does not authorize the department to enter into an agreement to develop a carbon dioxide injection well on department land.

(b) Money received by the department from a carbon sequestration or similar ecosystem services project under this section shall be deposited:

(1) to the credit of the game, fish, and water safety account, if the project is located on land primarily used for game or fish conservation, protection, or management; and

(2) to the credit of the state parks account, if the project is located on land primarily used for parks, recreation, or historic sites. (Parks & Wild. Code, Sec. 11.302.)

Source Law

> Sec. 11.302. CARBON SEQUESTRATION AND SIMILAR ECOSYSTEM SERVICES PROJECTS. (a) Except as otherwise provided by this subsection, the department may enter into an agreement with a public or private entity for the purpose of developing a nature-based carbon sequestration or similar ecosystem services project on department land. This subsection does not authorize the department to enter into an agreement to develop a carbon dioxide injection well on department land.
>
> (b) Money received by the department from a carbon sequestration or similar ecosystem services project under this section shall be deposited:
>
> (1) to the credit of the game, fish, and water safety account, if the project is located on land primarily used for game or fish conservation, protection, or management; and
>
> (2) to the credit of the state parks account, if the project is located on land primarily used for parks, recreation, or historic sites.

Revised Law

Sec. 2053.0108. USE OF CERTAIN LAND FOR GRAZING OR FARMING; SALE OF PRODUCTS. (a) The department may lease grazing or farming rights on any land acquired by the department for use as a game preserve, game sanctuary, or game management area. The department may harvest and sell, or sell in place, any timber, hay, or other product grown on department land if the department finds that the product exceeds wildlife management needs.

(b) The department may agree to accept consideration instead of money as part or full payment for a lease or sale under this section. The consideration must be materials, supplies, or services that are needed for wildlife management projects on a game management area administered by the department. The materials, supplies, or services may not be assigned a value greater than the amount the department would have been authorized to pay for them in a bona fide purchase.

(c) The department must follow a competitive bidding procedure to lease grazing or farming rights under this section.

(d) The comptroller shall execute any sale of products under this section under the general law governing the sale of state property, except the department shall determine the quantity of products to be offered for sale and the consideration instead of money to be received under the sale.

(e) All money derived from a lease or sale under this section shall be deposited to the credit of the game, fish, and water safety account. (Parks & Wild. Code, Sec. 12.008.)

Source Law

> Sec. 12.008. LEASING OF GRAZING OR FARMING RIGHTS: SALE OF PRODUCTS. (a) The department may lease grazing or farming rights on any land acquired by, and for the use of, the department as game preserves, game sanctuaries, and game management areas. The department may harvest and sell, or sell in place, any timber, hay, or other product grown on land of the department when the product is found to be in excess of wildlife management needs.
>
> (b) The department may agree to accept consideration in lieu of money as part or full payment for a sale or lease under this section. The consideration in lieu of money must be materials,

supplies, or services that are needed for wildlife management projects on any game management area administered by the department. The materials, supplies, or services accepted in lieu of money may be assigned a value no greater than that which the department would have been authorized to pay for them in a bona fide purchase.

(c) The comptroller shall execute any sale of products under this section under the general law governing the sale of state property; however, the department shall determine the quantity of products to be offered for sale and the consideration in lieu of money to be received under the sale. The department may lease grazing or farming rights under this section. In leasing the rights, the department must follow a competitive bidding procedure.

(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.

SUBCHAPTER B. LEASES

Revised Law

Sec. 2053.0201. LEASE OF GRAZING RIGHTS ON STATE PARKS. (a) The department may lease grazing rights on any state park or area of a state park.

(b) The department may accept materials, supplies, or services instead of money as part or full payment for a lease under this section. The department may not assign to the materials, supplies, or services a value that exceeds their actual market value.

(c) All money derived from a lease under this section shall be deposited to the credit of the state parks account. (Parks & Wild. Code, Secs. 13.0061(a) (part), (b) (part), (c) (part).)

Source Law

Sec. 13.0061. LEASE OF GRAZING RIGHTS ON PARK LANDS; SALE OF PRODUCTS. (a) The department may lease grazing rights on any state park or any area of a state park. . . .

(b) The department may agree to accept materials, supplies, or services instead of money as part or full payment for a . . . lease under this section. The department may not assign to the materials, supplies, or services accepted as payment under this subsection a value that exceeds their actual market value.

(c) Except for consideration accepted under Subsection (b) of this section, all revenue derived from a lease or . . . under this section shall be deposited in the state treasury to the credit of the state parks account.

Revisor's Note

Sections 13.0061(b) and (c), Parks and Wildlife Code, refer to a lease under Section 13.0061 of that code. Section 13.0061 is revised in pertinent part as this section, and the revised law is drafted accordingly.

Revised Law

Sec. 2053.0202. LEASE OF LAND TO NONPROFIT ORGANIZATION OR POLITICAL SUBDIVISION. (a) The department may lease any department land and improvement to a nonprofit organization or political subdivision.

(b) Property leased under this section may not be referred to as a state facility.

(c) State funds may not be used to operate or maintain a property leased under this section. (Parks & Wild. Code, Sec. 13.006(a).)

Source Law

Sec. 13.006. LEASE OF LANDS. (a) The department may lease any land and improvements it holds to a city, county, special district, nonprofit organization, or political subdivision. The leased area may not be referred to as a state facility, and no state funds may be used to operate or maintain a property leased under this section.

Revisor's Note

(1) Section 13.006(a), Parks and Wildlife Code, refers to the lease of department land to a "city, county, special district," nonprofit organization, or political subdivision. The revised law omits the quoted language as unnecessary because a city, county, or special district is a political subdivision included in the meaning of the term "political subdivision."

(2) Section 13.006(b), Parks and Wildlife Code, provides that the conditions of a lease agreement authorized by that section are determined by the agreement of the Parks and Wildlife Department and the

lessee. The revised law omits that provision because the authority to lease land includes the authority to agree on the conditions of the lease. The omitted law reads:

> (b) The conditions and duration of the lease agreement are determined by the agreement of the department and the lessee.

SUBCHAPTER C. EASEMENTS

Revised Law

Sec. 2053.0301. EASEMENTS. The commission may grant, lease, or renew permanent or temporary right-of-way easements on department land for:

(1) public highways, roads and streets, and ditches;

(2) electric lines and pipelines, including necessary wires, pipes, poles, and other equipment used to transmit, convey, or distribute water, electricity, gas, oil, or similar substances or commodities;

(3) electrical substations;

(4) equipment stations, vaults, cabinets, poles, power pedestals, and underground lines, circuits, and conduits, and other equipment used in the provision of communication services;

(5) utilities for the operation of a department facility; or

(6) roadways for access to a department facility. (Parks & Wild. Code, Sec. 11.301(a).)

Source Law

> Sec. 11.301. EASEMENTS. (a) The commission may grant, lease, or renew permanent or temporary right-of-way easements on department land for:
>
> (1) public highways, roads and streets, and ditches;
>
> (2) electric lines and pipelines, including necessary wires, pipes, poles, and other equipment used to transmit, convey, or distribute water, electricity, gas, oil, or similar substances or commodities;
>
> (3) electrical substations;
>
> (4) equipment stations, vaults, cabinets, poles, power pedestals, and underground lines, circuits, and conduits, and other equipment used in the provision of communication services; or
>
> (5) the provision of utilities for the operation of facilities of the department and roadways

for access to facilities of the department.

Revised Law

Sec. 2053.0302. CONSIDERATION. (a) Except as provided by Subsection (c), the commission may not grant or lease an easement unless the commission receives the fair market value as consideration for the grant or lease.

(b) Consideration for the grant or lease of an easement may include goods and services.

(c) The commission may grant without consideration:

(1) a state highway easement to the Texas Department of Transportation;

(2) a roadway easement to:

(A) a county for connecting roads between state highways; or

(B) a municipality or county to provide a roadway for a department facility; or

(3) an easement to a utility provider for a utility to serve a department facility. (Parks & Wild. Code, Sec. 11.301(b).)

Source Law

(b) Except as provided by this subsection, the commission may not grant or lease an easement unless the commission receives the fair market value as consideration for the grant or lease. Consideration for an easement may include goods and services. The commission may grant without consideration a state highway easement to the Texas Department of Transportation, a roadway easement to a county for connecting roads between state highways, easements to utility providers for utilities to serve department facilities, and roadway easements to a city or county to provide roadways for department facilities.

Revisor's Note

Section 11.301(b), Parks and Wildlife Code, refers to a "city." The revised law substitutes "municipality" for "city" because the meaning of "municipality" includes a city and "municipality" is the term used in the Local Government Code.

Revised Law

Sec. 2053.0303. MINERAL RIGHTS AND OTHER CONDITIONS. (a) The commission may not grant or lease an easement unless the grant

or lease contains a full reservation of minerals in and under the land.

(b) The commission may impose other fair and reasonable conditions, covenants, and provisions on an easement under this subchapter. (Parks & Wild. Code, Sec. 11.301(c).)

Source Law

> (c) A grant or lease must contain a full reservation of minerals in and under the land. The commission may impose other fair and reasonable conditions, covenants, and provisions.

SUBCHAPTER D. TANGIBLE PERSONAL PROPERTY

Revised Law

Sec. 2053.0401. SALE OF PRODUCTS GROWN IN STATE PARKS. (a) The department may harvest and sell, or sell in place, any timber, hay, livestock, or other product grown on state park land if the department finds that the product exceeds natural resource management, educational, or interpretive objectives. Timber may be harvested only for forest pest management, salvage, or habitat restoration and under good forestry practices with the advice of the Texas A&M Forest Service.

(b) The department may accept materials, supplies, or services instead of money as part or full payment for a sale under this section. The department may not assign to the materials, supplies, or services a value that exceeds their actual market value.

(c) All money derived from a sale under this section shall be deposited to the credit of the state parks account. (Parks & Wild. Code, Secs. 13.0061(a) (part), (b) (part), (c) (part).)

Source Law

> (a) . . . The department may harvest and sell, or sell in place, any timber, hay, livestock, or other product grown on state park land the department finds to be in excess of natural resource management, educational, or interpretive objectives. Timber may be harvested only for forest pest management, salvage, or habitat restoration and under good forestry practices with the advice of the Texas Forest Service.
>
> (b) The department may agree to accept materials, supplies, or services instead of money as part or full payment for a sale or . . . under this section. The department may not assign to the

materials, supplies, or services accepted as payment under this subsection a value that exceeds their actual market value.

(c) Except for consideration accepted under Subsection (b) of this section, all revenue derived from a . . . sale under this section shall be deposited in the state treasury to the credit of the state parks account.

Revisor's Note

(1) Section 13.0061(a), Parks and Wildlife Code, refers to the "Texas Forest Service." The revised law substitutes "Texas A&M Forest Service" for "Texas Forest Service" to reflect a change in the agency's name. The board of regents of The Texas A&M University System, which oversees the agency, approved the name change for the agency beginning September 1, 2012.

(2) Sections 13.0061(b) and (c), Parks and Wildlife Code, refer to a sale under Section 13.0061 of that code. Section 13.0061 is revised in pertinent part as this section, and the revised law is drafted accordingly.

Revised Law

Sec. 2053.0402. TRANSFER OF TEACHING EQUIPMENT. On request of a state-supported institution of higher education engaged in teaching and research related to marine science and oceanography, the department may transfer to the institution fish nets, seines, motors, boats, and other marine equipment confiscated under the authority of the game and fish laws to be used in the institution's teaching and research programs. (Parks & Wild. Code, Sec. 12.011.)

Source Law

Sec. 12.011. TEACHING EQUIPMENT. On request of a state-supported institution of higher education engaged in teaching and research related to marine science and oceanography, the department may transfer to the institution fish nets, seines, motors, boats, and other marine equipment confiscated under the authority of the game and fish laws to be used in the teaching and research programs of the institution.

SUBCHAPTER E. INTELLECTUAL PROPERTY

Revised Law

Sec. 2053.0501. COMMISSION POLICIES. The commission shall institute intellectual property policies for the department that establish minimum standards for:

(1) the public disclosure or availability of products, technology, and scientific information, including inventions, discoveries, trade secrets, and computer software;

(2) review by the department of products, technology, and scientific information, including consideration of ownership and appropriate legal protection;

(3) the licensing of products, technology, and scientific information;

(4) the identification of ownership and licensing responsibilities for each class of intellectual property; and

(5) royalty participation by inventors and the department. (Parks & Wild. Code, Sec. 11.401(e).)

Source Law

(e) The commission shall institute intellectual property policies for the department that establish minimum standards for:

(1) the public disclosure or availability of products, technology, and scientific information, including inventions, discoveries, trade secrets, and computer software;

(2) review by the department of products, technology, and scientific information, including consideration of ownership and appropriate legal protection;

(3) the licensing of products, technology, and scientific information;

(4) the identification of ownership and licensing responsibilities for each class of intellectual property; and

(5) royalty participation by inventors and the department.

Revised Law

Sec. 2053.0502. INTELLECTUAL PROPERTY. The department may apply for, register, secure, hold, and protect under the laws of the United States, any state, or any nation:

(1) a patent for an invention or discovery of, or improvement to, any process, machine, manufacture, or composition

of matter;

(2) a copyright for an original work of authorship fixed in any tangible medium of expression now known or later developed that can be perceived, reproduced, or otherwise communicated;

(3) a trademark, service mark, collective mark, or certification mark for a word, name, symbol, device, or slogan, or any combination of those items, that has been adopted and used by the department to identify goods or services and distinguish those goods or services from other goods or services; or

(4) other evidence of protection or exclusivity issued in or for intellectual property. (Parks & Wild. Code, Sec. 11.401(a)(1).)

Source Law

> Sec. 11.401. PROTECTION AND USE OF INTELLECTUAL PROPERTY. (a) The department may:
>
> (1) apply for, register, secure, hold, and protect under the laws of the United States, any state, or any nation:
>
> (A) a patent for an invention or discovery of, or improvement to, any process, machine, manufacture, or composition of matter;
>
> (B) a copyright for an original work of authorship fixed in any tangible medium of expression now known or later developed that can be perceived, reproduced, or otherwise communicated;
>
> (C) a trademark, service mark, collective mark, or certification mark for a word, name, symbol, device, or slogan, or any combination of those items, that has been adopted and used by the department to identify goods or services and distinguish those goods or services from other goods or services; or
>
> (D) other evidence of protection or exclusivity issued in or for intellectual property;
>
> . . .

Revised Law

Sec. 2053.0503. SALE OR OTHER DISTRIBUTION. The department may enter into a contract with an individual or company for the sale, lease, marketing, or other distribution of the department's intellectual property. (Parks & Wild. Code, Sec. 11.401(a)(2).)

Source Law

> Sec. 11.401. PROTECTION AND USE OF INTELLECTUAL PROPERTY. (a) The department may:
>
> . . .
>
> (2) enter into a contract with an

individual or company for the sale, lease, marketing, or other distribution of intellectual property of the department;

. . .

Revised Law

Sec. 2053.0504. ROYALTIES AND OTHER COMPENSATION. (a) The department may obtain under a contract entered into under Section 2053.0503 a royalty, license right, or other appropriate means of securing appropriate compensation for the development or purchase of the department's intellectual property.

(b) The department may waive or reduce the amount of a fee, royalty, or other thing of monetary or nonmonetary value to be assessed by the department if the department determines that the waiver will:

(1) further the department's goals and missions; and

(2) result in a net benefit to the state.

(c) Money received by the department under this section shall be deposited to the credit of the game, fish, and water safety account or the state parks account, as appropriate. (Parks & Wild. Code, Secs. 11.401(a)(3), (4), (c).)

Source Law

Sec. 11.401. PROTECTION AND USE OF INTELLECTUAL PROPERTY. (a) The department may:

. . .

(3) obtain under a contract entered into under Subdivision (2) a royalty, license right, or other appropriate means of securing appropriate compensation for the development or purchase of intellectual property of the department; and

(4) waive or reduce the amount of a fee, royalty, or other thing of monetary or nonmonetary value to be assessed by the department if the department determines that the waiver will:

(A) further the goals and missions of the department; and

(B) result in a net benefit to the state.

(c) Money paid to the department under this section shall be deposited to the credit of the game, fish, and water safety account or the state parks account, as appropriate.

Revised Law

Sec. 2053.0505. DISCLOSURE NOT REQUIRED UNDER PUBLIC INFORMATION ACT. Intellectual property for which the department has applied for or received a patent, copyright, trademark, or

other evidence of protection or exclusivity is excepted from required disclosure under Chapter 552, Government Code. (Parks & Wild. Code, Sec. 11.401(b).)

Source Law

(b) Intellectual property for which the department has applied for or received a patent, copyright, trademark, or other evidence of protection or exclusivity is excepted from required disclosure under Chapter 552, Government Code.

Revised Law

Sec. 2053.0506. EMPLOYEE EQUITY OWNERSHIP OR PARTICIPATION. Notwithstanding Chapter 572, Government Code, or other law, a department employee who conceives, creates, discovers, invents, or develops department intellectual property may own or be awarded any amount of equity interest or participation in the research, development, licensing, or exploitation of that intellectual property with the commission's approval. (Parks & Wild. Code, Sec. 11.401(d).)

Source Law

(d) It is not a violation of Chapter 572, Government Code, or another law of this state for an employee of the department who conceives, creates, discovers, invents, or develops intellectual property to own or to be awarded any amount of equity interest or participation in the research, development, licensing, or exploitation of that intellectual property with the approval of the commission.

Revised Law

Sec. 2053.0507. LICENSING OF DEPARTMENT BRAND. (a) The department may contract with an entity the department considers appropriate to use the department's brand in exchange for licensing fees paid by the entity to the department.

(b) The department may use the licensing fees received under Subsection (a) for any use under this code.

(c) The commission may adopt rules to implement this section. (Parks & Wild. Code, Sec. 13.0155.)

Source Law

Sec. 13.0155. USE OF PARKS AND WILDLIFE DEPARTMENT BRAND. (a) The department may contract with any entity the department considers appropriate to use the Parks and Wildlife Department brand in

exchange for licensing fees paid by the entity to the department.

(b) The department may use the licensing fees received under Subsection (a) for any use under this code.

(c) The commission may adopt rules to implement this section.

SUBCHAPTER F. PROPERTY MAINTENANCE

Revised Law

Sec. 2053.0601. MAINTENANCE EQUIPMENT REVIEW SYSTEM. (a) In this section:

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

(2) "Outdated equipment" means maintenance equipment that:

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

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

(C) no longer serves a department purpose.

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

(c) The equipment review system must require the department to sell any outdated equipment in the manner and at the time specified by the commission by rule.

(d) The department shall deposit proceeds from the sale of equipment under this section to the credit of the appropriate parks and wildlife account. (Parks & Wild. Code, Sec. 11.251.)

Source Law

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

(1) "Maintenance equipment" means personal property owned by the department that is used

to administer, operate, preserve, repair, expand, or otherwise maintain real property, including improvements and fixtures, owned or operated by the department.

(2) "Outdated equipment" means equipment:

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

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

(C) that no longer serves a department purpose.

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

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

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

Revised Law

Sec. 2053.0602. MAINTENANCE PROVIDER REVIEW SYSTEM. (a) In this section, "maintenance" includes the administration, operation, preservation, repair, and expansion of personal property owned by the department and real property owned or operated by the department.

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

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

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

(c) The maintenance provider review system must require the department to contract with a third party for the performance of any maintenance task that the department performs that a third-party contractor could perform in the manner that meets the criteria described by Subsection (b) after the department's cost of administering the contract is added to the cost of performance by

the third party. (Parks & Wild. Code, Sec. 11.252.)

Source Law

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

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

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

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

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

Revised Law

Sec. 2053.0603. MAINTENANCE MANAGEMENT PLAN AND PRIORITIES LIST. (a) Not later than January 15 of each odd-numbered year, the department shall submit a management plan to address the department's maintenance responsibilities under this subchapter and a priorities list to:

(1) the governor;

(2) the lieutenant governor;

(3) the speaker of the house of representatives; and

(4) the presiding officer of each standing committee of the legislature having jurisdiction over a matter regulated by the department under this code.

(b) The priorities list must include the following information:

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

(2) an itemized list explaining any additional funding

requested by the department to accomplish a task described by Subdivision (1); and

(3) the results of the reviews conducted under Sections 2053.0601, 2053.0602, and 3003.0402(b). (Parks & Wild. Code, Sec. 11.253.)

Source Law

> Sec. 11.253. MANAGEMENT PLAN AND PRIORITIES LIST. Not later than January 15 of each odd-numbered year the department shall 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 the department under this code a management plan to address the department's maintenance responsibilities under this subchapter and a priorities list that includes the following information:
>
> (1) a prioritized list of facilities operated by the department that are most in need of repair, renovation, expansion, or other maintenance;
>
> (2) an itemized list explaining any additional funding requested by the department to accomplish a task described by Subdivision (1); and
>
> (3) the results of the reviews conducted under Sections 11.251, 11.252, and 13.019(b).

Revisor's Note

Section 11.253, Parks and Wildlife Code, refers to the "chair of each house and senate standing committee" having jurisdiction over a matter regulated by the Parks and Wildlife Department under that code. The revised law substitutes "presiding officer of each standing committee of the legislature" for the quoted language because, in context, the phrases are synonymous and the latter is more commonly used.

