

The logo for the Texas Sunset Advisory Commission is a semi-circular emblem with a thick black border. Inside the semi-circle, the words "Texas", "Sunset", "Advisory", and "Commission" are stacked vertically in a bold, white, serif font. Below the semi-circle is a thick black horizontal bar.

**Texas  
Sunset  
Advisory  
Commission**

**STAFF EVALUATION**

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*Texas Parks and Wildlife Department*

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**A Staff Report  
to the  
Sunset Advisory Commission**

**1984**

**TEXAS PARKS AND WILDLIFE DEPARTMENT**

**June 1984**

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## SUMMARY

The Texas Parks and Wildlife Department, created in 1963, is currently active. The agency was established to provide outdoor recreational facilities and to manage the state's fish and wildlife resources. To accomplish this objective, the agency conducts five different programs throughout the state. First, the agency plans, develops, and operates state park sites which have either recreational, historic, or natural significance. Second, freshwater and coastal fisheries are managed according to the biological needs of the species in an effort to promote sport and commercial fishing. The agency also manages all wildlife found in the state by encouraging habitat development and controlling the harvest of various species. Habitat necessary to support the state's fish and wildlife populations is protected through pollution surveillance efforts and environmental assessment activities. Finally, game, fish and water safety laws are enforced by agency game wardens located throughout the state.

The need for each of the agency's responsibilities was analyzed and the review indicated that there is a continuing need for state involvement in these areas. In regard to the current operations, the review determined that while the agency is generally operated in an efficient and effective manner, there are changes which should be made in the event the legislature decides to continue the agency. An analysis of alternatives to the current practices of the agency revealed that four changes could result in substantial benefits. Two issues were identified that could offer potential benefits but would also require major changes in current state policy and could involve potential disadvantages.

The changes which should be made if the agency is continued and a discussion of the alternative and additional policy issues are set out below.

### Approaches for Sunset Commission Consideration

#### **I. MAINTAIN THE AGENCY WITH MODIFICATIONS**

##### **A. Policy-making Structure**

- 1. The statute should be amended to authorize the commission to establish a Parks Advisory Committee, a Wildlife Advisory Committee, and a Fisheries Advisory Committee.**

Currently, no qualifications for membership on the commission exist. As a result, persons who are affected by commission policy or who have

expertise in regulated areas, are not formally involved in the policy-making process. To allow this opportunity for participation, the statute should be changed to authorize the commission to establish advisory committees for its major areas of regulation.

2. **The statute should be amended to require that the commission composition reflect representation of the major geographical areas of the state.**

Although the current commission membership is fairly well balanced geographically, no statutory requirement is in place to ensure that future commissions will represent all major areas of the state. The statute should be changed to require geographical balance within the commission's membership.

3. **The statute should be amended to delete the mandatory county hearing requirement for the annual wildlife proclamation and establish a hearing process that would provide for mandatory regional hearings, hearings at the department's discretion, and hearings when requested by 25 or more persons.**

The current county hearing process is designed to obtain public input on annual proposals for changes in the game and fish regulations. Attendance at these meetings has been generally low, except in areas where a proposed rule sparks controversy. To streamline the process but maintain the opportunity for public input, the statute should provide for regional meetings and for local meetings where needed.

4. **The statute should be amended to require the commission to hold an annual public meeting to receive public comment.**

Although the commission conducts regular meetings throughout the year, little time is available during these meeting for members of the general public to provide comment on the commission's regulatory responsibility in general. This input is important if the commission's decisions are to be responsive to public concerns, and the commission should be required to hold meetings on an annual basis.

B. Overall Administration

1. **The statute should be amended to clarify the department's authority to charge park user fees.**

The department has no clear authority to charge user fees for camping at state parks. These user fees are currently charged at state parks and the resulting revenue is essential to fund the park facility operations. To clarify the department's authority, the statute should be changed to give the department express authority to charge park user fees.

- 2. The statute should be amended to authorize the commission to set reasonable fees, while retaining the existing fee as a statutory minimum, for all fees currently fixed at a specified amount in the Parks and Wildlife Code.**

Approximately 75 fees charged by the department have the amount of the fee fixed in statute. Such a system requires legislative action to adjust the fees for factors such as inflation or increased cost of support programs. For additional flexibility, the statute should be changed to allow the commission to set these fees at a reasonable amount, with a minimum amount fixed in statute.

- 3. The statute should be amended to consolidate the Mission San Francisco de los Tejas Building Fund No. 63 and the Texas State Railroad Fund No. 463 into the State Parks Fund No. 64.**

Two of the fourteen funds currently used by the department are relatively inactive and serve no useful purpose. Consolidation of these two funds into the Parks Fund would reduce the department's accounting burden and would have no effect on the legislative appropriation of the dollars in these funds for their current uses.

- 4. The department should use more extensive financial advisory services to assist on future bond issuances and investments. (management improvement - non-statutory)**

The department has experienced relatively low yield on investments made with funds generated from bond issuances. Long term planning and timing of bond sales are extremely important in maintaining a high yield on investments. For future bond sales, the department should seek additional financial advice in order to improve investment practices.

- 5. The statute should be amended to delete restrictions on selling and disseminating park information only at park sites**

**and to authorize the department to enter into contractual agreements for the purpose of informing the public about parks and wildlife resources. Additionally, the statutory provision restricting the department from publishing and selling park materials at regular intervals should be deleted.**

Several statutory restrictions currently limit the department's ability to disseminate information about the state's park and wildlife resources. First, the department is unable to develop agreements with publishing houses to publish and distribute park information. In addition, the department is prohibited from publishing and selling park materials at regular intervals. Both of these restrictions serve no useful purpose and should be deleted.

**6. The statute should be amended to authorize the department to deposit proceeds from publication sales to the credit of the fund from which publication expenses were paid.**

An existing statutory provision requires that proceeds from wildlife publications be deposited into the Game, Fish, and Water Safety Fund. This provision has limited the department's ability to use park funds for assistance in financing their monthly magazine. This magazine deals with both park and wildlife related topics and should receive financial support from both funding sources.

**7. The statute should be amended to authorize the commission to set magazine subscription fees in an amount to recover costs.**

Currently, the statute requires that agency publications be sold for a price which doesn't exceed the cost of publication and mailing. For the monthly magazine which has subscriptions paid in advance, this limitation has resulted in the agency sustaining losses for the magazine publication. To allow the agency greater flexibility, the agency should be allowed to set reasonable subscription fees.

**8. The statute should be amended to authorize the agency to receive royalties from the sale of agency publication materials.**

Existing statutory provisions limit the agency's ability to receive royalties for department materials and prints that appear in books

produced by publishing houses. This limitation restricts the revenues the agency is able to receive from its own work and should be changed so that the agency's authority to receive royalties is clear.

**9. The statute should be amended to delete the 10-day filing requirement on monthly sales reports for fishing licenses.**

Monthly sales reports from license deputies selling fishing licenses are required to be submitted to the department within ten days after the end of each month. For some license deputies, the ten day filing time frame is difficult to meet and, as a result, compliance with the deadline has not been consistent. The time limit is not required on other types of licenses and should be eliminated for fishing licenses.

**10. The agency's rules should be documented in a consistent format for department use and public inspection. (management improvement - non-statutory)**

Only one copy of the agency's complete set of rules has existed within the department. To provide proper public and staff access to agency rules, complete copies of agency rules should be available for division use and for public inspection.

**11. The statute should be amended to make provisions conform with the Administrative Procedure and Texas Register Act.**

Several provisions in the Parks and Wildlife Code do not conform with requirements in the APA. The provisions should be changed to comply with APA procedures.

C. Evaluation of Programs

1. Parks

**a. The statute should be amended to establish a park classification system and to require the commission to adopt acquisition and development guidelines for that system.**

At present, the state park system consists of seven different classifications of park facilities specified in the agency's rules. These classifications overlap and provide no real guidance for department acquisition or development. To improve the park classification system, three classifications should be established in statute - recreational areas, historical areas, and natural areas.

Additionally, the commission should be required to adopt guidelines for the acquisition and development of these areas.

**b. Park acquisition plans and priorities should be reviewed by the park advisory board, if established.**

(management improvement - non-statutory)

The existing system used by the department to prioritize proposed park acquisitions is subject to many variations, making the link between identified deficiencies in recreation needs and the acquisition of new park sites difficult to evaluate. Additional input and oversight over acquisition plans would ensure that acquisition priorities match identified statewide recreational needs as closely as possible. This oversight should be provided by the parks advisory committee, if established.

**c. The statute should be amended to authorize: 1) the Texas Historical Commission to review and comment on historical area plans, 2) volunteer groups to be established for historical areas, and 3) state matching funds for dollars raised by historical area volunteer groups.**

The Texas Historical Commission is a state agency that has expertise and interest in historical site preservation. This commission's review of Parks and Wildlife department plans for historical areas could help the department avoid potential restoration problems and better coordinate preservation activities around the state. Additionally, volunteer groups can assist particular historical areas by providing tours, sponsoring events, and generating local support for the site. Volunteer groups can also become active fund raisers in order to support on-going preservation efforts at historical areas. To support and encourage such fund raising efforts, a state matching fund program should be established to match contributed local funds.

**d. The statute should be amended to require the agency to hold local public hearings on park master development plans.**

The agency has recently initiated a local hearing process where master plans for proposed park sites are reviewed during public hearings in a locality near the proposed park site. This process has been useful in providing timely public input on the nature and extent of development to occur in the park. To ensure that this process continues, the requirement should be placed in statute.

- e. **The agency should improve its methods for dealing with cost inefficient parks.** (management improvement - non-statutory)

The cost efficiency of individual parks within the state park system can vary widely, depending upon the type of park, the location, and overall park attendance. While standards of efficiency between types of parks may differ, inefficient parks within a category should be identified and proper action should be taken. The agency's current methods of dealing with inefficient parks - reducing costs or increasing visitation - should be expanded to include a wider range of options.

- f. **The statute should be amended to require the commission to dedicate 20 percent of available acquisition funds to natural area acquisition.**

Of the 118 parks in the state park system, only three of these are specifically categorized as natural areas. While the need for more natural areas has been documented in statewide planning processes, the acquisition of natural areas has been limited due to the emphasis placed on recreational park development. To encourage a more aggressive natural area acquisition program, 20 percent of the department's annual acquisition budget should be dedicated for the purchase of natural areas.

2. Wildlife

- a. **The statute should be amended to authorize the department to establish a preference point system for the issuance of hunting permits on wildlife management areas.**

Current statutory limitations require that special hunting permits be issued by the department through an impartial method of

distribution. To comply with this limitation, the department holds annual drawings to select the persons who will receive the permits to hunt on wildlife management areas. While the system is fair, it may not allow as many different people a hunting opportunity as possible. A system that gave selection preference to those that had previously applied but not been selected would be more equitable.

**b. The statute should be amended to remove the prohibition against recreational hunting of deer in state parks.**

Although the department is authorized to permit hunting on park lands, the recreational hunting of deer on state parks is expressly prohibited. Oftentimes, state parks have deer populations that exceed the carrying capacity of the acreage. To allow the department to better manage deer populations on state parks and to provide additional hunting opportunity, the department should be allowed to hold public deer hunts on suitable park lands.