SUBCHAPTER Y. MISCELLANEOUS PROVISIONS

Revised Law

Sec. 2053.9801. TRANSFER OF CERTAIN PROPERTY WITHIN DEPARTMENT. (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) The department shall transfer from available funds to the fund or account from which the property to be transferred was acquired the value of the property at the time of the transfer if:

(1) the property was acquired with funds the use of which is limited by law or dedicated in any other manner; and

(2) the prospective use of the property is different from the use allowed by law. (Parks & Wild. Code, Sec. 11.041.)

Source Law

> 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.

Revised Law

Sec. 2053.9802. TRANSFER OF LAND TO TEXAS DEPARTMENT OF TRANSPORTATION FOR ROADSIDE PARK PURPOSES. Land under the department's control may be transferred to the Texas Department of Transportation if:

(1) the transfer is for roadside park purposes;

(2) the land is more suitable for use as a roadside park than any other type of park; and

(3) the land meets the specifications of the Texas Department of Transportation. (Parks & Wild. Code, Sec. 13.012.)

Source Law

> Sec. 13.012. ROADSIDE PARKS. An area under the control of the department which is more suitable for use as a roadside park than any other type of park may be transferred to the Texas Department of Transportation for roadside park purposes if the land meets the specifications of the Texas Department of Transportation.

Revisor's Note

Section 13.012, Parks and Wildlife Code, provides that "[a]n area" under the control of the Parks and Wildlife Department may be transferred to the Texas Department of Transportation if "the land" meets certain specifications. The revised law substitutes "land" for "area" for consistency in terminology and

because it is clear from the context that "area" refers to "land."

CHAPTER 2054. MANAGEMENT OF DEPARTMENT LAND

SUBCHAPTER A. MINERAL RECOVERY OPERATIONS ON DEPARTMENT LAND

Revised Law

Sec. 2054.0101. REGULATION OF MINERAL RECOVERY OPERATIONS. The commission may regulate the use of department land, including state parks, wildlife management areas, and natural areas, for oil, gas, and other mineral recovery and associated activities as the commission considers reasonable and necessary to protect:

(1) the surface estate of department land;

(2) property; or

(3) human health. (Parks & Wild. Code, Sec. 11.071.)

Source Law

> Sec. 11.071. REGULATION OF MINERAL RECOVERY OPERATIONS. The commission may regulate the use of department lands for oil, gas, and other mineral recovery and associated activities as the commission considers reasonable and necessary to protect the surface estate of department lands or to protect human health or property. Department lands include state parks, wildlife management areas, and natural areas.

Revised Law

Sec. 2054.0102. ENFORCEMENT. (a) If a person has violated, is violating, or is threatening to violate a regulation adopted under this subchapter, the executive director may have a civil suit brought in a district court for:

(1) injunctive relief;

(2) assessment and recovery of a civil penalty of not less than $100 for each violation; or

(3) both injunctive relief and a civil penalty.

(b) A suit under this section must be brought in the name of the department through the attorney general.

(c) Reasonable attorney's fees are recoverable, with reimbursement to the operating fund or account from which the expenditure occurred. (Parks & Wild. Code, Sec. 11.072.)

Source Law

Sec. 11.072. ENFORCEMENT. (a) If a person has violated, is violating, or is threatening to violate a regulation adopted under this subchapter, the director may have a civil suit brought in a district court for injunctive relief, for assessment and recovery of a civil penalty of not less than $100 for each act of violation, or for both injunctive relief and a civil penalty.

(b) A suit under this subchapter shall be brought in the name of the department through the attorney general.

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

Revised Law

Sec. 2054.0103. DISPOSITION OF CIVIL PENALTIES. All civil penalties recovered under this subchapter shall be deposited to the credit of the appropriate department fund or account. (Parks & Wild. Code, Sec. 11.073.)

Source Law

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.

Revised Law

Sec. 2054.0104. EFFECT ON OTHER LAWS. This subchapter does not affect the regulatory authority of the Railroad Commission of Texas. (Parks & Wild. Code, Sec. 11.074.)

Source Law

Sec. 11.074. EFFECT ON OTHER LAWS. This subchapter does not affect the regulatory authority of the Railroad Commission of Texas.

SUBCHAPTER B. PRESCRIBED BURNS ON DEPARTMENT LAND

Revised Law

Sec. 2054.0201. DEFINITIONS. In this subchapter:

(1) "Landowner" includes any person who owns, has a property interest in, or leases a parcel of privately owned land or an improvement on the land.

(2) "Utility infrastructure" means a facility owned by:

(A) an electric utility as defined by Section 31.002, Utilities Code;

(B) a telecommunications utility as defined by Section 51.002, Utilities Code;

(C) a gas utility as defined by Section 101.003 or 121.001, Utilities Code;

(D) an electric cooperative as defined by Section 11.003, Utilities Code; or

(E) a municipally owned utility as defined by Section 11.003, Utilities Code. (Parks & Wild. Code, Sec. 11.351.)

Source Law

Sec. 11.351. DEFINITIONS. In this subchapter:

(1) "Landowner" includes any person who owns, has a property interest in, or leases a parcel of privately owned land or improvements on the land.

(2) "Utility infrastructure" means any facility owned by:

(A) an electric utility as "electric utility" is defined by Section 31.002, Utilities Code;

(B) a telecommunications utility as "telecommunications utility" is defined by Section 51.002, Utilities Code;

(C) a gas utility as "gas utility" is defined by Section 101.003 or 121.001, Utilities Code;

(D) an electric cooperative as "electric cooperative" is defined by Section 11.003, Utilities Code; or

(E) a municipally owned utility as "municipally owned utility" is defined by Section 11.003, Utilities Code.

Revised Law

Sec. 2054.0202. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to prescribed burns the department conducts on state land the department manages. (Parks & Wild. Code, Sec. 11.352.)

Source Law

Sec. 11.352. APPLICABILITY. This subchapter applies only to prescribed burns conducted by the department on state land managed by the department.

Revised Law

Sec. 2054.0203. GENERAL PRESCRIBED BURN PLAN. (a) The commission by rule shall adopt and require the department to implement a general plan for the use of beneficial prescribed burns in the management of department land.

(b) The general prescribed burn plan must:

(1) include:

(A) standards that meet or exceed the standards for a prescribed burn listed in Section 153.047, Natural Resources Code; and

(B) variations as needed for different areas of the state; and

(2) be reviewed by the Prescribed Burning Board.

(c) The department may not conduct a prescribed burn under this subchapter before the commission adopts the general prescribed burn plan. (Parks & Wild. Code, Secs. 11.353(a), (b), (c), (d).)

Source Law

> Sec. 11.353. GENERAL AND SPECIFIC PLAN REQUIREMENTS. (a) The commission by rule shall adopt and shall require the department to implement a general plan for the use of beneficial prescribed burns in the management of department land. The general plan must include standards that meet or exceed the standards for a prescribed burn set out in Section 153.047, Natural Resources Code.
>
> (b) The general plan must include variations as needed for different areas of the state.
>
> (c) The general plan must be reviewed by the Prescribed Burning Board within the Department of Agriculture.
>
> (d) The department may not conduct a prescribed burn under this subchapter before the general plan has been adopted by the commission.

Revisor's Note

Section 11.353(c), Parks and Wildlife Code, refers to the Prescribed Burning Board "within the Department of Agriculture." The revised law omits the quoted language as unnecessary because Section 153.041, Natural Resources Code, establishes the Prescribed Burning Board within the Department of Agriculture.

Revised Law

Sec. 2054.0204. SITE-SPECIFIC PRESCRIBED BURN PLAN. (a) For a particular prescribed burn, a site-specific plan tailored to the designated area must be completed and approved by a person designated by the executive director to review prescribed burn plans.

(b) In addition to any site-specific information required

under the general prescribed burn plan, a site-specific prescribed burn plan must include:

(1) the planned start and end dates of the prescribed burn;

(2) a map of the designated burn area, including the location of any utility infrastructure within the designated burn area;

(3) the names and contact numbers for:

(A) the prescribed burn manager;

(B) the nearest fire departments or emergency service providers; and

(C) all landowners whose property neighbors the designated burn area; and

(4) written documentation showing that applicable prescribed burn notification and approval requirements of the Texas Commission on Environmental Quality have been met. (Parks & Wild. Code, Sec. 11.353(e).)

Source Law

> (e) For a particular prescribed burn, a site-specific plan tailored to the designated area must be completed and approved by a person designated by the director to review prescribed burn plans. In addition to any site-specific information required under the general plan, a site-specific plan must include:
>
> (1) the planned start and end dates of the prescribed burn;
>
> (2) a map of the designated burn area, including the location of any utility infrastructure within the designated burn area;
>
> (3) the names and contact numbers for:
>
> (A) the prescribed burn manager;
>
> (B) the nearest fire departments or emergency service providers; and
>
> (C) all landowners whose property neighbors the designated burn area; and
>
> (4) written documentation that applicable prescribed burn notification and approval requirements of the Texas Commission on Environmental Quality have been met.

Revised Law

Sec. 2054.0205. PROVISION OF NOTICE OF PRESCRIBED BURN TO LANDOWNERS AND LOCAL OFFICIALS. (a) The department shall provide adequate notice of the department's intent to conduct a prescribed

burn to:

(1) each neighboring landowner; and

(2) appropriate local officials in the vicinity of the designated burn area, including water utility officials with water facilities within two miles of the prescribed burn.

(b) The notice to a landowner must include:

(1) the planned start and end dates of the prescribed burn;

(2) any safety precautions the landowner should take to ensure the safety of the landowner's property before, during, and after the burn;

(3) a map of the prescribed burn area, including the location of any utility infrastructure within the designated burn area;

(4) the methods proposed for conducting the burn; and

(5) contact information for the prescribed burn manager and the department. (Parks & Wild. Code, Secs. 11.354(a), (b).)

Source Law

> Sec. 11.354. NOTICE REQUIREMENTS. (a) The department shall provide adequate advance notice of the department's intent to conduct a prescribed burn to each neighboring landowner and appropriate local officials in the vicinity of the designated burn area, including water utility officials with water facilities within two miles of the prescribed burn.
>
> (b) The landowner's notice must include:
>
> (1) the planned start and end dates of the prescribed burn;
>
> (2) any safety precautions the landowner should take to ensure the safety of the landowner's property before, during, and after the burn;
>
> (3) a map of the prescribed burn area, including the location of any utility infrastructure within the designated burn area;
>
> (4) the methods proposed for use in conducting the burn; and
>
> (5) contact information for the prescribed burn manager and the department.

Revised Law

Sec. 2054.0206. PUBLICATION OF NOTICE OF PRESCRIBED BURN. The department shall publish notice of a planned prescribed burn in a newspaper of general circulation in each county in which the burn

will be conducted. (Parks & Wild. Code, Sec. 11.354(c).)

Source Law

> (c) The department shall publish advance notice of a planned prescribed burn in a newspaper of general circulation in the county or counties in which the burn will be conducted.

Revised Law

Sec. 2054.0207. INSURANCE. The department shall purchase liability insurance or establish a self-insurance fund as provided by Subchapter B, Chapter 2259, Government Code, for liability coverage for money damages in the amounts specified by Section 153.082, Natural Resources Code, to protect the department and the department's employees against claims under this subchapter resulting from:

(1) bodily injury or death resulting from a prescribed burn; or

(2) injury to or destruction of property resulting from a prescribed burn. (Parks & Wild. Code, Sec. 11.355.)

Source Law

> Sec. 11.355. INSURANCE. The department shall purchase liability insurance or establish a self-insurance fund as provided by Subchapter B, Chapter 2259, Government Code, for liability coverage for money damages in the amounts specified by Section 153.082, Natural Resources Code, to protect the department and the department's employees against claims under this subchapter resulting from:
>
> (1) bodily injury or death resulting from a prescribed burn; or
>
> (2) injury to or destruction of property resulting from a prescribed burn.

Revised Law

Sec. 2054.0208. LIABILITY OF DEPARTMENT. The department is liable for actual damages for:

(1) injury to or destruction of property, bodily injury, or death proximately caused by the wrongful act or omission or the negligence of an employee acting within the scope of employment if:

(A) the injury to or destruction of property, bodily injury, or death arises from the escape of fire from a prescribed burn conducted by the department; and

(B) the employee would be personally liable to the claimant under Texas law;

(2) injury to or destruction of property, bodily injury, or death caused by the escape of fire from a prescribed burn conducted by the department if the department would, were it a private person, be liable to the claimant under Texas law; and

(3) injury to or destruction of utility infrastructure caused by a prescribed burn. (Parks & Wild. Code, Sec. 11.356.)

Source Law

> Sec. 11.356. LIABILITY. The department is liable for actual damages for:
>
> (1) injury to or destruction of property, bodily injury, or death proximately caused by the wrongful act or omission or the negligence of an employee acting within the scope of employment if:
>
> (A) the injury to or destruction of property, bodily injury, or death arises from the escape of fire from a prescribed burn conducted by the department; and
>
> (B) the employee would be personally liable to the claimant according to Texas law;
>
> (2) injury to or destruction of property, bodily injury, or death so caused by the escape of fire from a prescribed burn conducted by the department if the department would, were it a private person, be liable to the claimant according to Texas law; and
>
> (3) injury to or destruction of utility infrastructure caused by a prescribed burn.

Revised Law

Sec. 2054.0209. LIMITATION ON DEPARTMENT LIABILITY. The department's liability under this subchapter is limited to money damages in an amount not to exceed the amount paid by the insurance provider described by Section 2054.0207 to the claimant. (Parks & Wild. Code, Sec. 11.357.)

Source Law

> Sec. 11.357. LIMITATION ON AMOUNT OF LIABILITY. Liability of the department under this subchapter is limited to money damages in an amount not to exceed the amount paid by the insurance provider described by Section 11.355 to the claimant.

Revised Law

Sec. 2054.0210. APPLICATION OF TORT CLAIMS ACT. (a) A claim asserted under this subchapter may not be asserted against:

(1) the department under Subchapter B, Chapter 101, Civil Practice and Remedies Code; or

(2) a department employee.

(b) Subchapter D, Chapter 101, Civil Practice and Remedies Code, applies to a suit brought under this subchapter. (Parks & Wild. Code, Sec. 11.358.)

Source Law

Sec. 11.358. APPLICATION OF TORT CLAIMS ACT. (a) A claim asserted under this subchapter may not also be asserted against the department under Subchapter B, Chapter 101, Civil Practice and Remedies Code, or against a department employee.

(b) Subchapter D, Chapter 101, Civil Practice and Remedies Code, applies to a suit brought under this subchapter.

Revised Law

Sec. 2054.0211. WAIVER OF IMMUNITY. (a) Sovereign immunity to suit is waived and abolished to the extent of liability created by this subchapter.

(b) A person having a claim under this subchapter may sue the department for damages allowed by this subchapter. (Parks & Wild. Code, Sec. 11.359.)

Source Law

Sec. 11.359. WAIVER OF GOVERNMENTAL IMMUNITY; PERMISSION TO SUE. (a) Sovereign immunity to suit is waived and abolished to the extent of liability created by this subchapter.

(b) A person having a claim under this subchapter may sue the department for damages allowed by this subchapter.

CHAPTER 2055. PUBLICATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 2055.0101. DEFINITIONS. In this chapter:

(1) "Publication" includes the publication of a book, magazine, photograph, poster, or bulletin.

(2) "Youth" means an individual younger than 17 years of age. (Parks & Wild. Code, Secs. 11.0172(a), 11.0173(a).)

Source Law

Sec. 11.0172. LIMIT ON CONTRACTS FOR PUBLICATIONS. (a) In this section:

(1) "Publication" includes the publication of a book, magazine, photograph, poster, or bulletin.

(2) "Youth" means an individual younger

than 17 years of age.

Sec. 11.0173. PROHIBITION ON TOBACCO ADVERTISING. (a) In this section, "publication" includes the publication of a book, magazine, photograph, poster, or bulletin.

Revised Law

Sec. 2055.0102. COMMISSION RULES. The commission shall adopt rules regarding the types of advertising in a department publication that are appropriate for viewing by youth. (Parks & Wild. Code, Sec. 11.0172(c).)

Source Law

(c) The commission shall adopt rules regarding the types of advertising that are appropriate for viewing by youth.

Revisor's Note

Section 11.0172(c), Parks and Wildlife Code, requires the Parks and Wildlife Commission to adopt rules regarding the types of advertising that are appropriate for viewing by youth. The revised law adds "in a department publication" to clarify that the type of advertising referenced in Section 11.0172(c) is advertising in a Parks and Wildlife Department publication.

SUBCHAPTER B. PUBLICATIONS

Revised Law

Sec. 2055.0201. PUBLICATIONS. The department may provide or sell information, including books, magazines, photographs, prints, and bulletins, to the public about:

(1) wildlife values and management; and

(2) state parks. (Parks & Wild. Code, Secs. 12.006(a), 13.017(a).)

Source Law

Sec. 12.006. PUBLICATIONS ON WILDLIFE VALUES AND MANAGEMENT. (a) The department may provide or sell information, including books, magazines, photographs, prints, and bulletins, to the public about wildlife values and management.

Sec. 13.017. PUBLICATIONS ON PARKS. (a) The department may provide or sell information, including books, magazines, photographs, prints, and bulletins,

to the public on state parks.

Revised Law

Sec. 2055.0202. PUBLISHING CONTRACTS. The department may enter into contracts for the publishing of information described by Section 2055.0201. (Parks & Wild. Code, Secs. 12.006(c), 13.017(b).)

Source Law

[Sec. 12.006]
(c) The department may enter into contractual agreements for publication of information concerning wildlife values and management.

[Sec. 13.017]
(b) The department may enter into contractual agreements for publication of information concerning state parks.

Revised Law

Sec. 2055.0203. CONDITIONS FOR CONTRACTS FOR PUBLICATIONS. The department may contract with a person regarding a publication only if the contract authorizes the department to:

(1) terminate the contract for a violation of a rule adopted under Section 2055.0102;

(2) retain final approval over the content of the publication, including advertising; and

(3) request and receive an appropriate number of copies of the publication that contain advertising that is appropriate for viewing by youth. (Parks & Wild. Code, Sec. 11.0172(b).)

Source Law

(b) The department may not contract with a person regarding a publication unless the contract provides the department the authority to:
(1) terminate the contract for a violation of a rule adopted under Subsection (c);
(2) retain final approval over the content of the publication, including advertising; and
(3) request and receive an appropriate number of copies of the publication that contain advertising that is appropriate for viewing by youth.

Revised Law

Sec. 2055.0204. PROHIBITION ON TOBACCO ADVERTISING. The department may not accept an advertisement that promotes the sale of tobacco in a publication sponsored or published by the

department. (Parks & Wild. Code, Sec. 11.0173(b).)

Source Law

(b) The department may not accept an advertisement that promotes the sale of tobacco in a publication sponsored or published by the department.

Revised Law

Sec. 2055.0205. ROYALTIES FROM PUBLICATIONS. The department may receive royalties on materials owned by the department that the department sells or supplies to others for publication under this chapter. (Parks & Wild. Code, Secs. 12.006(b), 13.017(c).)

Source Law

[Sec. 12.006]
(b) The department may receive royalties on department-owned materials that are sold or supplied to others by the department for publication.

[Sec. 13.017]
(c) The department may receive royalties on department-owned materials that are sold or supplied to others by the department for publication.

Revised Law

Sec. 2055.0206. REVENUE FROM PUBLICATIONS. Money received under this chapter shall be deposited to the credit of the fund or account from which expenses for the publication were paid. (Parks & Wild. Code, Secs. 12.006(d), 13.017(d).)

Source Law

[Sec. 12.006]
(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.

[Sec. 13.017]
(d) Money received under this section shall be deposited in the State Treasury to the credit of the account from which expenses for the publication were paid.

CHAPTER 2056. GENERAL LICENSE, PERMIT, AND TAG PROVISIONS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 2056.0101. DEFINITION. In this chapter, "license deputy" means an employee of the department, a county clerk, or another person the department designates or contracts with to issue

and collect money received for a license, stamp, permit, tag, or other similar item. (Parks & Wild. Code, Sec. 12.702(a) (part).)

Source Law

> Sec. 12.702. LICENSE DEPUTIES; FEES. (a) An employee of the department, a county clerk, or another person designated or contracted with by the department to issue and collect money received for a license, stamp, permit, tag, or other similar item is a license deputy and . . . .

Revised Law

Sec. 2056.0102. DEPARTMENT FORM REQUIRED. A person may not issue or accept a license, stamp, permit, or tag required by this code except on a form provided by the department. (Parks & Wild. Code, Sec. 12.707.)

Source Law

> Sec. 12.707. ISSUANCE OR ACCEPTANCE OF LICENSE, STAMP, PERMIT, OR TAG. No person may issue or accept a license, stamp, permit, or tag required by this code except on a form provided by the department.

Revised Law

Sec. 2056.0103. PROOF OF RESIDENCY FOR LICENSE OR PERMIT. The commission by rule may prescribe the proof required to demonstrate residency in this state for the purpose of obtaining a license or permit issued by the department. (Parks & Wild. Code, Sec. 11.004.)

Source Law

> Sec. 11.004. RULES RELATING TO RESIDENCY FOR HUNTING AND OTHER PURPOSES. (a) The commission by rule may prescribe the proof required to demonstrate residency in this state for the purpose of obtaining a license or permit issued by the department.

Revised Law

Sec. 2056.0104. IDENTIFICATION REQUIRED FOR CERTAIN ACTIVITIES OR LICENSE OR PERMIT HOLDERS. (a) In this section:

(1) "Driver's license" and "personal identification certificate":

(A) if held by a resident, have the meanings assigned by Chapter 521, Transportation Code; and

(B) if held by a nonresident, mean those documents that:

(i) are similar to those defined by Paragraph (A); and

(ii) are issued by the agency that is authorized to issue driver's licenses or personal identification certificates in the state or country of which the person is a resident.

(2) "Nonresident" means a person who is considered a nonresident under Section 5151.0101.

(3) "Resident" means a person who is considered a resident under Section 5151.0101.

(b) A person who is 17 years of age or older must have a driver's license or personal identification certificate in the person's immediate possession if the person:

(1) has a license or permit issued under this code; or

(2) is engaging in an activity that requires a license or permit under this code. (Parks & Wild. Code, Sec. 12.114.)

Source Law

> Sec. 12.114. DRIVER'S LICENSE OR PERSONAL IDENTIFICATION CERTIFICATE REQUIRED. (a) A person who is 17 years of age or older and who has a license or permit issued under this code or who is engaging in an activity that requires a license or permit shall have a driver's license or personal identification certificate in the person's immediate possession.
>
> (b) If the person is a resident as defined by Subdivision (1) of Section 42.001 of this code, "driver's license" and "personal identification certificate" have the meanings assigned by Chapter 521, Transportation Code.
>
> (c) If the person is a nonresident as defined by Section 42.001, "driver's license" and "personal identification certificate" mean those documents that are similar to those defined in Subsection (b) and that are issued by the agency in the state or country of which the person is a resident that is authorized to issue driver's licenses or personal identification certificates.

Revised Law

Sec. 2056.0105. OFFENSE. (a) A person commits an offense if the person is arrested for an alleged violation of this code or a proclamation or regulation adopted under this code and:

(1) does not have in the person's immediate possession a driver's license or personal identification certificate required

by Section 2056.0104; or

(2) fails or refuses to display the driver's license or personal identification certificate required by Section 2056.0104 on request of a peace officer, magistrate, or officer of a court of competent jurisdiction.

(b) An offense under this section is a Class C Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Sec. 12.115.)

Source Law

> Sec. 12.115. OFFENSE. (a) A person who is arrested for an alleged violation of this code or a proclamation or regulation adopted under this code commits an offense if the person:
>
> (1) does not have in his immediate possession a driver's license or personal identification certificate required by Section 12.114 of this code; or
>
> (2) fails or refuses to display the driver's license or personal identification certificate required by Section 12.114 of this code when requested to do so by any peace officer, game warden, magistrate, or officer of a court of competent jurisdiction.
>
> (b) An offense under this section is a Class C Parks and Wildlife Code misdemeanor.

Revisor's Note

Section 12.115(a)(2), Parks and Wildlife Code, creates an offense under certain circumstances in which a person fails or refuses to display a driver's license or personal identification certificate when requested to do so by any "peace officer, game warden, magistrate, or officer of a court of competent jurisdiction." The revised law omits "game warden" as included in the meaning of "peace officer" because a game warden is a law enforcement officer commissioned under Section 11.019, Parks and Wildlife Code, revised as Sections 2004.0101 and 2004.0102, and commissioned law enforcement officers of the Parks and Wildlife Department are defined as peace officers under Article 2A.001(10), Code of Criminal Procedure.

Revised Law

Sec. 2056.0106. COLLECTION AND ISSUANCE FEES. (a) Subject

to Subsection (b), the commission by rule may set collection and issuance fees for a license, stamp, permit, tag, or other similar item issued under this code.

(b) The commission may not set a collection or issuance fee for license deputies at an amount less than the amount in effect on June 1, 1995.

(c) If a collection or issuance fee or other similar fee set by another provision of this code conflicts with this section, the collection or issuance fee set under this section prevails. (Parks & Wild. Code, Sec. 12.702(b).)

Source Law

> (b) The commission by rule may set collection and issuance fees for a license, stamp, tag, permit, or other similar item issued under any chapter of this code. The commission shall not set any collection or issuance fees for license deputies at amounts less than the amounts in effect on June 1, 1995. If a collection or issuance fee or other similar fee set by another section of this code conflicts with this section, the collection or issuance fee set under the authority of this section prevails.

Revised Law

Sec. 2056.0107. RECORDS OF LICENSES AND LICENSE FEES. The department shall keep a record containing:

(1) a list of all licenses issued; and

(2) the amount of license fees collected. (Parks & Wild. Code, Sec. 12.003(a)(2).)

Source Law

> Sec. 12.003. RECORDS. (a) The department shall keep a record containing the following information:
>
> . . .
>
> (2) a list of all licenses issued and the amount of license fees collected;
>
> . . .

SUBCHAPTER B. POINT-OF-SALE SYSTEM

Revised Law

Sec. 2056.0201. POINT-OF-SALE SYSTEM. The department may issue a license, stamp, permit, tag, or other similar item authorized by this code or federal law through the use of automated equipment and a point-of-sale system. (Parks & Wild. Code, Sec. 12.703(a).)

Source Law

Sec. 12.703. POINT-OF-SALE SYSTEM. (a) The department may issue a license, stamp, tag, permit, or another similar item authorized by this code or federal law through the use of automated equipment and a point-of-sale system.

Revised Law

Sec. 2056.0202. DESIGNATED ENTITIES. (a) The department may designate an entity to install a point-of-sale system authorized by Section 2056.0201 for the issuance of licenses, stamps, permits, tags, or other similar items.

(b) An entity designated under this section may collect revenue for the department from a license deputy. (Parks & Wild. Code, Sec. 12.703(b).)

Source Law

(b) The department may designate an entity to install the system for the issuance of licenses, stamps, permits, tags, or other similar items. A designated entity may collect revenue for the department from license deputies.

Revised Law

Sec. 2056.0203. COMPENSATION FOR POINT-OF-SALE ENTITY. (a) The commission by rule may set the amount of compensation for a point-of-sale entity. The compensation may include an amount to be retained by the entity from the fee collected for each item issued by the entity.

(b) The rules established by the commission under this section must specify standards for the licenses, including the legibility of the license. (Parks & Wild. Code, Sec. 12.703(c).)

Source Law

(c) The commission by rule may set the amount of compensation for a point-of-sale entity. The compensation may include an amount to be retained by the entity from the fee collected for each item issued by the entity. The rules must specify standards for the licenses, including the legibility of the license.

SUBCHAPTER C. LICENSE DEPUTIES

Revised Law

Sec. 2056.0301. AUTHORITY TO ISSUE LICENSE, STAMP, PERMIT, OR TAG. The department may authorize a license deputy to issue a

license, stamp, permit, or tag. (Parks & Wild. Code, Sec. 12.701.)

Source Law

Sec. 12.701. ISSUANCE OF LICENSE, STAMP, PERMIT, OR TAG BY LICENSE DEPUTIES. The department may authorize the issuance of a license, stamp, permit, or tag by a license deputy.

Revised Law

Sec. 2056.0302. POWERS AND DUTIES OF LICENSE DEPUTY. (a) A license deputy may issue and collect money for a license, stamp, permit, tag, or other similar item issued under this code, including a special issue stamp or decal.

(b) A license deputy shall:

(1) complete and keep for the department's use a designated copy or other record of the sale of each license, stamp, permit, or tag issued;

(2) keep a record of each license, stamp, permit, or tag issued, showing:

(A) the purchaser's identification;

(B) the serial number of the item sold;

(C) the date of issuance; and

(D) any other information required by the department; and

(3) perform any other function required by the license deputy's agreement with the department. (Parks & Wild. Code, Secs. 12.702(a) (part), 12.704.)

Source Law

[Sec. 12.702]
(a) . . . [a license deputy] . . . may issue and collect money for a license, stamp, permit, tag, or other similar item issued under this code, including a special issue stamp or decal.

Sec. 12.704. DUTIES OF LICENSE DEPUTIES. A license deputy shall:
(1) complete and keep for the use of the department a designated copy or other record of the sale of each license, stamp, permit, or tag issued;
(2) keep a record of each license, stamp, permit, or tag issued, showing:
(A) the identification of the purchaser;
(B) the serial number of the item sold;
(C) the date of issuance; and

(D) any other information required by the department; and

(3) perform any other function required by the license deputy's agreement with the department.

Revised Law

Sec. 2056.0303. LICENSE DEPUTY SALES REPORT. (a) After the end of each calendar month or at any other time designated by the department, a license deputy shall send to the department a report on a form and in the manner prescribed by the department.

(b) A license deputy shall provide any other information or material required by the license deputy's agreement with the department. (Parks & Wild. Code, Secs. 12.705(a), (b).)

Source Law

Sec. 12.705. LICENSE, STAMP, PERMIT, AND TAG SALES REPORTS. (a) After the end of each calendar month or at any other time designated by the department, a license deputy shall send to the department a report on a form and in the manner prescribed by the department.

(b) A license deputy shall furnish any other information or material required by the license deputy's agreement with the department.

Revised Law

Sec. 2056.0304. PAYMENT AND REPORTING PENALTIES AND DISCOUNTS. The commission by rule may establish:

(1) reasonable penalties for delinquent payments or reports from license deputies; and

(2) payment discounts for timely payments or reports from license deputies. (Parks & Wild. Code, Sec. 12.705(c).)

Source Law

(c) The commission by rule may establish reasonable penalties for delinquent payments or reports from license deputies and may establish payment discounts for timely payments or reports from license deputies.

Revised Law

Sec. 2056.0305. RETURN OF UNISSUED ITEMS. At the department's request, a license deputy shall return to the department unissued licenses, stamps, permits, tags, or any other materials or equipment provided to the license deputy by the department. (Parks & Wild. Code, Sec. 12.706.)

Source Law

Sec. 12.706. UNISSUED ITEMS. A license deputy shall return to the department, at the department's request, unissued licenses, stamps, permits, tags, or any other materials or equipment furnished to the license deputy by the department.

Revised Law

Sec. 2056.0306. LIABILITY OF LICENSE DEPUTY. (a) This section applies to the sale of a license, stamp, permit, or tag generated by:

(1) a license deputy; or

(2) a license deputy's employee or agent.

(b) A license deputy holds in trust, for the benefit of the state, money that the license deputy receives from the sale of a license, stamp, permit, or tag, less the amount of the authorized sales commission, until that money is transferred to the state treasury for credit to the appropriate department account. The license deputy is liable to the department for the full amount of money held in trust.

(c) If the license deputy is not an individual, each officer, director, or owner of the license deputy is personally liable to the department for the full amount of money held in trust. (Parks & Wild. Code, Sec. 12.708.)

Source Law

Sec. 12.708. LIABILITY OF LICENSE DEPUTY FOR SALES. (a) This section applies to the sale of a license, stamp, permit, or tag generated by a license deputy or by an employee or agent of a license deputy.

(b) A license deputy holds in trust for the benefit of the state money that the license deputy receives from the sale of a license, stamp, permit, or tag, minus the amount of the authorized sales commission, until that money is transferred to the state treasury for credit to the appropriate department account. The license deputy is liable to the department for the full amount of money held in trust. If the license deputy is not an individual, each officer, director, or owner of the license deputy is personally liable to the department for the full amount of money held in trust.

SUBCHAPTER D. REFUSAL, SUSPENSION, OR REVOCATION OF LICENSE, PERMIT, OR TAG

Revised Law

Sec. 2056.0401. PERSONS INCLUDED AS LICENSE OR PERMIT HOLDER. In this subchapter, "license holder" or "permit holder" includes:

(1) each member of a partnership or association;

(2) an agent acting on behalf of a partnership or association;

(3) each officer of a corporation; and

(4) the owner of a majority of a corporation's corporate stock. (Parks & Wild. Code, Sec. 12.501(a).)

Source Law

Sec. 12.501. REVOCATION OR SUSPENSION OF LICENSE OR PERMIT. (a) In this subchapter, "permittee" or "licensee" includes each member of a partnership or association, an agent acting on behalf of a partnership or association, each officer of a corporation, and the owner of a majority of a corporation's corporate stock.

Revisor's Note

Section 12.501(a), Parks and Wildlife Code, refers to "permittee" and "licensee." Throughout this subchapter, the revised law substitutes "permit holder" for "permittee" and "license holder" for "licensee" because in this context the respective terms are synonymous and "permit holder" and "license holder" are more commonly used.

Revised Law

Sec. 2056.0402. REFUSAL TO ISSUE, TRANSFER, OR RENEW LICENSE, PERMIT, OR TAG. (a) In this section, "finally convicted" includes:

(1) a final judgment of guilt;

(2) an imposition of deferred adjudication community supervision;

(3) a plea of nolo contendere; or

(4) a plea of guilty.

(b) The contested case provisions of Chapter 2001, Government Code, do not apply to the refusal to issue, transfer, or renew a license, permit, or tag under this section.

(c) The department may refuse to issue or transfer an original or renewal license, permit, or tag if the applicant or transferee:

(1) has been finally convicted of a violation under this code or a rule adopted or a proclamation issued under this code;

(2) is liable to the state under Section 5954.0201; and

(3) has failed to fully pay the amount due under Section 5954.0201 after the department has issued notice of liability to the applicant or transferee.

(d) A notice under Subsection (c) includes:

(1) a certified letter sent from the department by the United States Postal Service to the applicant at the last address supplied to the department by the applicant; or

(2) verbal notice to the applicant by a representative of the department. (Parks & Wild. Code, Sec. 12.508.)

Source Law

Sec. 12.508. REFUSAL OF LICENSE OR PERMIT. (a) In this section:

(1) "Notice" includes a certified letter sent from the department by the United States Postal Service to the applicant at the last address supplied to the department by the applicant or verbal notice to the applicant by a representative of the department.

(2) "Finally convicted" includes a final judgment of guilt, deferred adjudication, a plea of nolo contendere, or a plea of guilty.

(b) The department may refuse to issue or transfer an original or renewal license, permit, or tag if the applicant or transferee:

(1) has been finally convicted of a violation under this code or a rule adopted or a proclamation issued under this code;

(2) is liable to the state under Section 12.301; and

(3) has failed to fully pay the amount due under Section 12.301 after the department has issued notice of liability to the applicant or transferee.

(c) The contested case provisions of the Administrative Procedure Act (Sections 2001.051-2001.178, Government Code) do not apply to the refusal to issue, transfer, or renew a license,

permit, or tag under this section.

Revisor's Note

Section 12.508(a)(2), Parks and Wildlife Code, provides that the term "finally convicted" includes "deferred adjudication." Throughout this chapter, in this and similar contexts, the revised law substitutes "deferred adjudication community supervision" for "deferred adjudication" because in this context the terms are synonymous and "deferred adjudication community supervision" is the term used in Subchapter C, Chapter 42A, Code of Criminal Procedure.

Revised Law

Sec. 2056.0403. SUSPENSION OR REVOCATION OF LICENSE OR PERMIT. The executive director may suspend or revoke an original or renewal license or permit issued under this code if it is found, after notice and hearing, that the license or permit holder:

(1) has been finally convicted of a violation of this code or a proclamation or regulation adopted under this code relating to the license or permit to be suspended or revoked;

(2) violated a provision of this code or a proclamation or regulation adopted under this code relating to the license or permit to be suspended or revoked;

(3) made a false or misleading statement in connection with the license or permit holder's original or renewal application, in the formal application or in any other written instrument relating to the application submitted to the commission or its officers or employees;

(4) is indebted to the state for taxes, fees, or the payment of penalties imposed by this code or by a commission rule relating to a license or permit to be suspended or revoked; or

(5) is liable to the state under Section 5954.0201. (Parks & Wild. Code, Sec. 12.501(b).)

Source Law

(b) The director may suspend or revoke an original or renewal permit or license issued under

this code if it is found, after notice and hearing, that:

(1) the permittee or licensee has been finally convicted of a violation of this code or proclamation or regulation adopted under this code relating to the permit or license to be suspended or revoked;

(2) the permittee or licensee violated a provision of this code or proclamation or regulation adopted under this code relating to the permit or license to be suspended or revoked;

(3) the permittee or licensee made a false or misleading statement in connection with the permittee's or licensee's original or renewal application, either in the formal application itself or in any other written instrument relating to the application submitted to the commission or its officers or employees;

(4) the permittee or licensee is indebted to the state for taxes, fees, or payment of penalties imposed by this code or by a commission rule relating to a permit or license to be suspended or revoked; or

(5) the permittee or licensee is liable to the state under Section 12.301.

Revised Law

Sec. 2056.0404. NOTICE AND OPPORTUNITY FOR HEARING. (a) The department must give a license or permit holder an opportunity for a hearing concerning the suspension or revocation of the license or permit.

(b) Notice of a hearing must be given and the hearing held as provided by Sections 2001.052 and 2001.054, Government Code. (Parks & Wild. Code, Sec. 12.502.)

Source Law

Sec. 12.502. NOTICE; HEARING. The department must give the licensee or permittee an opportunity for a hearing concerning the suspension or revocation of the license or permit. Notice of the hearing must be given and the hearing held as provided by Sections 2001.052 and 2001.054, Government Code.

Revised Law

Sec. 2056.0405. NOTICE OF SUSPENSION OR REVOCATION. (a) After notice and hearing as provided by Section 2056.0404, the department shall notify a license or permit holder of the suspension or revocation of the license or permit.

(b) The department must give notice under this section personally or by registered or certified mail.

(c) A suspension or revocation takes effect when the notice under this section is given or delivered. (Parks & Wild. Code,

Sec. 12.503.)

Source Law

> Sec. 12.503. NOTICE OF SUSPENSION OR REVOCATION. (a) After notice and hearing as provided by Section 12.502 of this code, the department shall notify the licensee or permittee of the suspension or revocation of the license or permit.
>
> (b) The notice under this section must be given personally or by registered or certified mail.
>
> (c) The suspension or revocation takes effect when the notice under this section is given or delivered.

Revised Law

Sec. 2056.0406. PERIOD OF SUSPENSION. (a) A license or permit may be suspended under this subchapter for a period set by the executive director.

(b) The suspension ends on the earlier of the date:

(1) the period of suspension ends; or

(2) the license or permit expires. (Parks & Wild. Code, Sec. 12.504(a).)

Source Law

> Sec. 12.504. TIME OF SUSPENSION OR REVOCATION. (a) A license or permit may be suspended under this subchapter for a period set by the director. The period of suspension ends on the expiration of the time set by the director or the expiration of the license or permit, whichever occurs first.

Revised Law

Sec. 2056.0407. CIVIL PENALTY INSTEAD OF SUSPENSION. (a) Instead of suspending a license or permit under this subchapter, the department may give the license or permit holder the opportunity to pay a civil penalty.

(b) In determining the amount of the civil penalty, the department shall consider:

(1) the economic impact a suspension would have on the license or permit holder engaging in a commercial activity under the license or permit; or

(2) the amount reasonably necessary to deter further violations.

(c) The amount of the civil penalty may not be less than $150 for each day the license or permit was to have been suspended.

(d) If the license or permit holder does not pay the civil penalty before the sixth day after the date the department notifies the license or permit holder of the amount, the license or permit holder loses the opportunity to pay the civil penalty and the department may impose the suspension.

(e) A civil penalty received by the department under this section shall be deposited to the credit of the game, fish, and water safety account. (Parks & Wild. Code, Sec. 12.507.)

Source Law

> Sec. 12.507. ALTERNATIVES TO SUSPENSION. (a) In lieu of suspending a license or permit under this subchapter, the department may give the licensee or permittee the opportunity to pay a civil penalty.
>
> (b) The department shall determine the amount of the penalty and in doing so shall consider:
>
> (1) the economic impact a suspension would have on the licensee or permittee engaging in a commercial activity under the license or permit; or
>
> (2) the amount reasonably necessary to deter further violations.
>
> (c) The amount of the civil penalty may not be less than $150 for each day the license or permit was to have been suspended.
>
> (d) If the licensee or permittee does not pay the penalty before the sixth day after the date on which the department notifies him of the amount, he loses the opportunity to pay it and the department may impose the suspension.
>
> (e) Civil penalties received by the department under this section shall be deposited to the credit of the game, fish, and water safety account.

Revised Law

Sec. 2056.0408. AUTOMATIC REVOCATION OR SUSPENSION OF CERTAIN LICENSES OR PERMITS. (a) In this section, "final conviction" includes:

(1) the imposition of deferred adjudication community supervision;

(2) a plea of nolo contendere; or

(3) a plea of guilty.

(b) Except as provided by this section, a hunting or fishing license or permit issued by the department to a person is automatically revoked on final conviction of the person of an offense for a violation of:

(1) Section 5101.0402, 5103.0302, 5103.0304,

5103.0305, 5103.0310, 5103.0312, or 5104.0402(a)(2); or

(2) a rule adopted under Section 5103.0310.