**c. The statute should be amended to authorize the department to accept donations of land or an interest in land for wildlife management purposes.**

The agency does not currently have express authority to accept gifts of land for wildlife management purposes. Additional wildlife management acreage would assist the department in providing more public hunting opportunity and in conducting habitat enhancement activities. The statute should be changed to permit the agency to accept gifts for this purpose.

**d.1. The statute should be amended to define the terms "nongame" and "nongame management" in Chapter 67 of the Parks and Wildlife Code.**

**2. The statute should be amended to authorize the department to issue permits where necessary for proper nongame management and to charge a fee for permits related to a commercial activity.**

The scope of the nongame program has been limited by insufficient funding and by vague statutory guidelines outlining the

intended extent of the program. To improve the program's funding opportunities, the department should be authorized to issue permits for the taking of nongame species where necessary for the proper management of the species and to charge fees for these permits when they are related to a commercial activity. The scope of the nongame program can be clarified by defining the terms "nongame" and "nongame management" in Chapter 67 of the code dealing with nongame management in the same manner as they are defined in Chapter 11 pertaining to the creation of the nongame fund.

- e. The statute should be amended to require the agency's director to amend the Texas endangered species list only when the modification of the federal list affects a species that occurs in Texas.**

Currently, the director of the agency is required to amend the Texas endangered species list every time the federal list is modified regardless of whether the change affects a species that occurs in Texas. Such a system serves no useful purpose and should be changed so that the director acts only when a species found in Texas is affected.

- f. The statute should be amended to require the department to provide technical guidance to landowners concerning wildlife and habitat management.**

The agency currently provides technical guidance to landowners who request assistance relating to wildlife management. Because the activity is conducted by only five biologists statewide, efforts have been limited. The education of landowners is an essential link in getting sound wildlife management techniques applied around the state. The program should be statutorily mandated in order to help justify funding requests and should be expanded in scope to include nongame, waterfowl, and fish management.

- g. The department should promote more cooperative efforts between the Soil Conservation Service, Texas A&M Agriculture Extension Service and the department's technical guidance program. (management improvement - non-statutory)**

Because technical assistance is provided to landowners by the Parks and Wildlife Department, the Soil Conservation Service, and the Texas A&M Agriculture Extension Service, landowners have not always received consistent information. Greater cooperation would ensure that inconsistencies are minimized.

- h. The department should increase wildlife science instruction for game wardens during their annual in-service training session. (management improvement - non-statutory)**

Because of the large number of game wardens around the state, game wardens maintain regular contact with a great many landowners. If the game warden is not familiar with the wildlife management practices being supported by the department in his area, a potential exists for the landowners to receive conflicting information. To minimize this risk, game wardens should be kept well informed of current wildlife management practices.

- i. The statute should be amended to delete the \$20,000 annual ceiling on Black Gap Wildlife Management Area land acquisition expenditures.**

Present statutory language prohibits land acquisition expenditures for the Black Gap Wildlife Management Area from exceeding \$20,000 annually. While this limitation serves no useful purpose, it could hamper future land acquisition efforts for property that becomes available. The limitation should be deleted.

- j. The statute should be amended to authorize the commission to adopt rules relating to recreation in wildlife management areas.**

The agency currently has clear authority to regulate wildlife management on wildlife management areas, but this authority is too narrow to address recreational uses of such areas. Camping, picnicking, and hiking are allowed on some wildlife management areas and the department should have the authority to adopt rules to control these activity.

3. Fisheries

- a. **The statute should be amended to delegate regulatory authority for shrimp and oyster harvests, except the authority to establish seasons, to the commission.**

The commission has authority to regulate the seasons, the locations, means, methods and quantity of harvest for all fish and wildlife in the state, except shrimp and oysters. Regulatory authority for shrimp and oysters is generally left with the legislature. This inconsistent pattern of regulation has resulted in several problems. The shared responsibility for coastal fishery regulation has not encouraged the development of a comprehensive coastal fishery management plan. Additionally, legislative control over shrimp and oysters does not allow timely adjustments to the management system necessary to meet changing resource conditions and does not allow regulatory decisions to be made by the policy-making body that has the most available knowledge of shrimp and oyster management. Also, delegation of shrimp and oyster regulation to the commission would reduce the amount of legislative time necessary to make operational decisions in this area. The authority to set harvest seasons, however, is more critical to the financial success of the various shrimping industries and is better left with the legislature.

4. Resource Protection

- a. **The department should consolidate resource protection activities within a separate division in its organizational structure.** (management improvement - non-statutory)

Resource protection activities are now conducted in various units located within the fisheries and wildlife divisions. Consolidation of those activities would improve coordination between them. Additionally, the location of resource protection activities within the fisheries division creates several conflict of interest problems. Consolidation of all resource protection activities within a new separate division would improve coordination among the activities and reduce the potential for conflicts of interest.

- b. The statute should be amended to authorize the use of Game, Fish, and Water Safety Funds for resource protection activities.**

Resource protection activities are funded from general revenue and have experienced only slight budget increases over the past few years. Because fish and wildlife populations are dependent upon the existence of adequate habitat, habitat preservation activities conducted by the resource protection branch are closely related to the intended purposes of the game and fish fund. Authorization for resource protection activities to be financed from this fund would expand the unit's funding options.

- c. The statute should be amended to designate the department as the agency responsible for the protection of the state's fish and wildlife resources and expand its resource protection activities.**

Currently, no state agency has clear authority to act as an advocate for the state's fish and wildlife resources. To ensure that the department consistently acts as this advocate, the department's resource protection activities should be expanded and placed in statute. The authority should include its current responsibilities of pollution surveillance and environmental assessment, while also including the responsibilities to provide information to other agencies making decisions affecting fish and wildlife resources and to recommend to TDWR flow schedules for bays and estuaries necessary to maintain stable fish populations.

- d. The statute should be amended to require that scientific type permits expire one year from the date of issuance.**

The existing renewal procedure for these permits requires that all permits expire on the last day of the year. Such a system has imposed a high workload on the staff at renewal time. Staggering the permit renewals would provide for a more uniform workload.

5. Enforcement

- a. The statute should be amended to provide a standard penalty schedule in the Parks and Wildlife Code which**

**would be applied to the various Code violations by reference.**

The method used in the Parks and Wildlife Code to indicate violations and the penalties attached to those violations is confusing and has resulted in uneven application of penalties. A system such as that used in the Penal Code, where penalties are listed on a single schedule rather than scattered throughout the Code, would simplify the Parks and Wildlife Code penalty system.

**b. The statute should be amended to: 1) authorize the department to obtain positive identification when issuing a citation for a violation that has enhanced penalties for multiple convictions; and 2) require court clerks to submit a certification of the conviction and the defendant's identity to the department for such violations.**

The Parks and Wildlife Code currently specifies some violations that carry enhanced penalties for multiple convictions. Because of the absence of positive identification of the defendants convicted in justice courts, the department has been unable to use these enhanced penalties. Enhanced penalties are an effective method to deal with habitual violators, and a system should be in place to allow the department to get convictions for multiple violations.

**c. The statute should be amended to authorize the commission to recover damages for the value of illegally destroyed fish and wildlife.**

The commission's ability to successfully sue a person who illegally destroys fish and wildlife and recover damages is unclear. Fish and wildlife resources are the property of the state and when these resources are illegally destroyed, the state should be compensated. The commission's authority in this area should be clarified.

## II. ALTERNATIVES

### 1. **Mandatory hunter safety training could reduce the number of hunting accidents in Texas.**

In Texas, hunting licenses may be issued upon the payment of a fee; no age or training qualifications are required. The Texas system relies upon the landowners to control hunting safety on their own property. Other states, however, have shown substantial decreases in the number of hunting accidents after the initiation of a mandatory hunter safety training program. In fact, 64 percent of the states now have such a program. While a mandatory program could discourage some from hunting, the benefits of the program appear to outweigh the drawbacks.

### 2. **The department's technical guidance program could be transferred to the Texas A&M Extension Service.**

Technical assistance to landowners in Texas is provided in varying degrees by three different entities - the Parks and Wildlife Department, the Soil Conservation Service, and the Texas A&M Extension Service. Because the Texas A&M Extension Service conducts its operation through over 800 county agents and has education as its primary focus, it appears that the function could be more efficiently conducted by the extension service. Although no real cost savings would occur and some degree of specialty in wildlife management might be lost, the scope and effectiveness of the program could be increased.

### 3. **The authority to set shrimp and oyster seasons could be delegated to the commission.**

If appointed by the Parks and Wildlife Commission, the fisheries advisory committee recommended in a previous section could provide adequate representation of the shrimp and oyster industries in the policy-making process. With the opportunity to allow this representation, the commission could appropriately set the seasons for the shrimp and oyster harvest. While this representation may not provide the type of representation desired by the coastal industries, the benefits of administratively determining harvest seasons so that opening and closing dates can be more accurately set appear to outweigh the drawbacks.

4. **The department could be required to intervene in Texas Water Commission hearings when a substantial deviation from the department's river and stream flow recommendations is at issue.**

Although a previous recommendation in this report suggested that the department provide TDWR with recommended schedules for flows into the coastal bays and estuaries, this information may not be sufficient to adequately protect the state's fishery resources in some situations. When reservoir releases or flow patterns which substantially deviate from department recommendations are at issue before the Texas Water Commission, the department should intervene in the proceeding as a party so that a proper balance of interests is present at the hearing. Although this process could lengthen the hearings before the water commission, the benefits appear to be greater than the drawbacks.

### **III. OTHER POLICY CONSIDERATIONS**

1. **Should a state documentary stamp tax be established for sale of real estate with a percentage of the revenues supporting parks and wildlife land acquisitions.**

Because the demand for recreational opportunities is expanding due to the rapid population increase Texas is experiencing and because the federal government is gradually withdrawing as a recreational provider, recreational opportunities will not keep pace with demand unless additional revenues are devoted to park acquisition. One such revenue source that is well connected to population increases - a factor closely tied to the need for additional parks - is the documentary stamp tax. Estimates indicate that such a tax paid upon the sale of real property according to its most recent appraised value could raise approximately \$61 million annually when applied at a rate of \$1 per \$1,000 valuation. Such a tax could provide a stable funding resource for parks and wildlife land acquisition, as well as other state programs. While the tax would raise needed revenue, opponents argue that the tax is just another burden on the property owner and that the property owners already pay their fair share.

2. **Should the agency be authorized to use tracts of land for multiple purposes.**

Currently, the department is unable, because of funding limitations, to use park lands for wildlife purposes or to make parks from lands purchased with wildlife related funds. The authority to use acquired tracts of land for multiple purposes would allow the agency to better utilize existing or purchased sites and would encourage better inter-division coordination. Opponents to this multiple use concept argue that some important areas of agency responsibility could be abandoned under this approach and that the purpose of having separate funds for parks and wildlife operations would be diluted.