(c) If the holder of a lifetime license is finally convicted of an offense for a violation of Section 5101.0402, 5103.0302, 5103.0304, 5103.0305, 5103.0310, 5103.0312(e), or 5104.0402(a)(2) or a rule adopted under Section 5103.0310, the person's lifetime license is automatically suspended. The suspension is for a period set by the court of not less than one year or more than five years. If the court does not set a period, the suspension is for one year after the date the conviction becomes final.

(d) On conviction of a person for an offense described by Subsection (c), the court shall set a period of not less than one year or more than five years during which the department may not issue that person a license, tag, or stamp under Chapter 5151, 5153, 5155, or 7281. If the court does not set a period, the department may not issue that person a license, tag, or stamp under Chapter 5151, 5153, 5155, or 7281 before the first anniversary of the date the conviction becomes final.

(e) A person whose license or permit is revoked or suspended under this section shall surrender the revoked or suspended license or permit to the court. The court shall send the department the revoked or suspended license or permit and a copy of the judgment of conviction. (Parks & Wild. Code, Sec. 12.5015.)

Source Law

Sec. 12.5015. AUTOMATIC REVOCATION OF HUNTING OR FISHING LICENSE OR PERMIT. (a) Except as provided by this section, any hunting or fishing license or permit issued by the department to a person is automatically revoked on final conviction of the person of an offense under Section 61.022, 62.003, 62.004, 62.005, 62.0065, 62.011, 66.004(a), or 66.004(c) or a violation of a rule adopted under Section 62.0065.

(b) If the holder of a lifetime license is finally convicted of an offense under Section 61.022, 62.003, 62.004, 62.005, 62.0065, 62.011(c), 66.004(a), or 66.004(c), or a violation of a rule adopted under Section 62.0065, the person's lifetime license is automatically suspended. The suspension is for a period set by the court of not less than one year or more than five years. If the court does not set a period, the suspension is for one year from the date the conviction becomes final.

(c) On conviction of a person for an offense under Section 61.022, 62.003, 62.004, 62.005, 62.0065, 62.011(c), 66.004(a), or 66.004(c), or a violation of a rule adopted under Section 62.0065, the court shall set a period of not less than one year and not more than five years during which the department may not issue that person a license, tag, or stamp under Chapter 42, 46, or 50. If the court does not set a period, the department may not issue that person a license, tag, or stamp under Chapter 42, 46, or 50 before the first anniversary of the date the conviction becomes final.

(d) A person who has a license or permit revoked or suspended under this section shall surrender the revoked or suspended license or permit to the court. The court shall send the department the revoked or suspended license or permit and a copy of the judgment of conviction.

(e) For purposes of this section, "final conviction" includes a plea of guilty or nolo contendere to or the imposition of deferred adjudication for an offense.

Revisor's Note

Sections 12.5015(a), (b), and (c), Parks and Wildlife Code, refer to Section 61.022 of that code. Section 61.022 is revised in pertinent part as Section 5101.0402, and the revised law is drafted accordingly.

Revised Law

Sec. 2056.0409. APPEAL FROM REFUSAL, SUSPENSION, OR REVOCATION. (a) This section does not apply to the appeal of a decision by the department refusing to issue or renew a permit to which Subchapter E, Chapter 5159, applies.

(b) An appeal from an order of the department refusing to issue or transfer a license or permit or suspending or revoking a license or permit may be taken to a district court of Travis County.

(c) The appeal is under the substantial evidence rule and against only the department as defendant. (Parks & Wild. Code, Sec. 12.506.)

Source Law

Sec. 12.506. APPEAL FROM SUSPENSION, REFUSAL, OR REVOCATION OF LICENSE OR PERMIT. (a) An appeal from an order of the department refusing to issue or transfer a license or permit or revoking or suspending a license or permit may be taken to a district court of Travis County.

(b) The appeal shall be under the substantial evidence rule and against the department alone as defendant.

(c) This section does not apply to the appeal of a decision by the department refusing to issue or renew a permit to which Subchapter G applies.

Revised Law

Sec. 2056.0410. APPLICATION FOR LICENSE OR PERMIT DURING SUSPENSION OR REVOCATION PROHIBITED; OFFENSE. (a) The holder of a license or permit that has been suspended may not apply for another license or permit of the same kind during the period of suspension.

(b) The holder of a license or permit that has been revoked may not apply for another license or permit of the same kind for one year from the date the revocation takes effect.

(c) A person commits an offense if the person applies for a license or permit in violation of Subsection (a) or (b).

(d) An offense under this section is a Class C Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Secs. 12.019(a) (part), 12.504(b), (c), (d).)

Source Law

[Sec. 12.019]

(a) . . . a person who violates Section . . . 12.504 of this code . . . commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

[Sec. 12.504]

(b) The holder of a license or permit that has been suspended may not apply for another license or permit of the same kind during the period of suspension.

(c) The holder of a license or permit that has been revoked may not apply for another license or permit of the same kind for one year from the date the revocation takes effect.

(d) A person who applies for a license or permit in violation of Subsection (b) or (c) of this section commits an offense.

Revised Law

Sec. 2056.0411. ENGAGING IN CERTAIN ACTIVITIES DURING PERIOD OF REFUSAL, SUSPENSION, OR REVOCATION PROHIBITED; OFFENSE. (a) A person commits an offense if the person engages in an activity requiring a license or permit during the period the license or permit has been refused, suspended, or revoked.

(b) An offense under this section is a Class A Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Secs. 12.019(c), 12.505.)

Source Law

[Sec. 12.019]

(c) A person who violates Section 12.505 of this code commits an offense that is a Class A Parks and Wildlife Code misdemeanor.

Sec. 12.505. VIOLATION OF SUSPENSION, REFUSAL, OR REVOCATION. A person who engages in an activity requiring a permit or license during the time for which such license or permit has been suspended, refused, or revoked commits an offense that is a Class A Parks and Wildlife Code misdemeanor.

CHAPTER 2057. PROTECTION OF CUSTOMER INFORMATION

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 2057.0101. DEFINITIONS. In this chapter:

(1) "Customer information" means the following information of a person who purchases customer products, licenses, or services from the department:

(A) name;

(B) address;

(C) telephone number;

(D) social security number;

(E) driver's license number;

(F) bank account number;

(G) credit card number; or

(H) charge card number.

(2) "Department" includes an agent of the department.

(Parks & Wild. Code, Secs. 11.030(a) (part), (g); New.)

Source Law

Sec. 11.030. DISCLOSURE OF PERSONAL CUSTOMER INFORMATION. (a) The name and address and a telephone, social security, driver's license, bank account, credit card, or charge card number of a person who purchases customer products, licenses, or services from the department . . . .

(g) In this section, a reference to the department includes a reference to an agent of the department.

Revisor's Note

The definition of "customer information" is added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definition.

Revised Law

Sec. 2057.0102. APPLICABILITY OF PUBLIC INFORMATION LAW. Chapter 552, Government Code, does not apply to customer information. (Parks & Wild. Code, Sec. 11.030(b).)

Source Law

(b) Chapter 552, Government Code, does not apply to customer information described by Subsection (a).

Revised Law

Sec. 2057.0103. COMMISSION RULES. The commission by rule shall adopt policies relating to:

(1) the release of customer information; and

(2) the use of customer information by the department. (Parks & Wild. Code, Sec. 11.030(c).)

Source Law

(c) The commission by rule shall adopt policies relating to:

(1) the release of the customer information; and

(2) the use of the customer information by the department.

SUBCHAPTER B. DISCLOSURE OF CUSTOMER INFORMATION

Revised Law

Sec. 2057.0201. DISCLOSURE OF CUSTOMER INFORMATION. (a) Except as provided by this section or Section 5002.0302 or 5952.0202, the department may not sell, rent, trade, or otherwise disclose customer information.

(b) The commission or department may disclose customer information to a federal or state law enforcement agency if the agency serves a subpoena for the information.

(c) The department may disclose statistical data and compilations of customer information if the information does not reveal information identifying a specific department customer or a department customer's address, telephone number, social security number, or driver's license number.

(d) The department may disclose customer information only:

(1) to another governmental body, including a law enforcement entity, as needed to carry out a governmental purpose;

(2) if the customer that is the subject of the information consents in writing to the specific disclosure; or

(3) if the information is:

(A) part of a record that is considered to be a public record under Section 4051.0301; or

(B) authorized to be disclosed under Section 4051.0302.

(e) This section does not authorize the department to disclose information the department is prohibited from disclosing by other law. (Parks & Wild. Code, Secs. 11.030(a) (part), (e), (e-1), (e-2), (e-3).)

Source Law

(a) [The name and address and a telephone, social security, driver's license, bank account, credit card, or charge card number of a person who purchases customer products, licenses, or services from the department] may not be disclosed, sold, rented, or traded except as authorized under this section or Section 12.014, 12.103, or 12.0251.

(e) The commission or department may disclose customer information to a federal or state law enforcement agency if the agency provides a lawfully issued subpoena.

(e-1) The department may disclose statistical data and compilations of customer information described by Subsection (a) if the information does not reveal information identifying a specific department customer or a department customer's address, telephone number, social security number, or driver's license number.

(e-2) The department may disclose customer information described by Subsection (a) only:

(1) to another governmental body, including a law enforcement entity, as needed to carry out a governmental purpose;

(2) if the customer that is the subject of the information consents in writing to the specific disclosure; or

(3) if the information is:

(A) part of a record that is considered to be a public record under Section 31.039; or

(B) authorized to be disclosed under Section 31.0391.

(e-3) This section does not authorize the department to disclose information the department is prohibited from disclosing by other law.

Revisor's Note

(1) Section 11.030(a), Parks and Wildlife Code, prohibits certain information from being disclosed,

sold, rented, or traded except as authorized by "this section," meaning Section 11.030 of that code. The revised law retains the reference to "this section" because the provisions of Section 11.030 authorizing the disclosure of the information are revised in this section.

(2) Section 11.030(a), Parks and Wildlife Code, prohibits certain information from being disclosed, sold, rented, or traded except as authorized by Section 12.103 of that code. Section 12.103 is revised in pertinent part as Section 5952.0202, and the revised law is drafted accordingly.

(3) Section 11.030(e-3), Parks and Wildlife Code, provides that "[t]his section," meaning Section 11.030 of that code, does not authorize the department to disclose information the department is prohibited from disclosing by other law. The revised law retains the reference to "[t]his section" for the reason stated in Revisor's Note (1) to this section.

Revised Law

Sec. 2057.0202. IMMUNITY FROM LIABILITY. The department and department officers and employees are immune from civil liability for an unintentional violation of this chapter. (Parks & Wild. Code, Sec. 11.030(f).)

Source Law

(f) The department and its officers and employees are immune from civil liability for an unintentional violation of this section.

CHAPTER 2058. STATEWIDE COMMERCIAL PROJECTS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 2058.0101. DEFINITION. In this chapter, "statewide commercial project" means a commercial venture undertaken by the department throughout the state, including promotions, sales, or other activities to raise money for the department. The term does

not include a promotion or sale undertaken solely at one site. (Parks & Wild. Code, Sec. 11.151.)

Source Law

> Sec. 11.151. DEFINITION. In this subchapter, "statewide commercial project" means a commercial venture undertaken by the department throughout the state, including promotions, sales, or other activities to raise money for the department. The term does not include a promotion or sale undertaken solely at one site.

SUBCHAPTER B. STATEWIDE COMMERCIAL PROJECTS

Revised Law

Sec. 2058.0201. GENERAL CONTENTS OF BUSINESS PLAN. A business plan developed under this chapter must include:

(1) a description of the product or service provided;

(2) an analysis of the information necessary for a person to make decisions relating to the project;

(3) an analysis of the personnel necessary to manage and implement the project;

(4) financial data, including past performance and a budget and goals for future performance; and

(5) a list of the resources necessary for a successful project. (Parks & Wild. Code, Sec. 11.152.)

Source Law

> Sec. 11.152. BUSINESS PLANS. Each business plan developed under this subchapter must include:
> (1) a description of the product or service provided;
> (2) an analysis of the information necessary for persons to make decisions on the project;
> (3) an analysis of the personnel necessary to manage and implement the project;
> (4) financial data, including both past performance and a budget and goals for future performance; and
> (5) a list of the resources necessary for a successful project.

Revised Law

Sec. 2058.0202. DEPARTMENT BUSINESS PLAN. (a) The department shall develop an agency-wide business plan to guide the department's overall operational strategies for statewide commercial projects.

(b) The plan must:

(1) use the plans prepared under Section 2058.0203 for each project;

(2) evaluate the efficiency of existing projects;

(3) consider or propose changes to any project necessary to meet the department's overall goals;

(4) compare each project's products and services to similar products and services available from the private sector;

(5) seek to increase savings and improve customer service on each project;

(6) coordinate existing projects to avoid duplication and focus resources on the most efficient and effective projects; and

(7) assess the potential for contracting with a private entity or individual to perform department functions relating to specific projects. (Parks & Wild. Code, Sec. 11.153.)

Source Law

> Sec. 11.153. DEPARTMENT PLAN: OPERATIONAL STRATEGIES. (a) The department shall develop an agency-wide business plan to guide its overall operational strategies for statewide commercial projects. The plan must:
>
> (1) use the plans prepared under Section 11.154 for each project;
>
> (2) evaluate the efficiency of existing projects;
>
> (3) consider or propose changes to any project necessary to meet the department's overall goals;
>
> (4) compare each project's services and products to similar services and products available from the private sector;
>
> (5) seek to increase savings and improve customer service on each project;
>
> (6) coordinate existing projects to avoid duplication and focus resources on the most efficient and effective projects; and
>
> (7) assess the potential for contracting with a private entity or individual to perform department functions relating to specific projects.

Revised Law

Sec. 2058.0203. INDIVIDUAL PROJECT BUSINESS PLANS. (a) The department shall develop a business plan for each statewide commercial project.

(b) A plan must contain:

(1) an accurate accounting for all project costs, including personnel and overhead costs; and

(2) reasonable projections of project income.

(c) The executive director shall review the plan for each project at least annually to assess the overall performance and value of the project.

(d) The department may modify a plan as necessary to meet changing conditions. (Parks & Wild. Code, Sec. 11.154.)

Source Law

> Sec. 11.154. INDIVIDUAL PROJECT PLANS. (a) The department shall develop a business plan for each statewide commercial project. The plan must contain:
>
> (1) an accurate accounting for all project costs, including personnel and overhead costs; and
>
> (2) reasonable projections of project income.
>
> (b) The director shall review the plan for each project at least annually to assess the overall performance and value of the project.
>
> (c) The department may modify a plan as necessary to meet changing conditions.

Revised Law

Sec. 2058.0204. ADJUSTMENT OR TERMINATION OF PROJECT. The department shall adjust or terminate a statewide commercial project that fails to meet the financial objectives stated in the project's plan, unless the department determines that the project possesses a positive public relations value or fulfills a useful educational purpose. (Parks & Wild. Code, Sec. 11.155.)

Source Law

> Sec. 11.155. ADJUSTMENT OR TERMINATION OF PROJECT FOR FAILURE TO MEET FINANCIAL OBJECTIVES. (a) Except as provided by Subsection (b), the department shall adjust or terminate a statewide commercial project that fails to meet the financial objectives stated in the project's plan.
>
> (b) This section does not apply if the department determines that the project possesses a positive public relations value or fulfills a useful educational purpose.

Revised Law

Sec. 2058.0205. CONTRACT WITH PRIVATE SECTOR. The department shall consider contracting out all or part of a statewide commercial project to a private entity or individual, including a nonprofit entity or individual. (Parks & Wild. Code,

Sec. 11.156.)

Source Law

Sec. 11.156. CONTRACT WITH PRIVATE SECTOR. The department shall consider contracting out all or part of a statewide commercial project to a private entity or individual, including a nonprofit entity or individual.

CHAPTER 2059. FOR-PROFIT PARTNERSHIPS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 2059.0101. DEFINITIONS. In this chapter:

(1) "Official corporate partner" means an entity that meets the qualifications of Section 2059.0202.

(2) "State site" means a state park, natural area, wildlife management area, fish hatchery, or historic site under the department's jurisdiction. (Parks & Wild. Code, Secs. 11.221(1) (part), (2).)

Source Law

Sec. 11.221. DEFINITIONS. In this subchapter:
(1) "Official corporate partner" means a . . . entity that . . . .
(2) "State site" means a state park, natural area, wildlife management area, fish hatchery, or historic site under the jurisdiction of the department.

Revisor's Note

Section 11.221(1), Parks and Wildlife Code, provides a definition of "official corporate partner" that includes substantive law more appropriately presented as qualifications. The revised law is drafted to include a cross-reference to Section 2059.0202 of this code, which includes the substance of Section 11.221(1).

Revised Law

Sec. 2059.0102. COMMISSION RULES. The commission shall adopt rules to implement this chapter, including rules that establish guidelines or best practices for official corporate partners. (Parks & Wild. Code, Sec. 11.225.)

Source Law

Sec. 11.225. RULES. The commission shall adopt rules to implement this subchapter, including rules that establish guidelines or best practices for official corporate partners.

SUBCHAPTER B. FOR-PROFIT PARTNERS

Revised Law

Sec. 2059.0201. SELECTION OF OFFICIAL CORPORATE PARTNER. Subject to commission approval, the department may select one or more official corporate partners. (Parks & Wild. Code, Sec. 11.222(a).)

Source Law

Sec. 11.222. SELECTION; CONTRACT. (a) Subject to commission approval, the department may select a for-profit entity as an official corporate partner.

Revised Law

Sec. 2059.0202. QUALIFICATIONS. An official corporate partner must:

(1) be a for-profit entity;

(2) be designated an official corporate partner by the department;

(3) work with the department to raise funds for:

(A) state site operations and maintenance; or

(B) other priority projects or programs; and

(4) be selected as provided by Section 2059.0201. (Parks & Wild. Code, Sec. 11.221(1).)

Source Law

Sec. 11.221. . . .

(1) "Official corporate partner" means a for-profit entity that:

(A) is designated an official corporate partner by the department;

(B) works with the department to raise funds for state site operations and maintenance or other priority projects or programs; and

(C) is selected as provided under Section 11.222.

. . .

Revisor's Note

Section 11.221(1)(C), Parks and Wildlife Code, refers to a for-profit entity that is selected as

provided under Section 11.222 of that code. Section 11.222 is revised in pertinent part as Section 2059.0201, and the revised law is drafted accordingly.

Revised Law

Sec. 2059.0203. CONTRACTS. The department may contract with one or more official corporate partners to raise funds for state site operations and maintenance or other priority projects or programs, including by conducting joint promotional campaigns or other fund-raising efforts. (Parks & Wild. Code, Secs. 11.222(b), 11.223(b).)

Source Law

[Sec. 11.222]
(b) The department may contract with one or more official corporate partners to raise funds for state site operations and maintenance or other priority projects or programs.

[Sec. 11.223]
(b) The department may contract with one or more official corporate partners to conduct joint promotional campaigns or other fund-raising efforts conducted by the department to raise funds for state site operations and maintenance or other priority projects or programs.

Revised Law

Sec. 2059.0204. GIFTS AND GRANTS. (a) An official corporate partner may:

(1) accept contributions, gifts, grants, and promotional campaign proceeds on behalf of the department; or

(2) provide contributions, gifts, grants, and promotional campaign proceeds to the department.

(b) The department shall ensure that an official corporate partner transfers to the department as soon as possible the contributions, gifts, grants, and promotional campaign proceeds accepted on the department's behalf. (Parks & Wild. Code, Sec. 11.223(a).)

Source Law

Sec. 11.223. GIFTS AND GRANTS; FUND-RAISING. (a) To raise funds for state site operations and maintenance or other priority projects or programs, an official corporate partner may accept contributions, gifts, grants, and promotional campaign proceeds on

behalf of the department or provide contributions, gifts, grants, and promotional campaign proceeds to the department. The department shall ensure that an official corporate partner transfers the contributions, gifts, grants, and promotional campaign proceeds accepted on behalf of the department to the department as soon as possible.

Revisor's Note

Section 11.223(a), Parks and Wildlife Code, authorizes an official corporate partner of the Parks and Wildlife Department to participate in certain activities "[t]o raise funds for state site operations and maintenance or other priority projects or programs." The revised law omits the quoted language because it duplicates in substance Section 11.224, Parks and Wildlife Code, revised as Section 2059.0205, which provides in part that money received by the department as a gift or grant under Subchapter J-1, Chapter 11, Parks and Wildlife Code, revised as this chapter, may be used only for state site operations and maintenance or other priority projects or programs.

Revised Law

Sec. 2059.0205. USE OF FUNDS. Money received by the department under this chapter, including money received under a contract or licensing or other agreement or as a gift or grant, may be used only for:

(1) state site operations and maintenance; or

(2) other priority projects or programs. (Parks & Wild. Code, Sec. 11.224.)

Source Law

Sec. 11.224. USE OF FUNDS. Money received by the department under this subchapter, including money received under a contract or licensing or other agreement or as a gift or grant, may be used only for state site operations and maintenance or other priority projects or programs.

Revised Law

Sec. 2059.0206. AUTHORITY TO ACCEPT DONATIONS NOT LIMITED. This chapter does not limit the department's authority to accept donations that are otherwise authorized. (Parks & Wild. Code, Sec.

11.226.)

Source Law

Sec. 11.226. OTHER DONATION AUTHORITY NOT LIMITED. This subchapter does not limit the department's authority to accept donations that are otherwise authorized.

CHAPTER 2060. NONPROFIT PARTNERSHIPS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 2060.0101. DEFINITIONS. In this chapter:

(1) "Nonprofit partner" means an entity that meets the qualifications of Section 2060.0202.

(2) "Official nonprofit partner" means the nonprofit partner designated by the commission under Section 2060.0301. (Parks & Wild. Code, Secs. 11.201(1) (part), (2).)

Source Law

Sec. 11.201. DEFINITIONS. In this subchapter:
(1) "Nonprofit partner" means a . . . entity that . . . .
(2) "Official nonprofit partner" means the nonprofit partner designated by the commission under Section 11.205.

Revisor's Note

(1) Section 11.201(1), Parks and Wildlife Code, provides a definition of "nonprofit partner" that includes substantive law more appropriately presented as qualifications. The revised law is drafted to include a cross-reference to Section 2060.0202 of this code, which includes the substance of Section 11.201(1).

(2) Section 11.201(2), Parks and Wildlife Code, defines "official nonprofit partner" as "the nonprofit partner designated by the commission under Section 11.205" of that code. Section 11.205 is revised in pertinent part as Section 2060.0301, and the revised law is drafted accordingly.

Revised Law

Sec. 2060.0102. COMMISSION RULES. The commission by rule

shall establish:

(1) best practices for a nonprofit partner;

(2) guidelines under which the official nonprofit partner may solicit and accept sponsorships from private entities; and

(3) best practices under which the official nonprofit partner may engage in activities under Subdivision (2) or Subchapter C. (Parks & Wild. Code, Secs. 11.202(c), 11.205(f).)

Source Law

[Sec. 11.202]
(c) The commission by rule shall establish best practices for nonprofit partners to comply with.

[Sec. 11.205]
(f) The commission by rule shall establish:
(1) guidelines under which the official nonprofit partner may solicit and accept sponsorships from private entities; and
(2) best practices under which the partner may engage in activities under this section.

Revisor's Note

Section 11.205(f)(2), Parks and Wildlife Code, requires the Parks and Wildlife Commission to establish best practices under which the official nonprofit partner may engage in activities under "this section," meaning Section 11.205 of that code. The revised law substitutes "Subdivision (2) or Subchapter C" for the quoted language because Section 11.205 is revised in Subdivision (2) of this section and in Subchapter C of this chapter. Although Subchapter C also includes the revision of Section 11.206, Parks and Wildlife Code, it is appropriate to refer to Subchapter C in its entirety because the official nonprofit partner does not engage in any activities under that section.

SUBCHAPTER B. NONPROFIT PARTNERS

Revised Law

Sec. 2060.0201. SELECTION OF NONPROFIT PARTNERS. (a) The department may select and cooperate with nonprofit partners to

serve department goals.

(b) The department must obtain commission approval for each nonprofit partner selected under this section. (Parks & Wild. Code, Secs. 11.202(a), (b).)

Source Law

Sec. 11.202. GENERAL DUTIES. (a) The department may select and cooperate with nonprofit partners to serve department goals.

(b) The department must obtain commission approval for each nonprofit partner selected under Subsection (a).

Revised Law

Sec. 2060.0202. QUALIFICATIONS. A nonprofit partner must:

(1) be a nonpolitical legal entity;

(2) be incorporated under the laws of this state;

(3) be exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c) of that code;

(4) work with the department to further department goals; and

(5) be selected as provided by Section 2060.0201. (Parks & Wild. Code, Sec. 11.201(1).)

Source Law

Sec. 11.201. . . .

(1) "Nonprofit partner" means a nonpolitical legal entity that:

(A) is incorporated under the laws of this state;

(B) has been granted an exemption from federal income tax under Section 501(c), Internal Revenue Code of 1986, as amended;

(C) works with the department to further department goals; and

(D) is selected as provided under Section 11.202.

Revisor's Note

(1) Section 11.201(1)(B), Parks and Wildlife Code, refers to a nonpolitical legal entity that has been "granted an exemption from federal income tax under Section 501(c), Internal Revenue Code of 1986, as amended." The revised law omits "as amended" for the reason stated in the revisor's note to Section

2003.0201. Additionally, the revised law substitutes "exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c) of that code" for "granted an exemption from federal income tax under Section 501(c), Internal Revenue Code of 1986" for clarity and to more accurately reflect the structure of the applicable federal income tax exemption.

(2) Section 11.201(1)(D), Parks and Wildlife Code, refers to a nonpolitical legal entity that is selected as provided under Section 11.202 of that code. Section 11.202 is revised in pertinent part as Section 2060.0201, and the revised law is drafted accordingly.

Revised Law

Sec. 2060.0203. ACCOUNTABILITY FOR STATE ASSETS. The commission by rule shall require a nonprofit partner to comply with specified state standards and safeguards for accounting for state assets held by the nonprofit partner. (Parks & Wild. Code, Sec. 11.203(a).)

Source Law

Sec. 11.203. ACCOUNTABILITY OF NONPROFIT PARTNERS; INVESTMENT RESTRICTIONS. (a) The commission by rule shall require a nonprofit partner to comply with specified state standards and safeguards for accounting for state assets held by the nonprofit partner.

Revised Law

Sec. 2060.0204. INVESTMENT OF STATE MONEY. Chapter 2256, Government Code, applies to a nonprofit partner to the extent that the partner controls state money. (Parks & Wild. Code, Sec. 11.203(b).)

Source Law

(b) Chapter 2256, Government Code, applies to a nonprofit partner to the extent that the partner controls state money.

Revised Law

Sec. 2060.0205. EXPENDITURES OF STATE MONEY. (a) The department shall direct, by the terms of the contract or grant, how a nonprofit partner may spend state money the partner receives.

(b) A nonprofit partner may not spend state money to:

(1) lobby or otherwise attempt to influence a member of the legislature; or

(2) directly or indirectly attempt to influence legislation. (Parks & Wild. Code, Secs. 11.207(a), (c).)

Source Law

Sec. 11.207. EXPENDITURES; LIMITS. (a) The department shall direct, by the terms of the contract or grant, how a nonprofit partner may spend any state money it receives.

(c) A nonprofit partner may not spend state money to:

(1) lobby or otherwise attempt to influence a member of the legislature; or

(2) directly or indirectly attempt to influence legislation.

Revised Law

Sec. 2060.0206. EXPENDITURES OF NONPROFIT PARTNER MONEY. A state employee may not directly spend or obligate a nonprofit partner's money. (Parks & Wild. Code, Sec. 11.207(b).)

Source Law

(b) A state employee may not directly spend or obligate a nonprofit partner's money.

Revised Law

Sec. 2060.0207. PROVISION OF CONSERVATION AND RECREATION PLAN. The department shall provide to each nonprofit partner a copy of the land and water resources conservation and recreation plan developed under Section 2102.0201. (Parks & Wild. Code, Sec. 11.204.)

Source Law

Sec. 11.204. PLAN. The department shall provide to each nonprofit partner a copy of the plan developed under Section 11.104.

Revisor's Note

Section 11.204, Parks and Wildlife Code, refers

to a "plan" developed under Section 11.104 of that code. Section 11.104 requires the Parks and Wildlife Department to prepare a land and water resources conservation and recreation plan. For clarity and the convenience of the reader, throughout this chapter, in this and similar contexts, the revised law substitutes "land and water resources conservation and recreation plan" for "plan" because it is clear the plan referenced in Section 11.204 is a land and water resources conservation and recreation plan. Additionally, throughout this chapter, in this and similar contexts, the revised law substitutes "Section 2102.0201" for "Section 11.104" because the pertinent part of Section 11.104 is revised as Section 2102.0201.

SUBCHAPTER C. OFFICIAL NONPROFIT PARTNER

Revised Law

Sec. 2060.0301. OFFICIAL NONPROFIT PARTNER. (a) The commission shall designate one nonprofit partner as the department's official nonprofit partner, unless the commission determines in writing that no nonprofit partner is capable of effectively implementing the goals of this subchapter.

(b) The official nonprofit partner must be dedicated to meeting department goals. (Parks & Wild. Code, Secs. 11.205(a), (b).)

Source Law

> Sec. 11.205. OFFICIAL NONPROFIT PARTNER. (a) The commission shall designate a single nonprofit partner as the official nonprofit partner of the department, unless the commission determines in writing that no nonprofit partner is capable of effectively implementing the goals of this section.
>
> (b) The official nonprofit partner must be dedicated to meeting department goals.

Revised Law

Sec. 2060.0302. GIFTS, GRANTS, AND DONATIONS. The official nonprofit partner may accept gifts, grants, and donations to

further department goals, including a gift, grant, or donation made in the name of the department. (Parks & Wild. Code, Sec. 11.205(c).)

Source Law

> (c) The official nonprofit partner may accept gifts, grants, and donations to further department goals, including a gift, grant, or donation made in the name of the department.

Revised Law

Sec. 2060.0303. LIMITATION ON USE OF STATE MONEY FOR CERTAIN PURPOSES. The official nonprofit partner may use state money to acquire property or engage in construction activities only if that action is consistent with the department's conservation and recreation priorities outlined in the land and water resources conservation and recreation plan developed under Section 2102.0201. (Parks & Wild. Code, Sec. 11.205(d).)

Source Law

> (d) The official nonprofit partner may use state money to acquire property or engage in construction activities only if that acquisition or construction is consistent with the department's conservation and recreation priorities outlined in the plan developed under Section 11.104.

Revised Law

Sec. 2060.0304. AUDIT OF OFFICIAL NONPROFIT PARTNER. (a) The official nonprofit partner shall be audited annually by an independent auditor. The partner shall file the audit with the commission.

(b) The official nonprofit partner's financial transactions involving and financial records relating to state money held by the partner are subject to audit by the state auditor as provided in Section 321.013, Government Code. (Parks & Wild. Code, Sec. 11.206.)

Source Law

> Sec. 11.206. AUDIT OF OFFICIAL NONPROFIT PARTNER. (a) The official nonprofit partner shall be audited annually by an independent auditor. The partner shall file the audit with the commission.
>
> (b) The official nonprofit partner's financial transactions involving and financial records relating to state money held by the nonprofit partner are

subject to audit by the state auditor as provided in Section 321.013, Government Code.

Revised Law

Sec. 2060.0305. ACCOUNTS FOR ORGANIZATIONS. The official nonprofit partner may organize and manage accounts for local nonprofit partners or other organizations to benefit a specific state park or other site under the department's jurisdiction. (Parks & Wild. Code, Sec. 11.205(e).)

Source Law

(e) The official nonprofit partner may organize and manage accounts for local nonprofit partners or other organizations to benefit a specific state park or other sites under the department's jurisdiction.

SUBCHAPTER D. PARTNERSHIP WITH NONPROFIT SERVING VETERANS

Revised Law

Sec. 2060.0401. DEFINITION. In this subchapter, "veteran" means a person who has served in the United States armed forces. (Parks & Wild. Code, Sec. 11.208(a).)

Source Law

Sec. 11.208. PARTNERSHIP WITH NONPROFIT SERVING VETERANS. (a) In this section, "veteran" means a person who has served in the United States armed forces.

Revised Law

Sec. 2060.0402. SELECTION OF NONPROFIT PARTNER SERVING VETERANS. (a) The department may select and cooperate with one or more nonprofit partners that exclusively serve veterans to promote hunting and fishing by those veterans.

(b) A selection under this section must be approved by the commission. (Parks & Wild. Code, Sec. 11.208(b).)

Source Law

(b) The department may select and cooperate with one or more nonprofit partners that exclusively serve veterans to promote hunting and fishing by those veterans. A selection under this section must be approved by the commission.

Revised Law

Sec. 2060.0403. SINGLE DAY HUNTING OR FISHING LICENSE EXEMPTION FOR VETERANS ACCOMPANIED BY NONPROFIT PARTNER REPRESENTATIVE. A veteran who is a resident of this state and who

is served by a nonprofit selected under Section 2060.0402 may, if accompanied by a representative of the nonprofit partner who holds the appropriate license:

(1) hunt on one day without holding a hunting license required under Chapter 5151; and

(2) fish on one day without holding a fishing license required under Chapter 5153 or 7281. (Parks & Wild. Code, Sec. 11.208(c).)

Source Law

(c) A veteran who is a resident of this state and who is served by a nonprofit selected under Subsection (b) may:

(1) hunt on one day without holding a hunting license required under Chapter 42 if accompanied by a representative of the nonprofit partner who holds the appropriate license; and

(2) fish on one day without holding a fishing license required under Chapter 46 if accompanied by a representative of the nonprofit partner who holds the appropriate license.

Revisor's Note

(1) Section 11.208(c)(1), Parks and Wildlife Code, refers to a hunting license required under Chapter 42 of that code. Chapter 42 is revised in pertinent part as Chapter 5151 of this code, and the revised law is drafted accordingly.

(2) Section 11.208(c)(2), Parks and Wildlife Code, refers to a fishing license required under Chapter 46 of that code. Chapter 46 is revised in pertinent part as Chapters 5153 and 7281 of this code, and the revised law is drafted accordingly.

Revised Law

Sec. 2060.0404. COMMISSION RULES. The commission by rule shall establish:

(1) criteria under which the department may select a nonprofit partner under this subchapter; and

(2) guidelines under which a representative of or a veteran served by a nonprofit partner may engage in hunting or fishing activities under this subchapter. (Parks & Wild. Code,

Sec. 11.208(d).)

Source Law

(d) The commission by rule shall establish:

(1) criteria under which the department may select a nonprofit partner under this section; and

(2) guidelines under which a representative of or a veteran served by a nonprofit partner may engage in hunting or fishing activities under this section.

CHAPTER 2061. OPERATION GAME THIEF

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 2061.0101. DEFINITIONS. In this chapter:

(1) "Committee" means the operation game thief committee established under this chapter.

(2) "Fund" means the operation game thief fund established under Subchapter M, Chapter 2052.

(3) "Program" means the operation game thief program established under this chapter. (New.)

Revisor's Note

The definitions of "committee," "fund," and "program" are added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definitions.

Revised Law

Sec. 2061.0102. TELEPHONE HOTLINE. The department may provide a toll-free telephone number for the use of the public in reporting violations of the game and fish laws to an office of the department that has employees on duty 24 hours a day. (Parks & Wild. Code, Sec. 12.205(1).)

Source Law

Sec. 12.205. POWERS OF THE DEPARTMENT. The department may:

(1) provide a toll-free telephone number for use of the public in reporting violations of the game and fish laws to an office of the department that has employees on duty 24 hours a day; and

. . .

SUBCHAPTER B. OPERATION GAME THIEF COMMITTEE

Revised Law

Sec. 2061.0201. COMPOSITION OF COMMITTEE. The operation game thief committee is composed of 11 members appointed by the executive director. (Parks & Wild. Code, Sec. 12.202(a) (part).)

Source Law

> Sec. 12.202. OPERATION GAME THIEF COMMITTEE. (a) The director shall appoint an Operation Game Thief Committee composed of 11 members . . . .

Revised Law

Sec. 2061.0202. QUALIFICATIONS; RECOMMENDATIONS. (a) The executive director shall appoint to the committee persons who have a demonstrated interest in game and fish conservation.

(b) The executive director may not appoint to the committee an employee of the department.

(c) The executive director may consider the recommendations or nominations of any club or association. (Parks & Wild. Code, Sec. 12.202(a) (part).)

Source Law

> (a) . . . The director shall appoint persons who are not employees of the department and who have a demonstrated interest in game and fish conservation. The director may consider the recommendations or nominations of any club or association. . . .

Revised Law

Sec. 2061.0203. OFFICERS. (a) The executive director shall designate a member of the committee as chair of the committee.

(b) The executive director shall appoint a former member of the committee to serve as chair emeritus. The chair emeritus has the same rights and duties as any other member of the committee.

(c) The executive director or an employee designated by the executive director shall serve as the secretary of the committee. (Parks & Wild. Code, Sec. 12.202(a) (part).)

Source Law

> (a) . . . The director shall designate one of the members as chairman of the committee. The director shall appoint a former committee member to serve as chairman emeritus. The chairman emeritus has the same rights and duties as any other committee member. The

director or an employee designated by the director for that purpose shall serve as secretary to the committee. . . .

Revised Law

Sec. 2061.0204. COMPENSATION. A member of the committee serves without compensation. (Parks & Wild. Code, Sec. 12.202(a) (part).)

Source Law

(a) . . . A member of the committee serves without compensation.

Revised Law

Sec. 2061.0205. TERM OF OFFICE. (a) Each member of the committee, including the chair emeritus, serves a term of six years.

(b) The terms of approximately one-third of the members, including the chair emeritus, expire on January 31 of each odd-numbered year.

(c) The executive director may reappoint a member. (Parks & Wild. Code, Sec. 12.202(b).)

Source Law

(b) Each member of the committee, including the chairman emeritus, serves a term of six years. The terms of approximately one-third of the members, including the chairman emeritus, expire on January 31 of each odd-numbered year. The director may reappoint members.

Revised Law

Sec. 2061.0206. MEETINGS. The committee shall meet at least once each calendar year at:

(1) the department's office in Austin; or

(2) a location designated by the chair of the committee. (Parks & Wild. Code, Sec. 12.202(c) (part).)

Source Law

(c) The committee shall meet at least one time each calendar year at the department's office in Austin or at a location designated by the chairman of the committee. . . .

Revised Law

Sec. 2061.0207. POWERS AND DUTIES; RULES. (a) The committee administers the fund and makes reward payments and death

benefit payments from the fund.

(b) The committee shall adopt rules for the implementation of the program and maintenance of the fund. (Parks & Wild. Code, Secs. 12.201 (part), 12.202(a) (part).)

Source Law

> Sec. 12.201. . . . The Operation Game Thief Committee shall adopt rules for the implementation of the operation game thief program and maintenance of the operation game thief fund.
>
> [Sec. 12.202]
> (a) [The director shall appoint an Operation Game Thief Committee] . . . to administer the operation game thief fund and to make reward payments and death benefit payments from that fund. . . .

Revised Law

Sec. 2061.0208. APPROVAL OF DISBURSEMENTS. (a) Four members of the committee must be present at a meeting of the committee for approval of a disbursement of:

(1) a reward to an eligible applicant; or

(2) a death benefit payment to an eligible recipient.

(b) If the vote for approval of a disbursement of a reward or death benefit results in a tie vote, the committee may not act on the disbursement before the next meeting of the committee. (Parks & Wild. Code, Sec. 12.202(c) (part).)

Source Law

> (c) . . . Four committee members must be present for approval of disbursement of rewards to eligible applicants and death benefit payments to eligible recipients. Except as provided by Subsection (d), if the vote for approval of disbursements of rewards or death benefits results in a tie vote, no action may be taken until the next meeting of the committee.

Revisor's Note

(1) Section 12.202(c), Parks and Wildlife Code, provides in part that four members of the operation game thief committee "must be present" to approve certain disbursements. For clarity, the revised law substitutes "must be present at a meeting of the committee" for the quoted language because it is clear from the context that a disbursement is approved at a

committee meeting.

(2) Section 12.202(c), Parks and Wildlife Code, provides that the operation game thief committee may not take action on the disbursement of a reward or death benefit until the next committee meeting following a tie vote on the vote for approval of the disbursement, "[e]xcept as provided by Subsection (d)" of that section. The revised law omits the quoted language because Section 12.202(d) was repealed by Section 29.02, Chapter 1170, Acts of the 78th Legislature, Regular Session, 2003.

SUBCHAPTER C. PAYMENTS FROM FUND

Revised Law

Sec. 2061.0301. REWARD CLAIM. (a) A person may apply to the committee for a reward to be paid from the fund if the person provides information leading to the arrest and conviction of a person for a violation of a provision of or a regulation adopted under:

(1) this code;

(2) Subchapter B, Chapter 365, Health and Safety Code;

(3) Subchapter E, Chapter 191, Natural Resources Code;

(4) Chapter 28 or Section 30.05, 31.03, 31.11, 37.10, 49.06, 49.061, 49.07, or 49.08, Penal Code;

(5) Chapter 160, Tax Code; or

(6) Subchapter E, Chapter 7, or Subchapter D, Chapter 26, Water Code.

(b) The committee may consider a claim made at any time before the committee's meeting if the claim relates to a final conviction.

(c) The committee shall prescribe and provide the forms on which a claim is made, including any documentation to be provided to substantiate the claim. (Parks & Wild. Code, Sec. 12.203.)

Source Law

Sec. 12.203. REWARDS; CLAIMS. (a) A person may

apply to the committee for a reward to be paid from the operation game thief fund if the person furnishes information leading to the arrest and conviction of a person for a violation of this code or any of the following laws or a regulation adopted under this code or any of the following laws:

(1) Subchapter B, Chapter 365, Health and Safety Code;

(2) Subchapter E, Chapter 191, Natural Resources Code;

(3) Chapter 28 or Section 30.05, 31.03, 31.11, 37.10, 49.06, 49.061, 49.07, or 49.08, Penal Code;

(4) Chapter 160, Tax Code; or

(5) Subchapter E, Chapter 7, or Subchapter D, Chapter 26, Water Code.

(b) The committee may consider claims made at any time before its meeting, but consideration is limited to claims that relate to final convictions.

(c) The committee shall prescribe and furnish the forms on which claims are to be made, including any documentation to be furnished to substantiate the claim.