**AGENCY EVALUATION**

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The review of the current operations of an agency is based on several criteria contained in the Sunset Act. The analysis made under these criteria is intended to give answers to the following basic questions:

1. Does the policy-making structure of the agency fairly reflect the interests served by the agency?
  2. Does the agency operate efficiently?
  3. Has the agency been effective in meeting its statutory requirements?
  4. Do the agency's programs overlap or duplicate programs of other agencies to a degree that presents serious problems?
  5. Is the agency carrying out only those programs authorized by the legislature?
  6. If the agency is abolished, could the state reasonably expect federal intervention or a substantial loss of federal funds?
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## BACKGROUND

### Organization and Objectives

The Texas Parks and Wildlife Department was created in 1963 from the merger of the old State Parks Board and the Game and Fish Commission, and is currently active. The department was established for the purpose of providing outdoor recreational facilities and managing the state's wildlife, fish, historic and natural resources. While the department's current structure is fairly new, resource management functions in the state have been carried out for more than 100 years, beginning in 1861 with legislative enactment of general game laws. Regulatory responsibility for fish management in the state began in 1895 with the creation of the Fish and Oyster Commission and evolved over the years to include game management, resulting in the establishment of the Game and Fish Commission in 1951. A separate regulatory body, the Parks Board, was created in 1923 to oversee park resources. Both regulatory bodies operated separately until the merger of the two agencies in 1963 which produced the Parks and Wildlife Department, with a three-member commission. The agency's responsibilities have expanded over the years, first with the passage of the Uniform Wildlife Regulatory Act in 1967 which placed all or portions of 213 counties in the state under department regulatory authority for wildlife and fishing regulations. The passage of a \$75 million park bond issue also occurred in 1967, greatly accelerating park acquisitions and facility construction. In 1969, the department's responsibilities were again expanded to include water safety regulation statewide and in 1973 to include protection of nongame and endangered species. The most recent expansion of the department's duties occurred in 1983 with the passage of the Wildlife Conservation Act, which places all 254 counties under the commission's regulatory authority with no exemptions, other than shrimp and oysters.

The Texas Parks and Wildlife Department is governed by a nine-member commission (expanded in 1983 from six members) appointed by the governor, with senate confirmation, to serve staggered six-year terms. The department has about 2,100 employees located statewide and operates on an appropriation of around \$90 million for fiscal year year 1984, funded from general revenue, other state funds, and federal funds. The department operates from a headquarters in Austin, Texas, with regional and district offices around the state.

Current responsibilities of the agency include: management of the state's freshwater and saltwater fishery resources serving both recreational and commercial interests; surveillance of activities having a potentially adverse impact on the environment; management of game and nongame wildlife resources; provision of outdoor recreational opportunities for state park visitors; enforcement of rules and laws regulating state parks, water-related activities and wildlife; and administration of support activities and education efforts pertaining to parks and wildlife. These activities are accomplished through an organizational structure containing five programs: 1) fisheries, 2) wildlife, 3) parks, 4) enforcement, and 5) administration. A description of the major activities within each of these program follows.

### Fisheries

The fisheries program is responsible for the effective management of the state's fishery resources. These resources consist of both finfish and shellfish which occur in the freshwater and coastal fisheries. Both the recreational fishing industry, in which over three million people participated during 1982, and the commercial fishing industry, which was valued at near \$180 million in 1983, are supported by this program. The department's objective in managing this resource is to provide maximum fishing opportunity and optimum yield of fisheries products. To accomplish this objective, the fisheries division has established several programs designed to monitor and manage the inland and coastal fisheries, to protect the aquatic environment through pollution surveillance and environmental assessment, to control noxious vegetation, and to enhance inland and coastal fish populations through fish stocking efforts. The fisheries division employs over 225 persons with a budget of approximately \$7.5 million in 1984 from game, fish, and water safety funds and general revenue funds. Federal funds are available to reimburse many of the division's activities through the Dingell-Johnson Act.

The inland fisheries branch of the fisheries division is responsible for the freshwater fisheries resources. Because commercial fishing activities are severely restricted in freshwater, the primary focus of this program is to enhance the quality and value of freshwater fish resources for sportfishermen. Organizationally, the inland fisheries branch operates through four regional offices and three research stations. Field biologists in the different regions are responsible for surveying existing reservoirs, rivers, and streams and developing management plans to be presented to the authorities controlling the reservoir or stream. Recommen-

dations in these management plans address fish stocking needs, habitat improvement, and fishermen's access and facilities. Currently, each reservoir or stream is surveyed once every five to seven years. Additionally, proposed reservoirs are reviewed to develop a preimpoundment plan making recommendations on brush clearing, facilities, stocking needs and stream flow needs. In 1983, 24 existing reservoirs were surveyed and two preimpoundment surveys were completed. Research stations located at Heart of the Hills, Palacios, and the Fort Worth fish hatchery are involved in conducting research on existing native species and on the suitability of introducing non-native species into Texas reservoirs.

The coastal fisheries branch is generally responsible for the coastal fishery which includes the coastal bay system and the Gulf of Mexico out to nine nautical miles. In these waters, both recreational sportfishing and commercial fishing activities are extremely active. The objective in managing this coastal fishery is to prevent depletion of resources and to provide equitable and reasonable fishing opportunities. Two program directors - a finfish director and a shellfish director - located in Austin supervise the field activities conducted in two different coastal regions. Through the finfish program, finfish abundance and stability is monitored for a variety of species, the harvest of finfish by sportfishermen and commercial fishermen is measured, the bay fishery is enhanced by stocking artificially spawned fish and recommendations on regulation changes are developed. Finfish abundance and population trends are determined through routine samples taken by department staff with gill nets, bag seines, and trawls. In 1983, almost 4,000 samples were taken to determine the status of finfish populations. Additionally, fish tagging activities help determine fish growth and movement trend data. Harvest information is collected through mail surveys and actual interviews with fishermen at coastal access points. One area that has received particular attention in this program is the monitoring of redbfish and speckled sea trout. Due to the decline in their populations, these two species have been the subject of much controversy resulting in the legislative closing of the commercial fishery for these fish. Additionally, the hard freeze in December of 1983 killed many of these redbfish and trout and further depleted the resource.

The shellfish program is basically responsible for monitoring shellfish abundance and stability with an emphasis on shrimp, oysters and blue crabs. While sport shellfish harvest is permitted, the major shellfish harvest occurs from the commercial operations. Of these commercial shellfish operations, shrimp is the

dominant industry representing approximately 95 percent of the harvest by value. Random sampling methods of the seven coastal bay systems with bag seines and other trawls are used to estimate shrimp and blue crab abundance. Oyster dredge sampling in four bays provides data on oyster abundance. Because of the harmful effects of siltation on live oyster reefs, commercial shell dredge operations must be monitored. However, no dredge activities are currently in operation.

The resource protection branch of the fisheries division is responsible for the protection of fish and wildlife resources and their habitats. While organizationally this branch is located in the fisheries division, its responsibilities extend to all fish and wildlife species. To provide this protection, the branch has three program leaders supervising three separate programs - pollution surveillance, environmental assessment, and permits. The branch has a staff of 16 persons and is budgeted \$518,000 in fiscal year 1984. The pollution surveillance program is basically involved in investigating fish kills and in coordinating discharge permits issued by the Texas Department of Water Resources and the Texas Railroad Commission to evaluate the possible impact of the permitted activities on fish and wildlife populations. In the environmental assessment unit, environmental impact statements required on major federally funded development projects are reviewed. Additionally, applications to dredge or fill in wetland areas and applications for construction projects in navigable waterways are reviewed and comments are provided where necessary to protect fish and wildlife resources. The permits section issues scientific and zoological permits which authorize research with protected wildlife species. This section also issues dredging permits required to remove sand, shell, gravel or marl from public waters.

The aquatic habitat enhancement branch is responsible for the control of noxious aquatic vegetation in public waters. Both chemical and biological means are used to treat approximately 48,000 acres of freshwater in the state which are infested with noxious vegetation. The branch also, with the cooperation of local volunteer groups, enhances reclaimed waters with artificial reefs and structures.

Finally, the fish hatcheries branch of the fisheries division is responsible for producing the fish to stock public fishing waters. Currently, the branch operates 12 different hatcheries around the state, including one saltwater hatchery. The sole responsibility of the hatcheries is to spawn and rear fish for stocking purposes. Eleven different species are produced in these hatcheries, resulting in approximately 15 million fingerlings stocked in Texas waters annually.

## Wildlife

The wildlife program is generally responsible for the management of the state's wildlife resources. All wildlife in the state, regardless of whether they are located on public or private property, are the property of the state. In an effort to manage this resource, the wildlife division within the department has developed several programs to manage the wildlife populations, to protect and enhance habitat necessary to support Texas wildlife, and to operate wildlife management areas where proper management practices can be researched and demonstrated. The wildlife division employs over 130 persons with a budget of approximately \$5.8 million from game, fish, and water safety funds and from general revenue. Many of the activities conducted by the wildlife division are subject to a 75 percent federal funding reimbursement through the Pittman-Robertson Act. Operations are carried out by central staff located in Austin and a field staff organized in four regions covering the entire state.

The wildlife management program within the division is basically designed to manage the state's wildlife resources along sound biological lines. To accomplish this objective, the division uses what is known as the species concept to manage the animal populations. Under this concept, each significant species is managed independently according to its needs. In implementing this concept, species which require similar management efforts have been grouped together, resulting in three major groups -- game animals, fur-bearing animals, and nongame animals.

Of the three groups, the management of the game animals receives the greatest attention from the division. Over 85 percent of the wildlife management budget is directed toward the game species. While the identification of wildlife species considered to be game species is provided in statute, game animals are generally those which provide the greatest recreational hunting opportunity. The management of game animals has been separated into three different programs -- big game, upland game, and migratory game. These three programs are each supervised by a program leader in Austin who directs the field biologists and technicians located in the various regions to perform the necessary field work. Operations generally conducted by field staff include evaluating populations of particular wildlife species, conducting hunter harvest surveys, trapping and transplanting animals, and conducting research projects. With this information, program leaders are able to make recommendations to the commission regarding changes in hunting regulations and in the annual seasons and bag limits for the various game

species. The following list provides an indication of the major species in each of the game programs. A general indication of the dollars allocated to a particular species and the percent of the total 1984 budget for all programs allocated to that species is also provided.

	<u>Approximate 1984 Budget</u>	<u>Percent</u>
<u>Big Game</u>		
1. White-tailed deer	1,052,223	39
2. Mule deer	190,400	7
3. Pronghorn antelope	79,000	3
4. Javelina	24,650	1
5. Aoudad sheep	6,800	-
6. Bighorn sheep	56,100	2
7. Elk	10,200	-
8. Black bear	1,700	-
<u>Upland Game</u>		
1. Turkey	369,491	14
2. Quail	175,100	6
3. Prairie Chicken	39,780	1
4. Pheasant	177,470	7
5. Squirrel	3,400	-
6. Chachalaca	5,950	-
7. Rabbit	3,400	-
<u>Migratory Game</u>		
1. Waterfowl (ducks, geese)	293,704	11
2. Migratory short & upland game birds (dove, cranes, etc.)	210,370	8

The fur-bearing animal program encompasses the management of 20 major fur-bearing species in Texas. These species are generally those which have pelts of commercial value, including the beaver, otter, fox, and raccoon. Texas currently has approximately 33,000 licensed trappers who harvested about 900,000 pelts in 1982. Management of fur-bearers through this program consists of an evaluation of the annual fur harvest, some research, and the formulation of recommended regulation changes.