Revised Law

Sec. 2061.0302. INELIGIBILITY FOR REWARD. The committee may not grant a reward to a person or an immediate family member of a person who is:

(1) a peace officer;

(2) a deputy game warden;

(3) a prosecutor;

(4) a department employee; or

(5) a member of the judiciary. (Parks & Wild. Code, Sec. 12.204 (part).)

Source Law

Sec. 12.204. . . . No reward may be granted to a person, or an immediate family member of a person, who is a peace officer, deputy game warden, prosecutor, employee of the department, or member of the judiciary.

Revised Law

Sec. 2061.0303. DEATH BENEFIT. (a) The committee may use the fund to supplement a death benefit received by the family of a peace officer who is employed by the department and is killed in the line of duty.

(b) The committee shall adopt guidelines for the payment of a death benefit under this section. (Parks & Wild. Code, Sec. 12.206.)

Source Law

Sec. 12.206. PAYMENT OF DEATH BENEFITS. The committee may use the operation game thief fund to supplement any death benefits received by the families of peace officers employed by the department who are killed in the line of duty. The committee shall adopt guidelines for the payment of death benefits under this section.

Revised Law

Sec. 2061.0304. LIMITATION ON AMOUNT OF REWARD OR DEATH BENEFIT. The committee may not pay more than the amount on deposit in the fund as:

(1) a reward under this chapter; or

(2) a death benefit under Section 2061.0303. (Parks & Wild. Code, Sec. 12.204 (part).)

Source Law

Sec. 12.204. REWARDS; PAYMENTS. No amount in excess of that on deposit in the operation game thief fund is payable as a reward under this section or as a death benefit payment under Section 12.206 of this code. . . .

Revisor's Note

Section 12.204, Parks and Wildlife Code, refers to an amount that is payable as a reward "under this section." The provisions of Section 12.204, as added by Section 1, Chapter 868, Acts of the 67th Legislature, Regular Session, 1981, expressly provided for the payment of a reward, but those provisions were repealed by Section 4, Chapter 245, Acts of the 70th Legislature, Regular Session, 1987. Provisions elsewhere in Subchapter C, Chapter 12, Parks and Wildlife Code, continue to refer to the approval of applications for rewards, and the revised law is drafted accordingly.

CHAPTER 2062. COMPLAINTS

Revised Law

Sec. 2062.0101. COMPLAINTS. The department shall maintain a system to promptly and efficiently act on complaints filed with the department. (Parks & Wild. Code, Sec. 11.0165(a) (part).)

Source Law

Sec. 11.0165. COMPLAINTS. (a) The department shall maintain a system to promptly and efficiently act on complaints filed with the department. . . .

Revised Law

Sec. 2062.0102. COMPLAINT PROCEDURE INFORMATION. The department shall make information available describing department procedures for complaint investigation and resolution. (Parks & Wild. Code, Sec. 11.0165(b).)

Source Law

(b) The department shall make information available describing its procedures for complaint investigation and resolution.

Revised Law

Sec. 2062.0103. NOTIFICATION OF STATUS OF COMPLAINT. The department shall periodically notify the complaint parties of the status of a complaint until final disposition unless the notice would jeopardize an investigation. (Parks & Wild. Code, Sec. 11.0165(c).)

Source Law

(c) The department shall periodically notify the complaint parties of the status of the complaint until final disposition unless the notice would jeopardize an investigation.

Revised Law

Sec. 2062.0104. RECORDS. The department shall maintain information about:

(1) parties to a complaint;

(2) the subject matter of a complaint;

(3) a summary of the results of a review or investigation of a complaint; and

(4) a complaint's disposition. (Parks & Wild. Code, Sec. 11.0165(a) (part).)

Source Law

(a) . . . The department shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

SUBTITLE C. MANAGEMENT AND CONSERVATION PLANS AND PROGRAMS

CHAPTER 2101. AQUATIC VEGETATION MANAGEMENT

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 2101.0101. DEFINITIONS. In this chapter:

(1) "Governing entity" means the state agency or political subdivision with jurisdiction over a public body of surface water.

(2) "Integrated pest management" means the coordinated use of pest and environmental information and pest control methods to prevent unacceptable levels of pest damage by the most economical means and in a manner that will cause the least possible hazard to persons, property, and the environment.

(3) "Licensed applicator" means a person licensed for aquatic herbicide application by the Department of Agriculture.

(4) "Local plan" means a local aquatic vegetation management plan authorized by Section 2101.0205.

(5) "Public body of surface water" means any body of surface water that is not:

(A) used exclusively for an agricultural purpose; or

(B) impounded on private property.

(6) "State plan" means the state aquatic vegetation management plan required by Section 2101.0201.

(7) "Water district" means a conservation and reclamation district or an authority created under Section 52(b)(1) or (2), Article III, or Section 59, Article XVI, Texas Constitution, that has jurisdiction over a public body of surface water. The term does not include a navigation district or a port authority. (Parks & Wild. Code, Secs. 11.081, 11.084(b) (part).)

Source Law

Sec. 11.081. DEFINITIONS. In this subchapter:

(1) "Governing entity" means the state agency or other political subdivision with jurisdiction over a public body of surface water.

(2) "Integrated pest management" means the

coordinated use of pest and environmental information and pest control methods to prevent unacceptable levels of pest damage by the most economical means and in a manner that will cause the least possible hazard to persons, property, and the environment.

(3) "Local plan" means a local aquatic vegetation management plan authorized by Section 11.083.

(4) "Public body of surface water" means any body of surface water that is not used exclusively for an agricultural purpose. The term does not include impounded water on private property.

(5) "State plan" means the state aquatic vegetation management plan authorized by Section 11.082 and developed and implemented under this subchapter.

(6) "Water district" means a conservation and reclamation district or an authority created under authority of Section 52(b)(1) or (2), Article III, or Section 59, Article XVI, Texas Constitution, that has jurisdiction over a public body of surface water. The term does not include a navigation district or a port authority.

[Sec. 11.084]

(b) . . . an applicator licensed for aquatic herbicide application by the Department of Agriculture.

Revisor's Note

(1) Section 11.081(5), Parks and Wildlife Code, refers to the state aquatic vegetation management plan authorized by Section 11.082 of that code. Section 11.082 is revised in pertinent part as Section 2101.0201, and the revised law is drafted accordingly.

(2) The definition of "licensed applicator" is added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definition.

Revised Law

Sec. 2101.0102. LIABILITY. (a) This chapter does not affect the liability under other law of a governing entity that receives notice of a proposed application of aquatic herbicide.

(b) Notice by a governing entity to an individual under Section 2101.0303(b)(2) does not constitute authorization by the entity for the aquatic herbicide application.

(c) This chapter does not relieve an individual who applies aquatic herbicide to a public body of surface water of the obligation to comply with all applicable federal, state, and local

laws, rules, ordinances, and orders relating to the application of the herbicide in that body of water. (Parks & Wild. Code, Sec. 11.085.)

Source Law

> Sec. 11.085. LIABILITY. (a) The liability under other law of a governing entity that receives notice of a proposed application of aquatic herbicide is not affected by the requirements of this subchapter.
>
> (b) Notice by a governing entity to an individual under Section 11.084(f)(2) does not constitute authorization by that entity for the application of the herbicide.
>
> (c) This subchapter does not relieve an individual who applies aquatic herbicide to a public body of surface water of the obligation to comply with all applicable federal, state, or local laws, rules, ordinances, or orders relating to the application of the herbicide in the body of water.

Revised Law

Sec. 2101.0103. RECORDS. A governing entity shall maintain for at least five years:

(1) all records relating to notices received under Sections 2101.0302 and 2101.0303; and

(2) any other information relevant to a request for shoreline treatment. (Parks & Wild. Code, Sec. 11.086.)

Source Law

> Sec. 11.086. RECORDS. A governing entity shall maintain for not less than five years all records relating to notifications received under Section 11.084 and any other information relevant to a particular individual request for shoreline treatment.

Revisor's Note

Section 11.086, Parks and Wildlife Code, refers to "notifications" received under Section 11.084 of that code. The revised law substitutes "notices" for "notifications" for clarity and consistency in terminology used in this chapter and because "notice" is the term used in Section 11.084. Additionally, the revised law substitutes "Sections 2101.0302 and 2101.0303" for "Section 11.084" because the pertinent parts of Section 11.084 are revised as Sections

2101.0302 and 2101.0303.

SUBCHAPTER B. AQUATIC VEGETATION MANAGEMENT PLANS

Revised Law

Sec. 2101.0201. DEVELOPMENT OF STATE PLAN. (a) The department shall develop and by rule adopt a state aquatic vegetation management plan. The plan must follow the generally accepted principles of integrated pest management.

(b) The department shall develop the state plan in coordination with:

(1) the Texas Commission on Environmental Quality;

(2) the Department of Agriculture;

(3) water districts and other political subdivisions of the state with jurisdiction over public bodies of surface water; and

(4) public drinking water providers. (Parks & Wild. Code, Secs. 11.082(a) (part), (b).)

Source Law

> Sec. 11.082. STATE AQUATIC VEGETATION MANAGEMENT PLAN. (a) The department shall develop and by rule adopt a state aquatic vegetation management plan following the generally accepted principles of integrated pest management. . . .
>
> (b) The department shall develop the state plan in coordination with the Texas Commission on Environmental Quality, the Department of Agriculture, water districts and other political subdivisions of the state with jurisdiction over public bodies of surface water, and public drinking water providers.

Revised Law

Sec. 2101.0202. APPLICABILITY OF STATE PLAN. The state plan applies throughout the state unless a governing entity has adopted an approved local plan. (Parks & Wild. Code, Sec. 11.082(a) (part).)

Source Law

> (a) . . . The state plan shall apply throughout the state unless a governmental entity has adopted an approved local plan.

Revisor's Note

Section 11.082(a), Parks and Wildlife Code, refers to a local plan adopted by a "governmental

entity." The revised law substitutes "governing entity" for "governmental entity" because "governing entity" is the term defined by Section 11.081(1), Parks and Wildlife Code, revised as Section 2101.0101(1), and because Section 11.083(a), Parks and Wildlife Code, revised in pertinent part as Section 2101.0205(a), authorizes a "governing entity" and not a "governmental entity" to adopt a local plan.

Revised Law

Sec. 2101.0203. REQUIREMENTS OF STATE PLAN. The state plan must:

(1) establish minimum standards for a governing entity that regulates a public body of surface water;

(2) require that any aquatic herbicide application complies with label rates approved by the United States Environmental Protection Agency;

(3) ensure that any public drinking water provider that has an intake within two river miles of a site at which an aquatic herbicide application is proposed to occur receives notice of the proposed application not later than the 14th day before the date the application is to occur;

(4) provide for the coordination, oversight, public notification, and enforcement of all aquatic herbicide use to protect state fish and wildlife resources and habitat and to prevent unreasonable risk from the use of any aquatic herbicide; and

(5) require that the written notice of a proposed aquatic herbicide application include information demonstrating that the proposed application under a plan will not result in exceeding:

(A) the maximum contaminant level of the herbicide in finished drinking water as set by the Texas Commission on Environmental Quality and the United States Environmental Protection Agency; or

(B) the maximum label rate, if the herbicide does not have a maximum contaminant level established by the Texas Commission on Environmental Quality and the United States Environmental Protection Agency. (Parks & Wild. Code, Sec. 11.082(c).)

Source Law

(c) The state plan must:

(1) establish minimum standards for a governing entity that regulates a public body of surface water;

(2) require that any application of aquatic herbicide complies with label rates approved by the United States Environmental Protection Agency;

(3) ensure that any public drinking water provider that has an intake within two river miles of a site at which an application of aquatic herbicide is proposed to occur receives notice of the proposed application not later than the 14th day before the date the application is to occur;

(4) provide for the coordination, oversight, public notification, and enforcement of all aquatic herbicide use to protect state fish and wildlife resources and habitat and to prevent unreasonable risk from the use of any aquatic herbicide; and

(5) require that the written notice of a proposed application of herbicide include information demonstrating that the proposed application of herbicide under a plan will not result in exceeding:

(A) the maximum contaminant level of the herbicide in finished drinking water as set by the Texas Commission on Environmental Quality and the United States Environmental Protection Agency; or

(B) the maximum label rate, if the aquatic herbicide does not have a maximum contaminant level established by the Texas Commission on Environmental Quality and the United States Environmental Protection Agency.

Revised Law

Sec. 2101.0204. DEPARTMENT ASSISTANCE TO LOCAL GOVERNMENTS. (a) In this section, "local government" includes any political subdivision with jurisdiction over a public body of surface water.

(b) In administering the state plan, the department shall consult with, advise, provide resources to, and otherwise assist local governments regarding aquatic vegetation management and control. (Parks & Wild. Code, Sec. 11.082(d).)

Source Law

(d) In administering the state plan, the department shall consult with, advise, provide

resources to, and otherwise assist local governments regarding aquatic vegetation management and control. In this subsection, "local government" includes any political subdivision with jurisdiction over a public body of surface water.

Revised Law

Sec. 2101.0205. LOCAL PLAN. (a) A governing entity may develop and adopt a local aquatic vegetation management plan.

(b) A local plan may:

(1) take into account the particular needs and uses of the public bodies of surface water to which the plan will apply; and

(2) allow aquatic herbicide application if the person proposing to apply the herbicide notifies the governing entity not later than the 14th day before the proposed date of application.

(c) A local plan must be approved by:

(1) the department;

(2) the Texas Commission on Environmental Quality; and

(3) the Department of Agriculture.

(d) A local plan may not be approved unless the plan meets the minimum standards set by the state plan. (Parks & Wild. Code, Sec. 11.083.)

Source Law

Sec. 11.083. LOCAL AQUATIC VEGETATION MANAGEMENT PLAN. (a) A governing entity may develop and adopt a local aquatic vegetation management plan. A local plan must be approved by the department, the Texas Commission on Environmental Quality, and the Department of Agriculture.

(b) A local plan may take into account the particular needs and uses of the public bodies of surface water to which it will apply, but the plan may not be approved unless the plan meets the minimum standards set by the state plan. The local plan may allow herbicide use if the person proposing to apply the herbicide notifies the governing entity not later than the 14th day before the proposed date of application.

SUBCHAPTER C. AQUATIC HERBICIDE APPLICATION

Revised Law

Sec. 2101.0301. CONSISTENCY WITH STATE OR LOCAL PLAN REQUIRED FOR AQUATIC HERBICIDE APPLICATION. A person may not apply aquatic herbicide in a public body of surface water unless the person applies the herbicide in a manner consistent with the state

plan or an applicable local plan. (Parks & Wild. Code, Sec. 11.084(a).)

Source Law

> Sec. 11.084. APPLICATION OF AQUATIC HERBICIDE IN PUBLIC BODY OF SURFACE WATER. (a) No person may apply aquatic herbicide in a public body of surface water unless the herbicide is applied in a manner consistent with the plan adopted by the governing entity.

Revisor's Note

Section 11.084(a), Parks and Wildlife Code, refers to the application of aquatic herbicide in a manner consistent with "the plan adopted by the governing entity." For clarity and the convenience of the reader, the revised law substitutes "the state plan or an applicable local plan" for the quoted language because "state plan" and "local plan" are defined terms in this chapter and it is clear that the plan referred to is either the state plan or an applicable local plan.

Revised Law

Sec. 2101.0302. PROPOSED AQUATIC HERBICIDE APPLICATION. (a) An individual who is not a licensed applicator and who desires to apply an aquatic herbicide on a public body of surface water must give written notice not later than the 14th day before the date the application is to occur to the governing entity with jurisdiction over the body of water on which the application is proposed. The governing entity shall respond to the individual's notice not later than the day before the date the aquatic herbicide application is to occur. The individual may not apply the aquatic herbicide unless the governing entity finds that the application will be consistent with the state plan or an applicable local plan.

(b) The state plan may provide for an aquatic herbicide application consistent with the plan if:

(1) the individual who desires to apply the herbicide gives notice to the appropriate governing entity in the manner

provided by Subsection (a); and

(2) the governing entity does not disapprove the application. (Parks & Wild. Code, Secs. 11.084(c), (d).)

Source Law

(c) An individual who does not hold an applicator's license and who desires to apply an aquatic herbicide on a public body of surface water shall give written notice not later than the 14th day before the date the application of the aquatic herbicide is to occur to the governing entity with jurisdiction over the body of water on which the application of the herbicide is proposed. The governing entity shall respond to the individual's application not later than the day before the date the application of the aquatic herbicide is to occur. The individual may not apply the aquatic herbicide unless the governing entity finds that the application will be consistent with the state or local plan adopted by the entity.

(d) The state plan may provide for use of an aquatic herbicide consistent with the plan if:

(1) the individual who desires to apply the aquatic herbicide gives notice to the appropriate governing entity in the same manner as provided by Subsection (c) for an unlicensed applicator; and

(2) the governing entity does not disapprove the application.

Revisor's Note

Section 11.084(c), Parks and Wildlife Code, refers to a governing entity's response to an individual's "application." The revised law substitutes "notice" for "application" for clarity and consistency in terminology used in this chapter.

Revised Law

Sec. 2101.0303. RESPONSE TO PROPOSED AQUATIC HERBICIDE APPLICATION. (a) After receiving notice of a proposed aquatic herbicide application, the governing entity shall:

(1) provide the individual proposing the application with a copy of the state or local plan, as appropriate;

(2) notify the individual in writing that an aquatic herbicide application in the body of water in a manner inconsistent with the plan is a violation of state law; and

(3) determine whether the proposed application is consistent with the plan.

(b) The governing entity shall:

(1) prohibit a proposed aquatic herbicide application if the governing entity finds that the application is inconsistent with the appropriate plan; or

(2) notify the individual proposing the application that the application is consistent with the appropriate plan if the governing entity finds that the application is consistent with the plan. (Parks & Wild. Code, Secs. 11.084(e), (f).)

Source Law

> (e) After receiving notice of a proposed application of aquatic herbicide, the governing entity shall:
>
> (1) provide the individual proposing the application with a copy of the state or local plan, as appropriate;
>
> (2) notify the individual in writing that it is a violation of state law to apply aquatic herbicides in that body of water in a manner inconsistent with the plan; and
>
> (3) determine whether the proposed application is consistent with the plan.
>
> (f) The governing entity shall:
>
> (1) prohibit a proposed application of aquatic herbicide if the governing entity finds that the proposed application is inconsistent with the appropriate plan; or
>
> (2) notify the individual proposing the application of the herbicide that the proposed application is not inconsistent with the appropriate plan if the governing entity finds that the proposed application is not inconsistent with the plan.

Revised Law

Sec. 2101.0304. RESTRICTION ON USE OF STATE MONEY FOR HERBICIDE TREATMENT. State money may not be used to pay for treatment of a public body of surface water with a chemical herbicide unless the herbicide application is performed by a licensed applicator. (Parks & Wild. Code, Sec. 11.084(b) (part).)

Source Law

> (b) State money may not be used to pay for treatment of a public body of surface water with a chemical herbicide unless the application of the herbicide is performed by an applicator licensed [for aquatic herbicide application by the Department of Agriculture].

CHAPTER 2102. DEVELOPMENT, CONSERVATION, AND RECREATION PLANS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 2102.0101. DEFINITION. In this chapter,

"conservation" includes the conservation of historical, natural, recreational, and wildlife resources. (Parks & Wild. Code, Sec. 11.101.)

Source Law

> Sec. 11.101. DEFINITION. In this subchapter, "conservation" includes the conservation of historical, natural, recreational, and wildlife resources.

Revised Law

Sec. 2102.0102. DEVELOPMENT PLAN APPROVAL REQUIRED. (a) The department must obtain approval from the commission for each development plan required by statute for a geographical area managed by the department.

(b) The commission shall hold a hearing on approval of the plan. (Parks & Wild. Code, Sec. 11.102.)

Source Law

> Sec. 11.102. PLAN APPROVAL; HEARING REQUIRED. (a) The department must obtain approval from the commission for each development plan required by statute for a geographical area managed by the department.
>
> (b) The commission shall hold a hearing on approval of the plan.

Revised Law

Sec. 2102.0103. INVENTORY; DATABASE. (a) The department shall inventory all land and water associated with historical, natural, recreational, and wildlife resources in this state that are owned by:

(1) a governmental entity; or

(2) a nonprofit entity that offers access to the land or water to the public.

(b) The department's inclusion of a specific parcel of land in the inventory does not create any additional right of public access to that land.

(c) The department shall use existing inventory information concerning the land identified in Subsection (a)(1) if possible.

(d) The department shall:

(1) create a permanent database of the resources

inventoried under Subsection (a); and

(2) at least once every 10 years, update the database as necessary to reflect changes in the resources. (Parks & Wild. Code, Secs. 11.103, 11.104(b).)

Source Law

Sec. 11.103. INVENTORY. (a) The department shall inventory all land and water associated with historical, natural, recreational, and wildlife resources in this state that are owned by:

(1) governmental entities; or

(2) nonprofit entities that offer access to the land or water to the public.

(b) The department shall use existing inventory information concerning the lands identified in Subsection (a)(1) whenever possible.

(c) The department shall create a permanent database of the resources inventoried under Subsection (a). At least once every 10 years, the department shall update the database as necessary to reflect changes in the resources.

[Sec. 11.104]

(b) The inclusion of a specific parcel of land in the inventory does not create any additional right of public access to that land.

SUBCHAPTER B. CONSERVATION AND RECREATION MANAGEMENT

Revised Law

Sec. 2102.0201. LAND AND WATER RESOURCES CONSERVATION AND RECREATION PLAN. (a) Using the inventory prepared under Section 2102.0103, the department shall:

(1) analyze the state's existing and future land and water conservation and recreation needs;

(2) identify threatened land and water resources in this state; and

(3) establish the relative importance for conservation purposes of particular resources listed in the inventory.

(b) The department shall prepare a land and water resources conservation and recreation plan based on the analysis made under Subsection (a).

(c) The plan must include:

(1) criteria for determining how to meet the state's conservation and recreation needs; and

(2) measures of the effectiveness of the department in meeting the goals and objectives of the plan, including, where possible, quantifiable measures.

(d) The department shall revise the plan as necessary to reflect changes in the inventory developed under Section 2102.0103.

(e) Every five years the department shall evaluate progress toward achieving the goals and objectives of the plan. The department's evaluation must:

(1) include the effectiveness measures under Subsection (c)(2); and

(2) identify:

(A) the goals and objectives met by the department; and

(B) reasons for any unmet goals or objectives.

(f) On completion of an evaluation under Subsection (e), the department shall develop and implement practices designed to improve progress toward meeting the goals and objectives of the plan. (Parks & Wild. Code, Secs. 11.104(a), (c), (f), (g).)

Source Law

Sec. 11.104. LAND AND WATER RESOURCES CONSERVATION AND RECREATION PLAN. (a) Using the inventory prepared under Section 11.103, the department shall:

(1) analyze the state's existing and future land and water conservation and recreation needs;

(2) identify threatened land and water resources in this state; and

(3) establish the relative importance for conservation purposes of particular resources listed in the inventory.

(c) Based on the analysis made under Subsection (a), the department shall prepare a land and water resources conservation and recreation plan. The department shall revise the plan as necessary to reflect changes in the inventory developed under Section 11.103. The plan must include:

(1) criteria for determining how to meet the state's conservation and recreation needs; and

(2) measures of the effectiveness of the department in meeting the goals and objectives of the plan, including, where possible, quantifiable measures.

(f) Every five years the department shall evaluate progress towards achieving the goals and objectives of the plan prepared under Subsection

(c). The department's evaluation must:

(1) include the effectiveness measures under Subsection (c)(2); and

(2) identify:

(A) the goals and objectives met by the department; and

(B) reasons for any unmet goals or objectives.

(g) On completion of an evaluation under Subsection (f), the department shall develop and implement practices designed to improve progress towards meeting the goals and objectives of the plan.

Revised Law

Sec. 2102.0202. CONSISTENCY OF OTHER PLANS. The department shall modify any existing plans regarding parks and wildlife management areas to make the plans consistent with the land and water resources conservation and recreation plan. (Parks & Wild. Code, Sec. 11.104(d).)

Source Law

(d) The department shall modify any existing plans regarding parks and wildlife management areas to make the existing plans consistent with the land and water resources conservation and recreation plan developed under this section.

Revised Law

Sec. 2102.0203. DECISIONS REGARDING CONSERVATION NEEDS. The department shall base the department's decisions regarding the state's conservation needs on the criteria developed in the land and water resources conservation and recreation plan, including decisions relating to:

(1) the acquisition of new resources for the conservation and recreation purposes of the department;

(2) the divestiture of existing department-owned resources;

(3) department grants to local parks;

(4) department cooperation with private conservation organizations and landowners, including associations of landowners; and

(5) other major land conservation operations of the department. (Parks & Wild. Code, Sec. 11.104(e).)

Source Law

(e) The department shall base its decisions

regarding the state's conservation needs on the criteria developed in the plan, including decisions relating to:

(1) the acquisition of new resources for the conservation and recreation purposes of the department;

(2) the divestiture of existing department-owned resources;

(3) department grants to local parks;

(4) department cooperation with private conservation organizations and landowners, including associations of landowners; and

(5) other major land conservation operations of the department.

Revised Law

Sec. 2102.0204. COORDINATION OF CONSERVATION AND RECREATION ACTIVITIES. The department shall:

(1) consider all resources listed in the inventory prepared under Section 2102.0103 in conjunction with each other;

(2) coordinate department activities related to those resources internally and with similar activities of other governmental or nonprofit entities; and

(3) set priorities for department activities related to those resources according to the most vital existing and future needs for conservation and recreation. (Parks & Wild. Code, Sec. 11.105.)

Source Law

Sec. 11.105. COORDINATION OF CONSERVATION AND RECREATION OPERATIONS. The department shall:

(1) consider all resources listed in the inventory prepared under Section 11.103 in conjunction with each other;

(2) coordinate department activities related to those resources internally and with similar activities of other governmental or nonprofit entities; and

(3) set priorities for department activities related to those resources according to the most vital existing and future needs for conservation and recreation.

Revised Law

Sec. 2102.0205. EXEMPTIONS. Sections 2102.0201 and 2102.0203 do not apply to:

(1) property that is part of a fund created or specifically authorized by the constitution of this state that is administered by or with the assistance of the School Land Board or the General Land Office;

(2) land, water, or other property owned by the permanent university fund; or

(3) land, water, or other property owned by, administered by, or held for the use and benefit of an institution of higher education as defined by Section 61.003, Education Code. (Parks & Wild. Code, Sec. 11.106.)

Source Law

Sec. 11.106. EXEMPTIONS. Section 11.104 does not apply to:

(1) property that is part of a fund created or specifically authorized by the constitution of this state that is administered by or with the assistance of the School Land Board or the General Land Office; or

(2) land, water, or property owned by the permanent university fund or any other land, water, or property owned by, administered by, or held for the use and benefit of an institution of higher education, as that term is defined in Section 61.003, Education Code.

Revisor's Note

Section 11.106, Parks and Wildlife Code, refers to Section 11.104 of that code. Section 11.104 is revised in pertinent part as Sections 2102.0201 and 2102.0203, and the revised law is drafted accordingly.

CHAPTER 2103. STATE WETLANDS CONSERVATION PLAN

Revised Law

Sec. 2103.0101. DEFINITIONS. In this chapter:

(1) "Land office" means the General Land Office.

(2) "Mitigation" means the sequential process of avoiding impacts to wetlands, minimizing impacts to wetlands, and providing compensation for losses to wetlands.

(3) "State-owned coastal wetlands" mean wetlands owned by state agencies underlying or adjacent to tidal waters. (Parks & Wild. Code, Secs. 14.001(2), (3), (4).)

Source Law

Sec. 14.001. DEFINITIONS. In this chapter:

. . .

(2) "Land office" means the General Land Office.

(3) "Mitigation" means the sequential process of avoiding impacts to wetlands, minimizing impacts to wetlands, and providing compensation for losses to wetlands.

(4) "State-owned coastal wetlands" mean wetlands owned by state agencies underlying or adjacent to tidal waters.

Revisor's Note

Section 14.001(1), Parks and Wildlife Code, defines "department." The revised law omits the definition because it duplicates the definition of that term in Section 1001.0104 of this code, which applies throughout this code. The omitted law reads:

(1) "Department" means the Parks and Wildlife Department.

Revised Law

Sec. 2103.0102. DEVELOPMENT OF STATE WETLANDS CONSERVATION PLAN. (a) The department and the land office, in conjunction, shall develop and adopt a state wetlands conservation plan for state-owned coastal wetlands.

(b) The Texas Commission on Environmental Quality, other state agencies, and local governments shall assist in developing and implementing the plan.

(c) The department and the land office shall consult with federal agencies in developing and adopting the plan. (Parks & Wild. Code, Sec. 14.002(a).)

Source Law

Sec. 14.002. STATE-OWNED WETLAND CONSERVATION PLAN. (a) The department and the land office, in conjunction, shall develop and adopt a State Wetlands Conservation Plan for state-owned coastal wetlands. The Texas Commission on Environmental Quality and other state agencies and local governments shall assist in developing and implementing the plan. The department and the land office shall consult with federal agencies in developing and adopting the plan.

Revised Law

Sec. 2103.0103. PLAN REQUIREMENTS. The state wetlands conservation plan must include:

(1) a definition of the term "wetlands" consistent to the greatest extent practicable with the definition under Subchapter J, Chapter 11, Water Code, and federal law;

(2) a policy framework for achieving a goal of no overall net loss of state-owned coastal wetlands, including

monitoring and enforcement of the no overall net loss policy;

(3) provisions for an inventory of state-owned coastal wetlands to determine gains and losses in areal extent, wetland types, wetland function, and the causes of wetlands alterations;

(4) provisions for an inventory of sites for compensatory mitigation, enhancement, restoration, and acquisition priorities;

(5) clarification and unification of wetland mitigation policies within the department, the land office, the Texas Commission on Environmental Quality, and other state agencies and subdivisions;

(6) development of guidelines and regulations for mitigation done in advance for losses due to possible future development and for which credit may be received when the future development occurs;

(7) evaluation of requirements of freshwater inflow to estuaries that affect state-owned coastal wetlands;

(8) preparations for a long-range navigational dredging and disposal plan, in consultation with the Texas Department of Transportation, port authorities, and navigation districts, including the recommendations set out in the department's Texas Outdoor Recreation Plan;

(9) provisions for scientific studies examining the effects of boat traffic in sensitive coastal wetland areas and for education of the public with regard to the effects of boating in wetlands and proper nondamaging boating techniques;

(10) provisions to encourage the reduction of nonpoint source pollution of coastal wetlands, bays, and estuaries, in consultation with the Texas Commission on Environmental Quality, including the monitoring and adoption of nonpoint source pollution standards as the standards are developed by authorized state and federal agencies;

(11) development of a networking strategy to improve coordination among existing federal and state agencies with respect

to coastal wetland permitting, review, and protection responsibilities, including the assessment of current state agency permitting and other processes concerning coastal wetlands;

(12) a public education program on wetlands with the joint responsibility for the production of program material to be that of the land office and the department;

(13) provisions for participation in the establishment of a national wetlands information center by the federal government;

(14) evaluation of the feasibility and effect of sediment bypassing from reservoirs to bays and estuaries;

(15) consideration of sea level rise as the rise relates to coastal wetlands;

(16) provisions consistent with the department's Texas Wetlands Plan;

(17) a plan to acquire coastal wetlands, following the guidelines provided for in Subchapter G, Chapter 33, Natural Resources Code; and

(18) any other matter affecting state-owned coastal wetlands. (Parks & Wild. Code, Sec. 14.002(b).)

Source Law

(b) The plan shall include:

(1) a definition of the term "wetlands" consistent to the greatest extent practicable with the definition under Subchapter J, Chapter 11, Water Code, and federal law;

(2) a policy framework for achieving a goal of no overall net loss of state-owned coastal wetlands, which framework shall include monitoring and enforcement of the no overall net loss policy;

(3) provisions for an inventory of state-owned coastal wetlands to determine gains and losses in areal extent, wetland types, wetland function, and the causes of wetlands alterations;

(4) provisions for an inventory of sites for compensatory mitigation, enhancement, restoration, and acquisition priorities;

(5) clarification and unification of wetland mitigation policies within the department, the land office, and the Texas Commission on Environmental Quality, and other state agencies and subdivisions;

(6) development of guidelines and regulations for mitigation done in advance for losses due to possible future development and for which credit may be received when such future development occurs;

(7) evaluation of requirements of freshwater inflow to estuaries that affect state-owned coastal wetlands;

(8) preparations for a long-range navigational dredging and disposal plan, in consultation with the Texas Department of Transportation, port authorities, and navigation districts, including the recommendations set out in the department's Texas Outdoor Recreation Plan;

(9) provisions for scientific studies examining the effects of boat traffic in sensitive coastal wetland areas and for education of the public with regard to the effects of boating in wetlands and proper nondamaging boating techniques;

(10) provisions to encourage the reduction of nonpoint source pollution of coastal wetlands, bays, and estuaries, in consultation with the Texas Commission on Environmental Quality, including the monitoring and adoption of nonpoint source pollution standards as they are developed by authorized state and federal agencies;

(11) development of a networking strategy to improve coordination among existing federal and state agencies with respect to coastal wetland permitting, review, and protection responsibilities, including the assessment of current state agency permitting and other processes concerning coastal wetlands;

(12) a public education program on wetlands with the responsibility for the production of such material to be jointly that of the land office and the department;

(13) participation in the establishment of a National Wetlands Information Center by the federal government;

(14) evaluation of the feasibility and effect of sediment bypassing from reservoirs to bays and estuaries;

(15) consideration of sea level rise as it relates to coastal wetlands;

(16) provisions consistent with the department's Texas Wetlands Plan;

(17) a plan to acquire coastal wetlands, following the guidelines provided for in Subchapter G, Chapter 33, Natural Resources Code; and

(18) any other matter affecting state-owned coastal wetlands.

Revised Law

Sec. 2103.0104. APPROVAL OF PLAN; RULES. (a) The department and the land office shall submit the state wetlands conservation plan to the commission and the School Land Board for review, comments, and approval.

(b) After approval of the plan, the commission and the School Land Board shall adopt rules, policies, standards, and guidelines to implement the plan. (Parks & Wild. Code, Secs. 14.002(c), (d).)

Source Law

(c) The department and the land office shall submit the plan to the Parks and Wildlife Commission and the School Land Board for review, comments, and approval.

(d) Following approval of the plan, the Parks and Wildlife Commission and the School Land Board shall adopt rules, policies, standards, and guidelines to implement the plan fully.

Revised Law

Sec. 2103.0105. GIFTS, GRANTS, AND DONATIONS. The department and the land office may apply for, request, solicit, contract for, receive, and accept gifts, grants, donations, and other assistance from any source to carry out the powers and duties provided by this chapter. (Parks & Wild. Code, Sec. 14.003.)

Source Law

Sec. 14.003. GIFTS AND GRANTS. The department and the land office may apply for, request, solicit, contract for, receive, and accept gifts, grants, donations, and other assistance from any source to carry out the powers and duties provided by this subchapter.

CHAPTER 2104. FISHERIES MANAGEMENT

Revised Law

Sec. 2104.0101. FISHERY MANAGEMENT PROGRAMS. The department may cooperate with the Gulf of Mexico Fishery Management Council established under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. Section 1801 et seq.) in developing state management programs that are consistent with plans proposed by the council and approved by the secretary of commerce. (Parks & Wild. Code, Sec. 79.001.)

Source Law

Sec. 79.001. COMPLIANCE. The department is authorized to cooperate with the Gulf of Mexico Fishery Management Council established pursuant to the Fishery Conservation and Management Act of 1976 (16 U.S.C.A. Section 1801 et seq.), in developing state management programs which are consistent with plans proposed by the council and approved by the secretary of commerce.

Revised Law

Sec. 2104.0102. ADOPTION AND MODIFICATION OF CERTAIN RULES. (a) The department may follow the procedures under Section

2051.0107 or Chapter 5101 or 5251 in adopting rules for the harvest of any species of marine life subject to the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. Section 1801 et seq.).

(b) The commission may delegate to the executive director the powers and duties provided by this chapter for taking immediate action as necessary to modify state coastal fisheries regulations in order to provide for consistency with federal regulations in the exclusive economic zone. (Parks & Wild. Code, Sec. 79.002.)

Source Law

> Sec. 79.002. AUTHORITY. The department may follow procedures outlined in Section 12.027, Chapter 61, or Chapter 77 of this code in promulgating rules for harvest of any and all species of marine life subject to the Fishery Conservation and Management Act of 1976 (16 U.S.C.A. Section 1801 et seq.). The commission may delegate to the director the duties, responsibilities, and authority provided by this chapter for taking immediate action as necessary to modify state coastal fisheries regulations in order to provide for consistency with federal regulations in the exclusive economic zone.

Revisor's Note

(1) Section 79.002, Parks and Wildlife Code, authorizes the Parks and Wildlife Department to follow certain procedures in "promulgating" rules for the harvest of marine species. The revised law substitutes "adopting" for "promulgating" for the reasons stated in the revisor's note to Section 2004.0306.

(2) Section 79.002, Parks and Wildlife Code, refers to the "duties, responsibilities, and authority" of the executive director of the Parks and Wildlife Department. The revised law omits "responsibilities" because, in context, "responsibilities" is included in the meaning of "duties." The revised law substitutes "powers" for "authority" because, in context, "authority" is synonymous with "powers" and the phrase "powers and

duties" is more commonly used.

Revised Law

Sec. 2104.0103. SUSPENSION OF OTHER LAWS. Notwithstanding Chapter 5101 or Title 7, the commission shall exercise the powers under Section 2104.0102, and a conflicting provision limiting the area, species to which applicable, or special seasons is suspended for the period specified in the proclamation of the commission on the date the proclamation becomes effective. (Parks & Wild. Code, Sec. 79.003.)

Source Law

> Sec. 79.003. SUSPENSION OF OTHER LAWS. Irrespective of exclusions or limited application of the Wildlife Conservation Act of 1983 (Chapter 61 of this code) or any chapter in Title 7 of this code the commission shall exercise the authority set out in Section 79.002 of this code and conflicting provisions limiting the area, species to which applicable, or special seasons, are hereby suspended when the proclamation of the commission becomes effective, but only for the period specified in such proclamation.

SUBTITLE Z. ENFORCEMENT

CHAPTER 2951. GENERAL ENFORCEMENT PROVISIONS

Revised Law

Sec. 2951.0101. ENFORCEMENT OF CODE. A peace officer, including a peace officer commissioned by the executive director, may enforce any provision of this code. (Parks & Wild. Code, Sec. 11.0191.)

Source Law

> Sec. 11.0191. ENFORCEMENT OF CODE. Law enforcement officers commissioned by the director and any other peace officers have the authority to enforce all provisions of this code.

Revisor's Note

(1) Section 11.0191, Parks and Wildlife Code, refers to "[l]aw enforcement officers" commissioned by the executive director of the Parks and Wildlife Department. The revised law substitutes "peace officer" for "law enforcement officer" for the reason stated in the revisor's note to Section 2003.0102.

(2) Section 11.0191, Parks and Wildlife Code,

provides that certain law enforcement and peace officers "have the authority to" enforce the provisions of the Parks and Wildlife Code. The revised law substitutes "may" for the quoted language because "may" is consistent with modern usage and the phrases have the same meaning when construed under Section 311.016(1), Government Code (Code Construction Act), which provides that "may" creates a discretionary authority or grants permission or a power.

CHAPTER 2952. CRIMINAL PENALTIES AND PROCEDURES

SUBCHAPTER A. PENALTIES FOR PARKS AND WILDLIFE CODE OFFENSES

Revised Law

Sec. 2952.0101. IMPOSITION OF CRIMINAL PENALTIES. A person adjudged guilty of an offense under this code or a proclamation or regulation adopted under this code shall be punished in accordance with this subchapter, Subchapter B, Section 5951.0202, and the Code of Criminal Procedure. (Parks & Wild. Code, Sec. 12.401.)

Source Law

Sec. 12.401. APPLICATION. A person adjudged guilty of an offense under this code or a proclamation or regulation adopted under this code shall be punished in accordance with this subchapter and the Code of Criminal Procedure, 1965.

Revisor's Note

Section 12.401, Parks and Wildlife Code, refers to the Code of Criminal Procedure, 1965. The revised law omits the reference to "1965" because the date is not included in the official title of that code.

Revised Law

Sec. 2952.0102. IMPOSITION OF CIVIL PENALTIES. (a) This subchapter, Subchapter B, and Section 5951.0202 do not affect the authority of a court conferred by other law to impose a civil penalty, including:

(1) requiring the forfeiture of property;

(2) suspending or revoking a license or permit; or

(3) citing for contempt.

(b) The civil penalty may be included in the sentence. (Parks & Wild. Code, Sec. 12.402.)

Source Law

> Sec. 12.402. CIVIL PENALTY. This subchapter does not deprive a court of authority conferred by law to forfeit property, suspend or cancel a license or permit, cite for contempt, or impose any other civil penalty. The civil penalty may be included in the sentence.

Revised Law

Sec. 2952.0103. CLASSIFICATION OF OFFENSES. (a) Offenses under this code are designated as Parks and Wildlife Code misdemeanors or Parks and Wildlife Code felonies.

(b) Misdemeanors are classified according to the relative seriousness of the offense into three categories:

(1) Class A Parks and Wildlife Code misdemeanors;

(2) Class B Parks and Wildlife Code misdemeanors; and

(3) Class C Parks and Wildlife Code misdemeanors.

(c) Section 12.41, Penal Code, does not apply to the classification of an offense under this code. (Parks & Wild. Code, Sec. 12.403.)

Source Law

> Sec. 12.403. CLASSIFICATION OF OFFENSES. (a) Offenses are designated as Parks and Wildlife Code misdemeanors or Parks and Wildlife Code felonies.
>
> (b) Misdemeanors are classified according to the relative seriousness of the offense into three categories:
>
> (1) Class A Parks and Wildlife Code misdemeanors;
>
> (2) Class B Parks and Wildlife Code misdemeanors; and
>
> (3) Class C Parks and Wildlife Code misdemeanors.
>
> (c) Section 12.41, Penal Code, does not apply to classifications of offenses under this code.