The nongame program consists of management activities directed toward all other animals that do not fall into the game or fur-bearing categories. Wildlife division programs in this area include a nongame and endangered species program and an alligator program. The nongame and endangered species program essentially manages all species that are not trapped, fished or hunted. Various mammals, birds, fish and reptiles are managed through this program. Although the

entire nongame and endangered species program receives only seven percent of the wildlife management program funding, it is able to conduct activities which evaluate the status of certain wildlife species and conduct several research projects. In addition, protected plants are evaluated in this program.

Finally, an alligator management program has been established to conduct an American alligator survey and to perform management planning for the species. The purpose of this program is to maintain American alligator populations at biologically healthy levels.

In addition to the game, nongame and fur-bearing animal management programs, the wildlife division conducts several other activities. The division operates 19 wildlife management areas. These areas are located throughout the state and serve as research facilities, sites to demonstrate wildlife management techniques to the public, and locations to hold public hunts for deer, turkey, javelina and other game. Wildlife planning activities are also conducted by the division through a statewide habitat mapping operation and staff efforts to mitigate losses of wildlife habitat resulting from large development projects. A wildlife technical guidance program is provided to give technical assistance to interested landowners and sportsmen regarding the preservation and enhancement of wildlife habitat.

#### Parks

The parks division is responsible for providing sufficient recreation opportunities for more than 18 million visitors annually, through planning, acquisition, development and operation of state parks. Currently, the state park system consists of 118 park units covering over 194,000 acres, including recreational parks, historical areas and natural areas. The parks program employs over 750 persons, with a budget of \$46.2 million for fiscal year 1984, funded from the state parks fund, general revenue, and other state funds. The development of the state parks system has been assisted through the dedication of cigarette tax revenues to the state parks fund, which finances park acquisition and development, and to the Local Parks, Recreation and Open Space Fund (LPF) which finances local park and recreation projects, as well as through the sale of park development bonds used for acquisition and development of park sites. The park system is divided into nine regions, with a regional director in charge of 11 to 19 parks per region. The main activities provided by the parks program are divided into three functions, special services, planning and development, and system operations.

The main activities of the special services branch are to forecast statewide outdoor recreation needs through five-year planning cycles, which result in the development of the Texas Outdoor Recreation Plan; to investigate and acquire park property through purchase, lease, gifts and other methods; to perform historic site restoration and development; and to provide financial assistance through federal pass-through Land and Water Conservation Funds and state LPF funds to political subdivisions for the planning, acquisition and development of local park projects. Other activities performed by this function are exhibit preparation, and funding assistance for local communities to maintain public beaches and to construct and maintain boat ramp facilities. An average of 30 new park site investigations a year are performed by this function, with acquisitions totalling 130,000 acres occurring from September 1971 through August 1982, at a cost of \$65.1 million.

Once the park site acquisition is made, the planning and development branch takes over to develop the acquired sites. To accomplish this development, the branch performs park master planning, park site development and repairs. In addition, local planning assistance is provided to approximately 20 local jurisdictions per year at no cost. Development projects are scheduled for six park sites for fiscal year 1984, most of which are on-going projects taking several years to complete.

Once park development and construction projects are completed, the park becomes the responsibility of the systems operation branch. Regional park operations are performed by a regional director, administrative assistant and a regional maintenance assistant for each of the nine regions who administer park field operations. Each park unit is supervised by a park superintendent and assistant superintendents that often live on the park grounds to provide park security and visitor assistance and is operated by park rangers who perform daily maintenance and operation of park facilities. There are also 66 commissioned peace officers in the park ranger force to provide additional park security. Park personnel are responsible for maintenance of over 13,000 developed park acres and 11,271 activity sites.

#### Enforcement

The law enforcement program is carried out by 554 employees statewide with a budget of \$20.3 million for fiscal year 1984 from general revenue and game, fish and water safety funds. The program is responsible for the enforcement of game, fish (both commercial and recreational), water safety and resource protection laws

based on three objectives - public education, deterring violators and apprehension of violators. Over 400 Texas game wardens are responsible for carrying out the main program functions through 10 regional offices and 31 districts. There are approximately 40 game wardens assigned to each of the 10 law enforcement regions. They are responsible for patrolling 172.2 million acres of land and 1.7 million miles of streams and lakes in the state.

The main responsibility of game wardens is to patrol assigned areas for enforcement purposes in order to provide citizen assistance and to serve as a deterrent to violators through high visibility within the community. Responsibilities also involve informing the public about regulations and rules, and apprehending violators. Enforcement patrol activities cover all aspects of fishing, wildlife and water safety regulations such as commercial shrimping, game and nongame species and boating safety laws. Game wardens are responsible for covering an average of 449,000 acres of land per person, with some wardens patrolling multiple counties. Citations issued for violations have increased from 18,709 in 1974 to 48,000 in 1983. Most violations pertain to illegal big game and fishing activities.

Another important function performed by game wardens is public education. This is done through distribution of literature on hunting, fishing, water safety and other topics; presentations of programs to civic and school groups; and personal contacts with local residences. Game wardens are also responsible for boat registration and titling, and issuing various hunting and fishing licenses through the field office locations. Court procedures, such as filing cases, testifying as state's witness and collecting fines administered, are additional game warden duties.

The game warden training academy, which is provided by this program, trains new cadets through a four and a half month training class involving 1,050 hours of coursework. In-service training is also provided to commissioned officers in the field, involving 40 hours each year to keep officers informed on changing game and fish laws, new policies and enforcement techniques.

Another special activity operated by the law enforcement division is Operation Game Thief, directed by the six-member Operation Game Thief Committee. The program provides a toll-free number to report game violators and, through private donations, offers cash rewards for information resulting in the conviction of flagrant violators. Since the program's inception in 1981, over 1,500 calls have been received resulting in 633 convictions, with over \$78,000 collected in fines.

### Administration

The administrative services program, primarily headquartered in Austin, directs and supports field activities of other department divisions through 274 employees and a fiscal year 1984 budget of \$9,780,586. This is performed through five main activities under the direction of the administrative services program director, including: finance, which performs fund and revenue accounting activities for millions of dollars of revenue yearly; general services, which maintains vehicles and equipment for employees; personnel; data processing; and information and education.

The information and education activity performs a highly visible service for the agency through the use of various media and public services. This activity receives much public attention because it provides a direct link between agency services and the public through the promotion of information pertaining to the state's park, fisheries, wildlife and other resources. This activity is operated by a staff of 30 which perform the following:

- publish a monthly magazine, Texas Parks and Wildlife, serving over 140,000 paid subscribers;
- distribute about 500,000 pieces of literature each year covering topics such as fishing regulations, park facilities, hunting information and wildlife management;
- operate two toll-free WATS lines that handle over 63,000 calls a year;
- distribute a weekly news release packet to 1,200 media outlets covering agency related news, public hearing and regulation changes;
- produce a 15-minute radio program distributed to local networks; and
- operate hunting and water safety education programs which certify 250 instructors and over 13,000 students annually.

This activity also performs a variety of other media and public presentation efforts. Information representing all programs within the agency is distributed through a variety of methods, requiring that efforts be coordinated through the information and education activity in order to keep abreast of program informational needs and current events. New informational efforts are continually being evaluated to more effectively disseminate information, such as through video presentations, television programming and an increased emphasis on education in public schools. Some of the efforts either currently in place or planned for the near future for public school education include: teacher-student packets containing color posters for elementary and junior high students; project wildlife packets for public schools put together by the Western Association of Fish and

Wildlife Agencies covering conservation and environmental protection of resources; wildlife exhibits and presentations for elementary students; audio-visual slide shows on state parks, wildflowers and environmental protection; and cooperative efforts with the Texas Education Agency for distribution of agency slide shows.



## REVIEW OF OPERATIONS

This section covers the evaluation of current agency operations undertaken to identify any major changes which should be made to improve the efficiency and effectiveness of those operations, if the agency is to be continued. The evaluation is divided into three general areas dealing with: 1) a review and analysis of the policy-making body; and 2) a review and analysis of the overall administration of the agency; and 3) a review and analysis of the operation of specific agency programs.

### Policy-making Structure

The evaluation of the policy-making structure was designed to determine if the current statutory structure contains provisions that ensure adequate executive and legislative control over the organization of the body; competency of members to perform required duties; proper balance of interests within the composition; and effective means for selection and removal of members.

The Texas Parks and Wildlife Commission is composed of nine members appointed by the governor with the consent of the senate for staggered six-year terms. Each biennium the chairman of the commission is designated by the governor and the vice-chair is elected by the commission members.

In addition to the commission, six advisory committees have been statutorily established to advise the department in certain specific areas of agency operation. Three of these advisory committees, the Battleship Texas Advisory Committee, the Fannin State Park Advisory Commission, and the San Jacinto Historical Advisory Board, provide assistance relating to a specific state park or historic site. The fourth advisory committee, the Falconry Advisory Board, advises the department on rules and policies relating to falconry. The operation game thief activity is performed by a six-member committee appointed by the agency executive director to approve and distribute rewards for information resulting in convictions of flagrant code violators. Finally, a Texas Trails Advisory Council which advises the commission on the Texas trails system was statutorily authorized in 1983 but currently has not been appointed.

While the review indicated that the existing policy-making structure appears to be organized in a generally appropriate manner, certain changes in that structure should be made to improve the balance of interests participating in policy decisions and the efficiency of the process to obtain public comment.

Advisory committees would improve the participation of regulated interests in the policy-making process.

Under the current commission composition, there is no qualifications for appointment as a commission member. None of the members is required to have experience or expertise in any of the areas regulated or served by the department.

As a general rule, policy-making bodies should reflect a proper balance of interests affected by the regulation. This balancing of interests can be achieved by having persons involved in the policy-making process who have experience or expertise in the regulated areas. Effective involvement of these experienced persons can be accomplished through membership on the board or, when board membership is not practical, through the use of advisory committees composed of members who have the necessary expertise.

Currently, agency policy decisions are made by the commission at routine meetings after receiving staff recommendations and then public comment. This procedure does not provide sufficient opportunity for those persons experienced in the area of regulation to consider the staff recommendations and suggest improvements, where necessary, to the proposed action. While the large number of interests affected by the commission's regulation prohibits representation of all interests on the commission itself, advisory committees could be formed which would appropriately provide input from most areas of commission regulation. Three advisory committees -- one relating to each of the agency's three major activities - parks, wildlife, and fisheries would provide sufficient opportunity for participation in the policy consideration process. These advisory committees would be appointed by the chairman of the commission and would be composed of persons who are experienced in various areas of the activity or industry regulated by the department. In addition, the membership of these committees should represent different geographical areas of the state. The primary duties of each advisory committee would be to review and comment on proposed regulation changes or major staff recommendations related to that committee's area of expertise. These comments could take the form of suggestions for alternative courses of action or indications of the merits and weaknesses of the proposals. This type of additional comment provided to the commission would increase the information available to the commission on which to make decisions. In addition, the commission could use the advisory committees, when necessary, to take additional testimony in various

areas around the state for proper development of a particular issue. Not only could regional meetings by these committees expand the commission's ability to receive public comment, but they could reduce the current burden on the commission at regular commission meetings caused by lengthy testimony on agenda items.

To provide the commission's policy-making process with the necessary balance and expertise from the areas regulated, the statute should be amended to authorize the commission to establish three advisory committees - parks, wildlife, and fisheries.

**Commission composition should ensure representation of major geographical areas of the state.**

Currently, members of the Texas Parks and Wildlife Commission are not required to be appointed from different geographical areas of the state. State agencies that have statewide jurisdiction and that regulate activities which have different problems or focuses in various parts of the state should have a proper geographical balance in their policy-making bodies. Such a balance ensures that regional concerns and differences are considered when policy decisions are made.

Because the Parks and Wildlife Commission sets statewide policy in a variety of areas where regional concerns are important, such as wildlife management, geographical balance in the commission membership is important. Although the current commission is composed of members representing most areas of the state, no requirement is in place to control future appointments. To ensure that the major geographical areas of the state are represented on the commission, the statute should be amended to provide that one member be appointed from each of the five following geographic areas of the state: the Gulf Coast, the Trans-Pecos, Central Texas, Northeast Texas, and the Panhandle-South Plains. The remaining four members should be selected from the state at large.

**Elimination of mandatory county hearing requirements and the initiation of regional meetings would streamline wildlife proclamation procedures.**

Under the Wildlife Conservation Act, the commission is required to regulate the taking or possession of wildlife through the issuance and adoption of a commission proclamation. Although this proclamation is adopted as a formal rule, after publication in the Texas Register and public hearing at a commission

meeting, the department must also hold a county hearing in each county affected by the proclamation. Because the proclamation governs hunting and fishing statewide, county hearings in all 254 counties must be held before the proclamation may be adopted by the commission.

Historically, these local meetings have been expensive to conduct and have generally experienced low attendance statewide. While commission members do not personally conduct the county meetings, considerable staff time and funds are required to properly advertise and conduct these meetings around the state. Except in a few areas where regulation changes were controversial, these local meetings generate little public interest and have low attendance. In 1984, the department held 254 county public hearings at a cost of \$160,192 to the department and had a total of 2,568 persons attend these hearings. From county to county, attendance fluctuated considerably, ranging from none at 107 meetings to over 20 persons at 31 meetings.

Most state agencies that regulate a statewide activity are not required to hold local meetings in all counties when policy changes are made. Local hearings become useful only when policy changes adversely affect the interests of a particular area of the state. While the Texas Parks and Wildlife Commission should conduct local hearings in areas where interest in the regulation changes is demonstrated or anticipated, local hearings in all counties are not necessary. Interest in regulation changes could manifest itself through comments to department staff or commission members or through a formal petition to the department requesting a hearing. Upon the receipt of a petition signed by at least 25 persons, the department should be required to hold a local hearing but could also conduct local hearings on its own initiative where necessary. To further ensure that persons interested in commission policy decisions have an opportunity to voice their concerns, the department should also be required to hold a regional hearing in each of the five major geographical parts of the state. In order to streamline the proclamation adoption procedure while maintaining effective local input in the policy-making process, the statute should be changed to allow the department to hold local hearings at sites selected by the commission, to require the department to hold a local hearing when requested by a petition of at least 25 persons, and to require the department to hold a regional meeting in each of the five major geographical areas of the state.

**An annual public meeting held by the commission would improve public input into the policy-making process.**

The commission generally holds about 8 to 12 regularly scheduled meetings each year. In these meetings, the commission hears staff recommendations, receives public testimony, and makes decisions concerning items listed on the meeting agenda. While this public input is useful in assisting the commission to make the particular decision at hand, little opportunity exists for interested persons to make comments or present information related to general commission approaches to wildlife management, park development or operation, or long-range planning proposals. Because this type of general policy consideration has a significant impact on future parks and wildlife programs, the public should be provided an appropriate and timely opportunity to participate in the process. To achieve this policy-related public input, the commission should be statutorily required to hold an annual public meeting in which members of the general public may comment on any topic related to the commission's regulatory responsibility.

**Overall Administration**

The evaluation of the overall agency administration was designed to determine whether management policies and procedures, the monitoring of management practices and the reporting requirements of the agency were adequate and appropriate for the internal management of time, personnel and funds. The review also examine the agency's fee structure and authority for setting fees.

The results of the evaluation indicated that the agency's administrative operations generally function adequately. However, several areas were identified where improvements could be made to enhance the administrative system. The improvements relate to the agency's fee setting authority, funding structure and authority for publications.

**Authority to collect park user fees should be clarified.**

The agency currently charges a total of 116 fees for different licenses and permits. Exhibit A shows the number of fees charged for various agency activities. The statutory authority for the department to charge park user fees for all campsites, shelters, cabins, lodges and group facilities is currently unclear.

According to Attorney General Opinion Number H-443, the practice of charging a fee for service delivery by a state agency requires clear statutory authority.

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**Exhibit A**  
**NUMBER OF DEPARTMENT FEES BY TYPE**

1.	Fishing - commercial and recreational	43
2.	Hunting - commercial and recreational	37
3.	Boat registration/titling	7
4.	Fines and arrest fees	6
5.	Sand, shell and gravel fees	5
6.	Magazine/publication fees	5
7.	State park fees	4
8.	Oyster leases	3
9.	Miscellaneous	<u>6</u>
	<b>TOTAL</b>	<u><u>116</u></u>

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Park user fees are required at over 80 parks, and revenue generated by these fees goes toward recovering park operating expenses. While the department has a goal of 50 percent cost recovery for park operation, actual cost recovery delivered through user fees for the last five years has been around 42 percent. The revenues collected by imposing these fees are essential to the department's ability to offset the cost of accommodation and facility up-keep. To clarify the agency's authority in this area, the statute should be amended to allow the agency to charge the park user fee.

**The commission should have authority to adjust fees.**

The commission currently has clear authority to charge 115 fees for various licenses, permits and services. However, several different methods are prescribed in statute for setting the amount of the fee. Thirty-four fees can be set by the commission, with a minimum amount fixed in statute. For six fees, the commission has complete discretion on the amount set. Seventy-five of the fees are set by statute at a fixed amount. Under this system, the commission has the authority to set only the 40 fees that give the commission partial or complete discretion over

the fee amount. The 75 fees fixed in the statute require legislative action to be adjusted.

The commission's current flexibility for setting and adjusting fees generally pertains to hunting and fishing licenses, except most commercial licenses, and sand, shell and gravel fees. The fees which are set at a fixed amount in the statute generally pertain to commercial fishing, falconry, game breeders, and boat registration/titling.

Prior to 1979, the commission had limited authority to set fees. With the passage of S.B. 580, 66th Legislature, several sections of the Parks and Wildlife Code pertaining to various nonresident hunting and fishing licenses were amended to allow the commission fee setting authority for these fees while retaining a statutory minimum. This eliminated the need for legislative action to increase certain fees. After the passage of S.B. 216, 68th Legislature, license fees were increased and the commission's authority to set license fees without legislative action was further extended. The language in the statute for these licenses again allowed the commission to set certain fees while retaining a statutory minimum. Although this bill mainly addressed fees which generated revenues in excess of \$500,000 annually, the flexibility concept can be extended to other fees currently authorized in the Parks and Wildlife Code. Such an approach would establish reasonable minimum amounts for fees and would provide the commission flexibility to increase fees when necessary, relieving the legislature of this routine burden. Legislative control through the appropriative process provides adequate oversight over the agency's fee setting actions. To improve the agency's flexibility in setting fees, the statutory authority for the 75 fees fixed in statute should be amended to authorize the commission to set reasonable fees while retaining the current fee as a statutory minimum. This change will allow the agency to periodically review the appropriateness of fees and adjust them as needed to account for inflation and needed revenues.

**Consolidation of two funds into the Park Fund No. 64 would reduce the department's accounting burden.**

The agency currently has fourteen different funds authorized to finance agency programs, including general revenue appropriations. However, only six of these funds are used in daily agency operations, with three of these receiving primary use. With the exception of general revenue, expenditures from the

department's various funds are statutorily dedicated to specific purposes. The funding sources that are most important to agency operations are listed below for fiscal year 1983.

	FUND	AMOUNT	% of TOTAL
1.	General Revenue	\$20,760,287	35%
2.	Fund 9 (Game, Fish and Water Safety)	26,439,927	44.6%
3.	Fund 64 (State Parks)	10,873,167	18.3%
4.	Fund 467 (Local Park Fund)	339,545	.6%
5.	Federal Fund 223 (L & WCF)	291,817	.5%
6.	Fund 965 (Park Fee Trust Account)	<u>588,590</u>	<u>1.0%</u>
	<b>TOTAL</b>	<u><u>\$59,293,333</u></u>	<u><u>100%</u></u>

Other special funds used by the agency to lesser degrees are:

1. Fund 408 - Texas Park Development Fund
2. Fund 409 - Park Development, Interest and Sinking Fund
3. Fund 420 - Parks and Wildlife Operating Fund
4. Fund 463 - Texas State Railroad Fund
5. Fund 63 - Mission San Francisco de los Tejas Building Fund
6. Fund 941 - Varner Hogg State Park Account
7. Fund 900 - Suspense Fund
8. Fund 506 - Nongame and Endangered Species Conservation Fund

In 1972, the agency operated 13 funds, 11 of which were utilized in daily agency operations. Since 1973, the agency's funding structure has been simplified by several funds consolidations. In 1973, the Land and Water Recreation and Safety Fund was combined with the Special Boat Fund 59 and in 1975, the Special Mineral Fund No. 267 was combined with the State Parks Fund. In 1979, two fund consolidations occurred--the Special Boat Fund was combined with the Game and Fish Fund 9, with the fund being renamed Game, Fish and Water Safety Fund, and the Texas Park Fund (cigarette tax) was combined with State Parks Fund 64, with the statute being broadened to authorize cigarette tax revenues for state park operation. Although several funds have been consolidated, new funds have been created for special purposes over the years so that the agency now has 14 separate funds.

A recent review of the agency's funds usage indicated that two additional funds, the Mission San Francisco de los Tejas State Park Building Fund No. 63 and the Texas State Railroad Park Fund No. 463 do not need to be maintained as separate funds. The elimination of these as separate funds would reduce extra accounting processes for both funds. To eliminate unnecessary accounting operations, the statute should be amended to consolidate funds No. 63 and No. 463 into the Parks Fund No. 64.