Revised Law

Sec. 2952.0104. CLASS A PARKS AND WILDLIFE CODE MISDEMEANOR. An individual adjudged guilty of a Class A Parks and Wildlife Code misdemeanor shall be punished by:

(1) a fine of not less than $500 or more than $4,000;

(2) confinement in jail for a term not to exceed one year; or

(3) both the fine and confinement. (Parks & Wild. Code, Sec. 12.404.)

Source Law

Sec. 12.404. CLASS A PARKS AND WILDLIFE CODE MISDEMEANOR. An individual adjudged guilty of a Class A Parks and Wildlife Code misdemeanor shall be punished by:

(1) a fine of not less than $500 nor more than $4,000;

(2) confinement in jail for a term not to exceed one year; or

(3) both such fine and imprisonment.

Revisor's Note

Section 12.404, Parks and Wildlife Code, authorizes both the "confinement" and "imprisonment" of an individual adjudged guilty of a Class A Parks and Wildlife Code misdemeanor. Throughout this chapter, the revised law uses "confinement" when referring to punishments served in a jail and "imprisonment" when referring to punishments served in the custody of the Texas Department of Criminal Justice. This usage conforms to the terminology used to describe similar punishments in Subchapters B and C, Chapter 12, Penal Code.

Revised Law

Sec. 2952.0105. CLASS B PARKS AND WILDLIFE CODE MISDEMEANOR. An individual adjudged guilty of a Class B Parks and Wildlife Code misdemeanor shall be punished by:

(1) a fine of not less than $200 or more than $2,000;

(2) confinement in jail for a term not to exceed 180 days; or

(3) both the fine and confinement. (Parks & Wild. Code, Sec. 12.405.)

Source Law

Sec. 12.405. CLASS B PARKS AND WILDLIFE CODE MISDEMEANOR. An individual adjudged guilty of a Class B Parks and Wildlife Code misdemeanor shall be punished by:

(1) a fine of not less than $200 nor more than $2,000;

(2) confinement in jail for a term not to

exceed 180 days; or

(3) both such fine and imprisonment.

Revised Law

Sec. 2952.0106. CLASS C PARKS AND WILDLIFE CODE MISDEMEANOR. An individual adjudged guilty of a Class C Parks and Wildlife Code misdemeanor shall be punished by a fine of not less than $25 or more than $500. (Parks & Wild. Code, Sec. 12.406.)

Source Law

> Sec. 12.406. CLASS C PARKS AND WILDLIFE CODE MISDEMEANOR. An individual adjudged guilty of a Class C Parks and Wildlife Code misdemeanor shall be punished by a fine of not less than $25 nor more than $500.

Revised Law

Sec. 2952.0107. PARKS AND WILDLIFE CODE FELONY. (a) An individual adjudged guilty of a Parks and Wildlife Code felony shall be punished by imprisonment in the Texas Department of Criminal Justice for a term of not more than 10 years or less than 2 years.

(b) In addition to imprisonment, an individual adjudged guilty of a Parks and Wildlife Code felony may be punished by a fine of not less than $2,000 or more than $10,000. (Parks & Wild. Code, Sec. 12.407.)

Source Law

> Sec. 12.407. PARKS AND WILDLIFE CODE FELONY. (a) An individual adjudged guilty of a Parks and Wildlife Code felony shall be punished by confinement in the Texas Department of Criminal Justice for any term of not more than 10 years or less than two years.
>
> (b) In addition to imprisonment, an individual adjudged guilty of a Parks and Wildlife Code felony may be punished by a fine of not less than $2,000 nor more than $10,000.

Revised Law

Sec. 2952.0108. PARKS AND WILDLIFE CODE STATE JAIL FELONY. (a) An individual adjudged guilty of a Parks and Wildlife Code state jail felony shall be punished by confinement in a state jail for a term of not more than 2 years or less than 180 days.

(b) In addition to confinement, an individual adjudged guilty of a Parks and Wildlife Code state jail felony may be punished by a fine of not less than $1,500 or more than $10,000.

(Parks & Wild. Code, Sec. 12.4061.)

Source Law

Sec. 12.4061. PARKS AND WILDLIFE CODE STATE JAIL FELONY. (a) An individual adjudged guilty of a Parks and Wildlife Code state jail felony shall be punished by confinement in a state jail for a term of not more than two years or less than 180 days.

(b) In addition to confinement, an individual adjudged guilty of a Parks and Wildlife Code state jail felony may be punished by a fine of not less than $1,500 and not more than $10,000.

Revisor's Note
(End of Subchapter)

Section 12.408, Parks and Wildlife Code, provides that the use of a conviction for enhancement purposes does not preclude the subsequent use of the conviction for enhancement purposes. The revised law omits that provision because it duplicates in substance Section 12.46, Penal Code, which applies to this code through Section 1.03(b), Penal Code. The omitted law reads:

Sec. 12.408. SUBSEQUENT CONVICTIONS. The use of a conviction for enhancement purposes does not preclude the subsequent use of a conviction for enhancement purposes.

SUBCHAPTER B. CRIMINAL PENALTIES FOR CORPORATIONS OR ASSOCIATIONS

Revised Law

Sec. 2952.0201. OFFENSES PUNISHABLE BY FINE ONLY. If a corporation or association is adjudged guilty of an offense under this code that provides a penalty consisting of a fine only, a court may sentence the corporation or association to pay a fine in an amount fixed by the court, not to exceed the fine provided by the offense. (Parks & Wild. Code, Sec. 12.410(a).)

Source Law

Sec. 12.410. AUTHORIZED PUNISHMENTS FOR CORPORATIONS AND ASSOCIATIONS. (a) If a corporation or association is adjudged guilty of an offense under this code that provides a penalty consisting of a fine only, a court may sentence the corporation or association to pay a fine in an amount fixed by the court, not to exceed the fine provided by the offense.

Revised Law

Sec. 2952.0202. OFFENSES PUNISHABLE BY CONFINEMENT OR

IMPRISONMENT OR FOR WHICH PENALTY NOT SPECIFIED. If a corporation or association is adjudged guilty of an offense under this code that provides a penalty including confinement or imprisonment or that provides no specific penalty, a court may sentence the corporation or association to pay a fine in an amount fixed by the court, not to exceed:

(1) $20,000 if the offense is a Parks and Wildlife Code felony; or

(2) $10,000 if the offense is a Class A or Class B Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Sec. 12.410(b).)

Source Law

> (b) If a corporation or association is adjudged guilty of an offense that provides a penalty including imprisonment or that provides no specific penalty, a court may sentence the corporation or association to pay a fine in an amount fixed by the court, not to exceed:
>
> (1) $20,000 if the offense is a Parks and Wildlife Code felony; or
>
> (2) $10,000 if the offense is a Class A or Class B Parks and Wildlife Code misdemeanor.

Revised Law

Sec. 2952.0203. ALTERNATIVE FINE FOR CERTAIN OFFENSES. Instead of a fine authorized by Section 2952.0201 or 2952.0202, if a court finds that a corporation or association gained money or property or caused personal injury, property damage, or other loss through the commission of a Parks and Wildlife Code felony or Class A or Class B Parks and Wildlife Code misdemeanor, the court may sentence the corporation or association to pay a fine in an amount fixed by the court, not to exceed double the amount gained or caused by the corporation or association to be lost, whichever is greater. (Parks & Wild. Code, Sec. 12.410(c).)

Source Law

> (c) In lieu of the fines authorized by Subsections (a) and (b) of this section, if a court finds that the corporation or association gained money or property or caused personal injury, property damage, or other loss through the commission of a Parks and Wildlife Code felony or Class A or Class B Parks and Wildlife Code misdemeanor, the court may sentence the corporation or association to pay a fine in an

amount fixed by the court, not to exceed double the amount gained or caused by the corporation to be lost, whichever is greater.

Revisor's Note

Section 12.410(c), Parks and Wildlife Code, refers to an amount gained or caused by a "corporation" to be lost. The revised law substitutes "corporation or association" for clarity and consistency in terminology used in the section and because "corporation or association" is the language used elsewhere in the section. It is clear from the context that the reference to an "association" was omitted in error.

Revised Law

Sec. 2952.0204. ORDER TO GIVE NOTICE OF CONVICTION. In addition to imposing a sentence under this subchapter, a court may order a corporation that has been adjudged guilty of an offense to give notice of the conviction to any person the court considers appropriate. (Parks & Wild. Code, Sec. 12.410(d).)

Source Law

(d) In addition to any sentence that may be imposed by this section, a corporation that has been adjudged guilty of an offense may be ordered by the court to give notice of the conviction to any person the court deems appropriate.

SUBCHAPTER C. PROCEDURAL MATTERS

Revised Law

Sec. 2952.0301. NOTICE TO APPEAR; OFFENSE. (a) An authorized employee of the department or a peace officer who arrests a person for a violation of this code or a regulation of the commission adopted under this code may deliver to the person a written notice to appear before the court having jurisdiction of the alleged violation not later than the 15th day after the date of the alleged violation.

(b) On signing the written notice to appear, the person:

(1) promises to appear as provided by the notice; and

(2) must be released.

(c) A person commits an offense if the person fails to appear before the court as provided by the notice under Subsection (a). An offense under this subsection is a Class C Parks and Wildlife Code misdemeanor.

(d) A warrant may be issued for the arrest of a person who commits an offense under Subsection (c). (Parks & Wild. Code, Sec. 12.106.)

Source Law

> Sec. 12.106. NOTICE TO APPEAR. (a) Any peace officer of this state or a political subdivision of this state or an authorized employee of the department who arrests a person for a violation of this code or a regulation of the commission adopted under this code may deliver to the alleged violator a written notice to appear before the justice court, county court, or another court having jurisdiction of the offense not later than 15 days after the date of the alleged violation.
>
> (b) On signing the written notice to appear and thereby promising to appear as provided in the notice, the alleged violator shall be released.
>
> (c) A person who fails to appear for a violation of this code or a regulation of the commission adopted under this code within the time specified in the written notice commits an offense that is a Class C Parks and Wildlife Code misdemeanor, and a warrant for the arrest of the alleged violator may be issued.

Revisor's Note

Section 12.106(a), Parks and Wildlife Code, refers to a peace officer "of this state or a political subdivision of this state." The revised law omits the quoted language as unnecessary because a peace officer to whom this code applies is necessarily a peace officer of this state or a political subdivision of this state.

Revised Law

Sec. 2952.0302. JURISDICTION OF JUSTICE COURT OVER CLASS C PARKS AND WILDLIFE CODE MISDEMEANORS. In addition to the jurisdiction provided by the constitution and other law, a justice court has jurisdiction of Class C Parks and Wildlife Code misdemeanors. (Parks & Wild. Code, Sec. 12.411.)

Source Law

Sec. 12.411. JURISDICTION OF JUSTICE COURT. In

addition to the jurisdiction provided by the constitution and other law, a justice court has jurisdiction of Class C Parks and Wildlife Code misdemeanors.

Revised Law

Sec. 2952.0303. COASTAL SURVEY CHARTS ADMISSIBLE. A United States Coastal Survey Chart is admissible in a prosecution under this code. (Parks & Wild. Code, Sec. 12.113.)

Source Law

Sec. 12.113. COASTAL SURVEY CHARTS ADMISSIBLE. In any prosecution under this code, United States Coastal Survey Charts are admissible.

Revised Law

Sec. 2952.0304. AFFIDAVIT CERTIFYING CERTAIN CONVICTION AND OTHER INFORMATION. (a) If a person is convicted in justice court for violating a provision of this code or a proclamation or regulation adopted under this code that provides an enhanced penalty for a subsequent conviction, the court on request shall submit to the department:

(1) an affidavit certifying the conviction;

(2) the person's driver's license number; and

(3) a copy of any picture or description of the person made by a law enforcement agency in connection with the offense.

(b) A certified copy of the affidavit and any document submitted to the department under Subsection (a) is admissible as evidence in a criminal proceeding to prove that a particular person was convicted of the offense to which the documents pertain if the court finds that on or before the 15th day before the date of the trial, the party against whom the evidence is offered was provided a copy of the evidence. (Parks & Wild. Code, Sec. 12.117.)

Source Law

Sec. 12.117. JUSTICE COURT TO PROVIDE AFFIDAVITS CERTIFYING CERTAIN CONVICTIONS AND OTHER INFORMATION. (a) If a person is convicted in a justice court for violating a provision of this code or a proclamation or regulation adopted under this code that provides enhanced penalties for subsequent convictions, the court on request shall submit to the department an affidavit certifying the conviction. Along with such affidavit the court shall also compile and send to the department the defendant's driver's license number and copies of any photograph, picture,

description, or measurement of the defendant made by any law enforcement agency in connection with the offense.

(b) A certified copy of such affidavit and documents pursuant to Subsection (a) of this section is admissible as evidence in a criminal proceeding to prove that a particular person was convicted of the offense to which the documents pertain if the court finds that 15 days before trial, the party against whom the evidence is offered was provided a copy of the document offered as evidence.

Revisor's Note

(1) Section 12.117(a), Parks and Wildlife Code, refers to a photograph, picture, description, or measurement made of the "defendant." The revised law substitutes "person" for "defendant" for consistency in terminology used in the section and because it is clear from the context that the "defendant" is the "person" convicted in justice court referenced earlier in the section.

(2) Section 12.117(a), Parks and Wildlife Code, refers to the provision to the department of "any photograph, picture, description, or measurement." The revised law omits the terms "photograph" and "measurement" as redundant because, in this context, "photograph" is included in the meaning of "picture" and "measurement" is included in the meaning of "description."

Revisor's Note
(End of Subchapter)

Section 12.116, Parks and Wildlife Code, requires a justice court to submit an affidavit that certifies certain convictions and that includes certain information to the Parks and Wildlife Department on request. Section 12.117, Parks and Wildlife Code, requires a justice court to submit an affidavit that certifies certain convictions and requires the submission of additional information to the department. The sections are irreconcilable with respect to the contents of the affidavit, whether any

other documents are required to be submitted, and the admissibility of the affidavit and the other documents. Under Section 311.025, Government Code (Code Construction Act), if statutes are irreconcilable, the statute latest in date of enactment prevails. The date of enactment is the date on which the last legislative vote is taken on the bill enacting the statute. Section 12.116 was enacted by Section 32, Article 1, Chapter 267, Acts of the 69th Legislature, Regular Session, 1985. Section 12.117 was enacted by Section 10, Chapter 827, Acts of the 69th Legislature, Regular Session, 1985. The last legislative vote on Chapter 267 was taken on May 21, 1985. The last legislative vote on Chapter 827 was taken on May 27, 1985. Accordingly, the revised law revises Section 12.117 and omits Section 12.116. The omitted law reads:

> Sec. 12.116. JUSTICE COURT TO PROVIDE AFFIDAVITS CERTIFYING CERTAIN CONVICTIONS. (a) If a person is convicted in justice court for violating a provision of this code or a proclamation or regulation adopted under this code that provides enhanced penalties for subsequent convictions, the court on request shall submit to the department an affidavit certifying the conviction. The affidavit must include the driver's license number or personal identification certificate number obtained from the violator.
>
> (b) The affidavit certifying the conviction, if admissible under the Texas Rules of Evidence, is available in subsequent prosecutions of that person for violations of the section, proclamation, or regulation under which the prior conviction was obtained.

SUBCHAPTER Y. MISCELLANEOUS PROVISIONS

Revised Law

Sec. 2952.9801. RISK-BASED INSPECTIONS OF NONRECREATIONAL AUTHORIZATION HOLDERS. (a) In this section, "nonrecreational authorization holder" means a holder of a license, permit, or other authorization required by this code or rules adopted under this

code. The term does not include a holder of:

(1) a hunting license issued under Chapter 5151;

(2) a hunting stamp issued under Chapter 5152;

(3) a fishing license issued under Chapter 5153 or 7281;

(4) a fishing stamp issued under Chapter 5154; or

(5) a combination hunting and fishing license issued under Chapter 5155.

(b) The commission by rule shall adopt a policy to guide the prioritization of inspections of nonrecreational authorization holders based on risk to the state's natural resources.

(c) The policy adopted under this section must require that the department:

(1) identify the nonrecreational authorization holders that require on-site inspections;

(2) develop an assessment tool for determining the appropriate frequency and intensity of department inspections of nonrecreational authorization holders, based on key risk factors and indications of increased or decreased risk, such as repeated or remedied violations and failed or passed inspections; and

(3) document all inspections of nonrecreational authorization holders and the results of those inspections and make the documentation available to all employees whose job descriptions include the regulation of nonrecreational authorization holders. (Parks & Wild. Code, Sec. 12.1025.)

Source Law

Sec. 12.1025. RISK-BASED INSPECTIONS OF NONRECREATIONAL AUTHORIZATION HOLDERS. (a) In this section, "nonrecreational authorization holder" means a holder of a license, permit, or other authorization required by this code or rules adopted under this code. The term does not include a holder of:

(1) a hunting license issued under Chapter 42;

(2) a hunting or fishing stamp issued under Chapter 43;

(3) a fishing license issued under Chapter 46; or

(4) a combination hunting and fishing license issued under Chapter 50.

(b) The commission by rule shall adopt a policy

to guide the prioritization of inspections of nonrecreational authorization holders based on risk to the state's natural resources.

(c) The policy adopted under this section must require that the department:

(1) identify the nonrecreational authorization holders that require on-site inspections;

(2) develop an assessment tool for determining the appropriate frequency and intensity of department inspections of nonrecreational authorization holders, based on key risk factors and indications of increased or decreased risk, such as repeated or remedied violations and failed or passed inspections; and

(3) document all inspections of nonrecreational authorization holders and the results of those inspections and make the documentation available to all employees whose job descriptions include the regulation of nonrecreational authorization holders.

Revisor's Note

(1) Section 12.1025(a)(1), Parks and Wildlife Code, refers to a hunting license issued under Chapter 42 of that code. Chapter 42 is revised in pertinent part as Chapter 5151 of this code, and the revised law is drafted accordingly.

(2) Section 12.1025(a)(2), Parks and Wildlife Code, refers to a hunting or fishing stamp issued under Chapter 43 of that code. The pertinent parts of Chapter 43 are revised in this code as Chapter 5152 with respect to hunting stamps and as Chapter 5154 with respect to fishing stamps, and the revised law is drafted accordingly.

(3) Section 12.1025(a)(3), Parks and Wildlife Code, refers to a fishing license issued under Chapter 46 of that code. Chapter 46 is revised in pertinent part as Chapters 5153 and 7281 of this code, and the revised law is drafted accordingly.

Revised Law

Sec. 2952.9802. REPORTS OF TRAFFIC STOPS AND PEDESTRIAN STOPS NOT REQUIRED. (a) A requirement under state law that a law enforcement agency adopt a policy that requires the collection and reporting of information relating to persons detained during

traffic stops, or that a law enforcement agency compile, analyze, and report information relating to persons detained during traffic and pedestrian stops, does not apply to the department.

(b) A requirement under state law that a peace officer report information relating to persons detained during traffic and pedestrian stops does not apply to an employee of the department. (Parks & Wild. Code, Sec. 11.003.)

Source Law

> Sec. 11.003. APPLICABILITY OF CERTAIN STATE LAW REQUIREMENTS. A requirement under state law that a law enforcement agency adopt a policy that requires the collection and reporting of information relating to persons detained during traffic stops, that a peace officer report information relating to persons detained during traffic and pedestrian stops, or that a law enforcement agency compile, analyze, and report information relating to persons detained during traffic and pedestrian stops does not apply to the department or an employee of the department.

Revised Law

Sec. 2952.9803. FEE AND MILEAGE ALLOWANCE. (a) The department is entitled to the same fee and mileage allowance as a sheriff for:

(1) making an arrest;

(2) summoning a witness; or

(3) serving a process.

(b) The fee described by Subsection (a) is charged and collected in the same manner as a sheriff charges and collects fees. (Parks & Wild. Code, Sec. 12.108.)

Source Law

> Sec. 12.108. EXPENSES. In making an arrest, summoning a witness, and serving a process, the department is entitled to the same fee and mileage allowance as a sheriff. The fee is charged and collected in the same manner as sheriff's fees.

Revised Law

Sec. 2952.9804. REMISSION OF FINES. (a) Not later than the 10th day after the date a justice of the peace, a clerk of any court, or any other officer of the state collects a fine imposed by a court for a violation of this code or a regulation of the commission adopted under this code, the officer shall send to the department:

(1) the amount prescribed by Subsection (b); and

(2) a statement containing:

(A) the docket number of the case;

(B) the name of the person fined; and

(C) the section of this code or the regulation violated.

(b) The amount to be sent to the department is:

(1) 80 percent of the amount of the fine in a county court or higher court case; or

(2) 85 percent of the amount of the fine in a justice court case. (Parks & Wild. Code, Sec. 12.107.)

Source Law

Sec. 12.107. REMISSION OF FINES. (a) A justice of the peace, clerk of any court, or any other officer of the state who receives a fine imposed by a court for a violation of this code or a regulation of the commission adopted under this code shall send the fine to the department within 10 days after the date of collection. A statement containing the docket number of the case, the name of the person fined, and the section of this code or the regulation violated must accompany the remission of the fine.

(b) The amount of the fine to be remitted to the department is 80 percent in county court or higher court cases and 85 percent in justice court cases.