**More extensive bond financial investment services would assist the agency in obtaining higher yields in future bond issuances.**

The Texas Parks and Wildlife Department, by resolution of the commission, is authorized to issue up to \$75 million in bonds for the purpose of acquiring state park sites and improving, developing and equipping park sites. Income derived from entrance or gate permit fees at all state parks, less the expenses incurred in collecting the fees, is dedicated to the retirement of issued bonds. Currently the department has issued \$15.75 million in bonds, with \$5.75 million issued in 1968 and \$10 million issued in 1972.

To handle the funds derived from these bond sales and the revenue used to repay the bonds, two separate funds were established in the treasury. Texas Park Development Fund No. 408 is used to hold the proceeds from the sale of the Texas Park Development Bonds. The Interest and Sinking Fund No. 409 was created to receive the net proceeds from entrance fees at parks, accrued interest on the sale of bonds, and income from investments of the sinking fund itself. The sinking fund is to be used to pay principal and interest on bonds as they mature and as interest payments become due, as well as exchange and collection charges associated with bond sales.

After the bonds are issued, the proceeds are invested in U.S. government securities until they are needed for park acquisition and development purposes. The effective rate of interest attained by the agency in 1983 for short-term investments in treasury bills is 8.718 percent (Fund 409) and for long-term investments in treasury notes is 7.413 percent (Fund 408).

Management of bond funds should ensure that bonds are issued in a timely manner, at a low rate of interest, and that unused proceeds earn the highest possible yield. Fund management should involve the expertise of a financial investment advisor to achieve the maximum use of bond funds. The review

indicated that the agency may not have made maximum use of its bond fund investments, having attained a lower than average yield on investments in U.S. Treasury obligations earned by these funds in fiscal year 1983, and has come under arbitrage for not spending bond monies within three years from the date of issuance. Arbitrage problems occur when revenue usage for the intended purpose is not performed in a timely manner, leaving money invested past an acceptable time period. Because of this past occurrence, the agency has been limited to earning an interest rate on investments no higher than one-half of one percent above the interest rate at which the bonds were sold. With the 1972 bond series being sold at 4.75 percent, this arbitrage problem has limited the agency's ability to earn the maximum possible yield on investments.

Comparisons were made with other state agencies that have effective investment practices to determine the level of earnings attained on U.S. government securities in 1983. The findings of this comparison indicate that two agencies which have similar investment options have attained higher yields on investments than the department. The Veterans Land Board attained a yield of 10.73 percent in 1983 and the Texas Department of Water Resources achieved a 9.84 percent yield in 1983.

While the investment practices for the department may differ from the above agencies, it is estimated that for every percentage point increase in the annual effective interest rate attained for Parks and Wildlife Department investments, \$72,000 in additional revenue could be generated for the department given the average fund balance.

One of the major reasons for the higher yield on investments attained by some agencies is their use of extensive financial investment services, including long-term bond planning and forecasting of revenues, market projections, bond rollovers, and timing of bond issuances. The Parks and Wildlife Department has made secondary use of financial investment advisory services for a number of years, with the services generally involving assistance during bond issuance and interim assistance for any problems that arise. However, more extensive financial planning services should be initiated to plan for future bond issuances in order to avoid arbitrage problems. With outstanding bonds approaching retirement, the agency has a new opportunity to issue additional bonds. If the agency is assisted in forecasting monetary needs and bond timing, a higher yield could be attained for future bond investments. The agency should, therefore, utilize more extensive

financial advisory services which can assist on long-term planning for bond issuance.

**The department's authority to enter into contractual agreements to publish information on parks and wildlife and to publish a monthly magazine is deficient.**

Section 13.017-a of the Parks and Wildlife Code currently authorizes the agency to sell and disseminate publications on parks, but only at park sites, agency headquarters, and regional and district offices. The agency's internal legal interpretation of this section is that the agency may not enter into agreements with outside entities, such as academic and private publishing houses, to publish and distribute information pertaining to parks. In such agreements, the publishing house would be responsible for selling the publication and distributing it widely, rather than just at park sites.

At times, the agency is approached by publishing houses wanting to produce books pertaining to parks and wildlife. A recent example of this was a book on the Texas state park system to be produced by the University of Texas Press. The agency was unable to complete contract negotiations for the book due to the limitation imposed by this statute. It appears appropriate that the agency be able to develop agreements with publishing houses for books pertaining to parks and wildlife in order to better fulfill its authority to disseminate information in both areas. Publishing houses have the capability to offer wide distribution of quality materials promoting park sites and information, and wildlife values.

As a result of the current prohibition, the agency's ability to inform the public of park site locations and facilities is limited. To remove this prohibition, the statute should be amended to delete restrictions on selling and disseminating park information only at park sites. Additionally, statutory authority should be given the agency to enter into contractual agreements for the purpose of informing the public about parks and wildlife values and management, where determined appropriate by the agency. This authority would allow wider distribution of materials promoting parks and wildlife and would enhance education efforts in this area.

Section 13.017b of the Code prohibits the agency from publishing and selling park materials at regular periodic intervals. This section is interpreted to prohibit the publication of the agency's monthly magazine, which is produced at regular

monthly intervals. This section places an unnecessary restriction on agency operations and serves no useful purpose. The agency's monthly magazine promotes both park and wildlife information and provides public education concerning use and conservation of resources. The service provided by the magazine publication is appropriate and is performed by state park and wildlife agencies in most other states. To authorize the agency to continue to publish its monthly magazine, the statutory restriction should be deleted.

**Authorize the agency to deposit proceeds from park and wildlife publication sales to the credit of the fund from which publication expenses were paid.**

Section 12.006 of the Code currently requires that money from the sale of publications concerning wildlife be deposited into the State Treasury to the credit of Game, Fish, and Water Safety Fund No. 9, a fund which primarily supports wildlife efforts. This section of the statute has created limitations concerning the publication of the agency's monthly magazine. Presently, the magazine contains articles which pertain to both park and wildlife topics. The magazine has a circulation of over 140,000 readers, representing over \$700,000 in subscription revenues and \$45,000 from magazine advertising in 1983. Although the magazine was initially a game and fish magazine, the magazine was renamed in 1965 from the Texas Game and Fish magazine to Texas Parks and Wildlife. The new title better represented the agency's objective that the magazine provide information on both parks and wildlife. Presently, the magazine is funded mainly by Fund 9, which is a wildlife funding source, and some general revenue.

Since the Texas Parks and Wildlife magazine pertains in part to wildlife, the agency must deposit subscription revenues into Fund 9, according to section 12.006. This dictates the source to be used to pay for magazine publication expenses. As a result, park funds do not help support a major publication relating in part to parks. To allow the agency to better balance the funding sources for publications, the agency should be given the statutory authority to deposit proceeds from the sale of wildlife and park publications to the credit of the fund from which publication expenses were paid. This change will allow the agency to pay for the publication of the magazine and other publications from both park and wildlife-related funds.

The agency should be authorized to set subscription fees for the magazine in an amount to recover costs.

The Texas Parks and Wildlife magazine, which has a circulation of over 140,000 a year, contains 48 pages and sells for a subscription price of \$8.00 a year. In Section 12.006 of the Code, the agency's statute requires that any agency book, bulletin or magazine be sold for a price that does not exceed the cost of publication and mailing. This requirement prohibits the agency from recovering any income on the magazine, thereby limiting the agency to either sustaining a loss or breaking even.

The process of balancing incoming revenue against magazine expenditures without exceeding publication and mailing costs is tedious and creates an unnecessary restriction on the agency. Department staff currently estimate income by forecasting distribution needs and by examining the previous year's subscription income, advertising income and contract payments. Expenses, such as costs of letting bids for printing, promotion, marketing and operating expenses are figured. The estimated income is weighed against expenses to forecast how the magazine will do in terms of breaking even, but many variables make the calculation difficult. The chart below indicates magazine revenues and expenses for the past four fiscal years.

	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>
REVENUE TOTAL	\$ 574,644	\$ 648,406	\$ 702,512	\$ 833,986
EXPENSES TOTAL	\$ 487,692	\$ 597,021	\$ 823,102	\$ 901,836
DIFFERENCE	\$ <u>+86,952</u>	\$ <u>+51,385</u>	\$ <u>-120,590</u>	\$ <u>-67,850</u>

As the the data from the chart indicates, the magazine produced income which exceeded costs in fiscal year 1980 and 1981, but sustained a loss in fiscal year 1982 and 1983.

The statute produces an unnecessary restriction on the department's magazine publication staff and produces a situation where the statute can be unintentionally violated. The statute should be amended to allow the commission the

authority to set subscription fees for the magazine in an amount to recover costs. This would eliminate the unnecessary restriction and would assist the magazine section in avoiding large losses.

**The agency should be authorized to receive royalties from the sale of agency publication materials.**

Royalty payments are generally provided to individuals or entities for the use of materials and prints that appear in books produced by publishing houses. The agency currently provides color separation prints and copy that go into various publications owned by the agency, other governmental entities and private publishers. The agency's statute, in section 12.006-b, requires that materials published pertaining to wildlife information be sold for a price not to exceed the cost of the publication and mailing. This section has been interpreted by the agency to prohibit it from receiving royalty payments from other publishing houses who are selling books containing materials supplied by the agency. A recent example of this is a 160 page publication entitled Young Naturalist published in 1983 by the Texas A&M University Press, which contains agency-supplied materials. The agency was able to avoid violation of the statute by wording the contract with Texas A&M so that the press would pay the agency a fee for costs incurred by the agency on the publication of the book. The agency also provides free advertising space in its monthly magazine to advertise books such as the Young Naturalist in exchange for a percentage of the sales revenues from each advertised book sold.

The statute creates a cumbersome restriction on the agency's ability to receive revenues on its own work. A rider in the agency's appropriation bill authorizes the agency to expend any revenues or royalties received from the sale of items to which the agency has a proprietary right. However, if the agency is not authorized to receive royalties by statute, the appropriation rider cannot accomplish the desired objective. To clarify the agency's authority, the agency should be given statutory authority to receive royalties from the sale of items such as prints, photographs, and books that belong to the agency and for items that are supplied by the agency to outside publishers. This authority will allow the agency to receive revenues from advertising and marketing materials included in the agency magazine and to receive revenues through contracts with publishers that utilize agency materials.

**The ten-day time limit for license deputies to file monthly reports should be eliminated.**

In addition to agency staff and county clerks, approximately 3,500 commissioned license deputies around the state issue annual hunting and fishing licenses for the state. These license deputies are bonded and are consigned a number of hunting and fishing licenses according to anticipated license sales and the limitations of the bond amount. An account is established for each commissioned agent and computerized records are maintained on all transactions affecting each account. Deputies are required to file monthly sales reports with the supporting remittance. At the close of each fiscal period, all unissued licenses are returned for credit and all accounts are closed out.

The statutory provisions relating to fishing license sales require that the monthly sales report for these licenses be submitted to the department within 10 days after the end of each calendar month. Violation of this reporting requirement is a misdemeanor offense subject to a fine of \$10 to \$100.

During the review, the agency indicated that compliance with the 10 day filing deadline has not been consistent. This filing deadline is not statutorily imposed on other types of licenses and seems to place an unreasonable burden upon the deputies selling fishing licenses. Technically, any deputy who is selling fishing licenses and who is late in filing a monthly sales report is subject to a fine. Additionally, the department has other methods to secure payment from these deputies. While these deputies retain a small collection fee, they do perform an important service for the department in making hunting and fishing licenses easily available to the public. To make the filing requirements for all license sales reports uniform and to reduce the burden on the license deputies and the department to maintain compliance with monthly report filing requirements, the statute should be amended to delete the 10-day filing requirement on monthly sales reports for fishing licenses.

**The agency's rules and regulations should be documented in a consistent format for distribution and use.**

The agency maintains an updated copy of the Texas Administrative Code section pertaining to the Parks and Wildlife Department. A staff person in the agency's administrative division compiles and updates new rules that are adopted to add to the Administrative Code. In the past there has been one working copy of

the complete set of rules for in-house use. Each of the five agency divisions use supplemental publications containing the rules for their particular division in their daily activities. The divisions have not, however, had a copy of the complete set of agency rules. No extra copies of the complete, updated set of rules have been available for use by anyone outside of the agency.

The agency should provide a complete copy of the commission's rules to each division, the director, and the commission, and should have a copy available for public reference. This would ensure that each division has the information pertaining to its particular division, as well as other division rules that may affect its division operations. Additionally, the director and commission members should have an updated, working copy of the rules in order to keep informed of agency procedures. While the complete volume of all agency rules would be too expensive to reproduce and offer the public, a complete, updated copy should be available for public inspection at the department headquarters.

**The agency's statute should be amended to ensure compliance with the Administrative Procedure Act.**

There are two areas in which the agency's statute is not consistent with the provisions of the Administrative Procedure and Texas Register Act. The first area concerns section 64.024 on migratory game bird regulations. The statute currently provides for the agency's migratory game bird season regulations to go into effect no less than ten days after the regulation is issued. The APA, however, requires that prior to the adoption of any rule, the agency shall give at least 30 days notice of its intended action. The statute should be changed to delete the 10-day requirement. This section was put into the statute prior to the passage of the APA and should be amended to reflect the new hearing and rule adoption procedures. Section 64.024 should also be amended to statutorily authorize the agency to adopt emergency rules for migratory game bird regulations. This authority is provided the agency in statute for all other wildlife and fish species, but was omitted for migratory game birds. This authority will allow the agency to respond to emergency conditions that affect the supply or condition of migratory game birds.

The second area where the statute should be amended to comply with the APA concerns regulations governing parks and other recreation areas in Section 13, Subchapter B and C, of the Parks and Wildlife Code. These sections contain provisions that provide hearing requirements and notice requirements for commis-

sion rule-making procedures which conflict with those in the APA. The provisions in Section 13, Subchapter B and C of the Parks and Wildlife Code should be amended to comply with the APA where in conflict.

**Evaluation of Programs**

For review purposes, the activities of the agency were divided into five general categories: parks, wildlife, fisheries, resource protection, and enforcement. Major areas of concern resulting from the evaluation are set out below.

**Parks**

**Streamline the park classification system and establish new guidelines for use and development.**

The agency is charged with the responsibility to perform three major functions through the parks division: 1) to provide outdoor recreation; 2) to preserve and interpret outstanding natural areas of statewide significance; and 3) to preserve and interpret the historical heritage of the state. As they appear in Section 59.63 of the agency's rules, these three functions serve as the basis for the commission's policy on park system classifications and guidelines used to distinguish between park types and purposes. Under this broad recognition of purpose, the state park system has developed an organizational pattern consisting of seven classifications, each of which has general guidelines for acquisition, development and operation. The breakdown of parks by classification is given in the following chart.

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	<u>Park Classification</u>	<u>Number of Parks</u>	<u>Acreage</u>
1.	State Park	35	114,384.16
2.	State Recreation Areas	38	63,902.27
3.	State Historical Parks	16	6,920.66
4.	State Historic Sites	18	474.34
5.	State Historic Structures	5	5.47
6.	State Natural Areas	3	8,570.67
7.	State Fishing Piers	<u>3</u>	<u>14.67</u>
		118	194,272.24

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The largest classifications are the state parks and state recreation areas,

representing 62 percent of the total park system. State parks are defined as spacious areas of outstanding natural or scenic character which provide opportunities for resource-oriented recreation. Recreation areas are relatively natural areas with scenic quality, usually associated with water resources, serving regional or statewide needs. Historical areas, which represent 33 percent of the park system, are divided into historical parks, historic sites and historic structures, each of which has a different definition. Historical areas are basically established for the preservation and interpretation of pre-historic and historic resources of statewide or national significance. Natural areas are established to preserve features of statewide significance that have a major degree of unique or natural character. State fishing piers provide regional recreational fishing opportunities, but little recreational development.

This park classification system has not proven to be useful as an identification system for the public or as a method to guide acquisition or development. The different classifications are confusing to the public for identification purposes. For example, naming a particular location a historic site, a historical park, or historic structure does little to assist the public in identifying what facilities or type of recreational opportunity is available at that location. In fact, agency publications which indicate available facilities, fees charged, and other information about the different state parks in the system are a much more reliable indicator of available recreation opportunities.

Additionally, the seven existing categories have not been particularly useful in guiding acquisition or development. The descriptions attached to the categories tend to overlap and are too vague to provide any real guidance as to the type of property that should be acquired and the type of development which should occur on the property once acquired. Many existing state parks could easily fit into several categories. Over the years, agency personnel have recognized the problems associated with the confusion over state park classifications and have expressed interest in simplifying the system.

To streamline this system of park names and categories, the commission should establish policies which would refer to all of the locations as "state parks" when naming facilities in the park system. In addition, all "state parks" should be subject to the three following categories of guidelines which should dictate use and development. These three categories are:

1. Recreational areas
2. Historical areas
3. Natural areas

New guidelines for the acquisition, use and development of these areas should be developed by the agency. Such a system will require the commission to clearly delineate the requisite geographical or structural features of property to be acquired as one of these areas. In addition, the nature of permissible development on an area once acquired should be outlined. By setting this policy, a clear understanding of the commission's acquisition and development policy can be communicated to department staff before acquisitions are planned or master plans are developed. By referring to all parks as "state parks", the agency will also have the flexibility to use suitable park lands for multiple park purposes, as well. This new system should apply to new parks that are added to the system, while existing parks could be phased into the system when convenient. This system should eliminate cumbersome park classifications while still maintaining guidelines for park uses. To achieve this classification system, the statute should be amended to establish a park classification system and to require the commission to adopt acquisition and development guidelines for that system.

**Formalize the comprehensive park planning and acquisition system by establishing a review of proposed park acquisitions by the park advisory board if created.**

Two branches within the parks division share primary responsibility for park system comprehensive planning and park acquisitions. The comprehensive planning branch basically determines what recreation facilities exist in the state and then match this against recreational demand and deficiencies. Planning is performed on five-year planning cycles resulting in the development of the federally required statewide comprehensive outdoor recreation planning document. The federal Land and Water Conservation Fund (L&WCF) Act of 1965 requires the state to develop this document before it can receive its share of federal Land and Water Conservation funds. The document published for the Texas park system is the Texas Outdoor Recreation Plan," TORP," which outlines recreational needs and concerns statewide and is used for recreation planning and prioritizing grant applications for local government park projects.

The special studies and land acquisition branch guides the expansion and development of the park system by performing site investigations and land acquisitions, along with other activities. Since the establishment of this branch in 1972, over 400 sites have been investigated for acquisition. As a result, 52 park units totalling 132,406 acres have been acquired and over 5,000 acres added to existing sites. Although the department's approach to park site acquisition in using one branch to determine recreation needs and one branch to locate sites to meet these needs seems appropriate, the ability of the department to acquire park sites which correlate with identified priority needs is hampered by several factors.

While the TORP document resulting from the planning process is intended only to serve as a guideline for park efforts, the TORP is not completely able to meet specific needs of the land acquisition staff. Since federal guidelines and reporting requirements shape the form of the TORP, it is difficult to directly utilize TORP recreation priorities without performing additional studies and taking other factors into consideration. Some of the factors not adequately addressed by the TORP which are valuable to land acquisition staff include spatial distribution of parks within an area, park utilization data, and data from staff regional studies performed to identify more specific information on resource suitability, road and utility access, and proximity to population distributions. The priority regional recreation needs identified by the TORP are often altered after consideration of the data from these more detailed regional studies.

Another influencing factor which prohibits acquisition staff from getting more use from the TORP concerns the variety of alternative directions they must pursue in locating possible park sites. This direction is provided by offers to sell land made by public and private entities, legislative direction and staff-initiated efforts to investigate priority sites. Of an estimated 30-40 new recreational park site investigations made each year by acquisition staff, approximately 55 percent of these are often based on offers of land, about 45 percent result from staff-initiated investigations of priority sites, and a few each year may result from legislative interest or mandate. Because of the specialized information needs of acquisition staff and because of the variety of factors which direct the pursuit of particular sites, the priorities for investigation of park sites in certain regions of the state vary somewhat from TORP-identified priorities.

Since the method for prioritizing proposed park acquisitions is subject to so many variations, a system should be in place to review agency proposed acquisition

priorities to determine how the priorities were developed and to determine whether the priorities match identified statewide recreation needs. Additionally, the current method of prioritizing agency acquisitions does not involve any public input until staff recommendations on proposed sites are made to the commission. Public input at this point appears to have little effect on commission decisions. A system which would monitor the agency's acquisition plans and priorities, provide a means of public input, and add information resources from people knowledgeable about parks and recreation would help ensure that the proper priorities are established.

The park advisory board recommended in the policy-making section of this report, if established by the commission, should review park acquisition plans and priorities. This advisory board could review and comment on proposed regulation changes by the agency and major staff recommendations pertaining to the board's area of interest. Proposed park acquisition efforts would fall under the category of major staff recommendations and should be reviewed by the park advisory board. The review and comment system used by the board should consider whether the acquisition priorities reflect identified state recreation needs, as pointed out by the TORP document and the agency's own regional acquisition priorities. Documentation should be made available to the advisory board by the agency outlining the process the agency used to identify potential site investigations. This documentation should include offers received, legislative recommendations, and agency initiated interests. The advisory board should point out the advantages and disadvantages of proposed acquisition efforts and indicate where efforts appear to depart from identified recreation needs. This review and comment system provides a means to formalize the link between comprehensive planning and acquisition activities and to provide expertise and public input into acquisition decisions made by the commission, with the goal being to encourage acquisition efforts that best meet identified needs.

**Coordination with the Texas Historical Commission and more extensive use of volunteer groups would improve historical site planning and operation.**

The Parks and Wildlife Department is the only state agency with the responsibility for acquiring, developing and administering state historic properties. These responsibilities were given to the agency in 1967 by the Historic Sites and Structures Act.

The historic sites and restoration branch of the parks division has the primary responsibility for acquisitions, development, restoration planning and monitoring construction projects for all categories of historical areas (historic sites, structures and parks). Once a historic area is completed and ready for public visitation, it becomes the responsibility of the park operations program to staff, operate and maintain the property. There are currently 39 historical areas in the state park system. Prior to the establishment of the historic sites and restoration branch of the agency in 1972, planning and development of historical properties was shared by various branches within the agency. The centralization of efforts in 1972 was designed to provide more expertise in historic preservation in order to meet the agency's mandate. The review of the historical sites program focused on the agency's ability to provide planning, development and operational services for historical properties which result in high quality facilities.

The historic sites and restoration branch is composed of competent, professional staff who are capable of producing high quality historical areas using a multi-disciplinary approach. The staff has been sensitive to the need to protect structures and surrounding grounds and has produced accurate site interpretations. Problems have existed on some projects, however, resulting in lengthy planning and development delays, along with higher costs. An example of this is the Sebastopol State Historic Structure for which preservation plans were nearly complete in 1979. The site still remains unopened because of staff changes and structural problems necessitating more engineering research and materials studies. Previous staff cut-backs have slowed the planning and development of other sites, as well.

Another state agency, the Texas Historical Commission, also has expertise and interest in historical site preservation efforts in the state. Services currently provided by the Texas Historical Commission include: providing preservation expertise to small museums, non-profit heritage organizations and county historical commissions; identifying and marking historic properties; and developing commercial plans for historic site preservation work. The agency has a well-qualified staff of architects, historians, archeologists and architectural historians. In addition, the Texas Historical Commission provided the Parks and Wildlife Department with the original list of 42 historically significant sites and structures used to guide historical site acquisition efforts. Since there are currently no coordination efforts between the two agencies relating to historical areas, the expertise available within the Historical Commission has not been tapped by the Parks and Wildlife

Department. Because the Historical Commission has special expertise and interest in historical site preservation, it is appropriate that it should be allowed to provide input into historical area restoration efforts in the state.

Allowing the Texas Historical Commission to review and comment on preservation and development plans proposed for each new historical project undertaken, will address several concerns. First, the Historical Commission's expertise in this area may be useful in identifying potential problems with plans, thereby avoiding future delays. Second, areas where the preservation approach used by both agencies might differ could be identified and discussed. Finally, both agencies would be better informed about preservation activities occurring around the state.

Another area of the review focused on the agency's ability to provide appropriate operational services for historical areas. The agency's objective for most park sites in the system is to get parks operational and open for public use as soon as possible after acquisition and to provide necessary maintenance and repairs thereafter. Historical properties such as forts, mansions and monuments often require special maintenance efforts and on-going preservation work long after a site is initially opened. While the agency is mandated by Section 13.005-c of the Code to use general appropriations money to restore and maintain such structures, resources for such efforts are limited. The high costs associated with acquisition and development of historical areas underscore this funding limitation. Maintenance requirements for recreational parks containing campsites, swimming areas and picnic tables are considerably different than for historical areas, which may require technical preservation and curation of artifacts and antiques. The effective operation and maintenance of historical sites is hampered by lack of agency resources to provide the special care required by such facilities and artifacts. Park operations staff time is often consumed with general maintenance duties at historical areas, leaving little time to perform interpretation work with the public or to provide special care of the facilities. Additionally, the agency has tended to view parks in a static manner once they are open for operation, with on-going up-keep focusing on general maintenance, such as mowing and making needed repairs. While this is appropriate for recreational parks, historical areas require on-going preservation efforts in addition to general maintenance.

The special needs of historical areas have been recognized by the commission's policies which govern the maintenance of such sites. However, two more

steps should be taken by the agency to better meet the special maintenance needs required by the facilities. First, the agency should be encouraged to use volunteer programs to support and contribute to historical areas that might benefit from such resources. Volunteer groups have made significant contributions to the agency-operated Fulton Mansion and the Sam Rayburn house operated by the Historical Commission. Volunteer groups can provide an opportunity for community support for local sites by providing tours, sponsoring community events at the sites and by promoting the site. County Historical Commission groups, already in existence statewide, currently provide support to local and county archives, museums and historical sites in the form of special programs, tours and archives maintenance. Groups such as these, as well as other local groups, should be interested in providing volunteer support for state historical areas. Volunteer fund raising efforts can provide resources to enhance and restore existing structures and artifacts. Second, the agency should be authorized to provide dollar for dollar matching funds up to a maximum amount per facility per year to be matched with locally raised funds for use in on-going preservation and maintenance efforts. Funds raised through community efforts and matched by the agency would provide additional funds for preservation and should not preclude regular yearly expenditures for restoration and maintenance. These two added efforts to historical areas should provide more resources to better support such sites once opened to the public.

**The agency should be required to hold public hearings on master plans for park development.**

The master planning branch of the parks division becomes involved in the park planning process once the commission approves recommendations for acquisition of park sites. Except for historical areas, this branch produces the master development plan for each new park site which forms the basis for detailed plans and specifications for actual park development. Two planning teams attempt to prepare development plans for a total of four parks each year. The review looked at whether sufficient public input was allowed in the development phase of park projects to identify public interests and concerns for local park projects.

Park planning begins with solicitation of input and assistance from other agencies affected by the new development, followed by field investigations of the site by master planning staff to identify the resource conservation, development,

and access considerations for the site. A land use plan results from this analysis which provides a general area description of access roads and facilities. This plan is reviewed by other staff and is then developed into a more specific zone map outlining facilities. Master plan preparation involves specifying facility development and interpretive, recreation and operational programs, and refining the land use plan by outlining road locations and facility placement. A proposed budget for completing development of the site is included in the master plan. This plan is reviewed and then sent to the commission for final review and approval prior to the design and construction phase. Similar planning and development programs are performed for historical areas by the historic sites and restoration branch.

The history of public input into the planning process started with agency attempts to hold formal public hearings in Austin for park developments statewide. However, attendance at these meetings was low and this practice was discontinued about four years ago. Then, informal public meetings on existing master plans were held in different geographic locations of the state where interest was expressed. These meetings proved to be more useful since they were held closer to the actual location of the new park development and because citizens were allowed to express concerns or problems with the proposed staff plans. The meetings also provided a timely method for public input and support during the stage when plans are easily modified. Because of the success of these meetings, efforts have recently been initiated by the agency to hold public meetings at a locality near any new development sites to present land use or master development plans for public comment. This has been done for the Lake Bob Sandlin site near Mt. Pleasant and for Lake Houston, among others.

The initiation of these public meetings is appropriate for several reasons. First, public input is allowed during several phases of the park comprehensive planning process preceding development to identify interests and concerns regarding recreation facilities. Public input during the master development plan phase would provide a form of public follow-up allowing recreation interests and concerns specific to a particular site to be expressed. Second, the hearings advertise the existence of the park, which could promote park visitation once the site opens. Finally, the public hearings allow an opportunity to review the level and appropriateness of development proposed for the park site. Comments on the agency's sensitivity to the environment in the development phase can help department staff avoid potential problems. With the park classification system recommended

previously, the guidelines established for the three new park categories - recreational areas, historical areas, and natural areas - will allow the public to evaluate the proposed park development according to existing standards. This should also help ensure that development plans are appropriate for the park type and provide a proper balance of developed and open space. To get this public input, the statute should be amended to require the department to hold a public hearing on park master development or land use plans in a locality near new park development sites. By formalizing the public meeting process the agency has already established, the public will be ensured an opportunity for public input into parks in which they have an interest.

**The agency should improve its methods for dealing with cost inefficient parks.**

The park system operations program is responsible for operating and maintaining 118 park units, 97 of which are now operational, covering 194,000 acres. The analysis of park operations focused on two areas, park operation cost efficiency and whether a system is in place to deal with parks that are not cost efficient.

During the review, two types of efficiency indicators were analyzed. Percent of cost recovery attained by a park indicates the extent that park user fees pay for park operations. Use cost per visit is a measure, per visitor, of the net cost of park operation less the entrance fee receipt contribution to the park. For all facilities in the park system, the department's cost recovery goal is to generate user fees equivalent to 50 percent of operating expenditures. This goal was established by the parks division to serve as a general guideline for park fee structure reviews and efficient use of funds. Over the past five years, the cost recovery rate has averaged over 42.5 percent, which is nearing the 50 percent goal. The rate of cost recovery has also improved over the years, from an average of 30 percent in fiscal year 1976 to 44.2 percent in fiscal year 1980. The average cost recovery rate for all operational parks in fiscal year 1983 was 36.4 percent for the 76 parks which had data available. The data indicated that there were, however, significant variations in how well parks did on cost recovery. As indicated in Exhibit B, cost recovery rates varied from a high of 94 percent at Palo Duro Canyon State Park for 1983, to a low of .5 percent at Governor Hogg Shrine State Historical Park. A use cost per visit analysis for 1983 showed an average of .95¢

**EXHIBIT B**  
**Cost Recovery of Parks - Highest and Lowest**

**Four Highest**

<u>PARK</u>	<u>TYPE PARK</u>	<u>COST RECOVERY</u>	<u>1983 ANNUAL VISITATION</u>	<u>USE COST PER VIST</u>
Palo Duro Canyon	SP	94%	601,750	.03¢
Huntsville	SP	84%	415,994	.10
Indian Lodge	SP	82%	50,586	1.67
Kerrville	SRA	80%	395,862	.08

**Four Lowest**

<u>PARK</u>	<u>TYPE PARK</u>	<u>COST RECOVERY</u>	<u>1983 ANNUAL VISITATION</u>	<u>USE COST PER VIST</u>
Governor Hogg Shrine	SHP	.5%	162,917	.42¢
Fort McKavett	SHS	.6%	14,994	4.30
Big Spring	SP	.7%	171,522	.33
Jose A. Navarro	SHS	1%	1,411	NA*

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\*Not Available

per visit for 95 parks evaluated. The use cost per visit ranged from a high of \$15.00 per visit at Magoffin Home State Historic Site to a low of .03¢ per visit at Palo Duro Canyon State Park. Historical areas were generally more costly to run than were other state parks, with an average 16.3 percent cost recovery compared to an average of 45.7 percent for other state parks. Use cost per visit for historical areas averaged \$2.06 per visit, while state parks averaged .51¢ per visit.

The rate of cost recovery for the past several years for Texas parks appears to be average or higher than the rate attained by other states. This may be attributable to the 1978 increase in park fees and through reductions or stabilizing of operation and maintenance expenditures.

The second area focused on by the review was whether the agency had a system in place to deal with cost inefficient parks. While parks appear to be generally operating efficiently, variations do exist where certain parks consistently have low cost recovery and high use cost per visit rates. Historical areas do not fare as well as other park sites do, but this is due to a variety of factors. First, the characteristics of historical areas make them more expensive to acquire because the site often contains an existing structure that must have improvements made. Second, the department has less flexibility when acquiring such sites since the site is often confined to a single plot of land that must be acquired by condemnation if the owner is unwilling to sell. Third, historical areas tend to generate less revenue because of remote locations and because they often lack good revenue generating facilities such as campsites.

Cost recovery figures are shown in Exhibit C for state parks and recreation areas separately from historical areas since cost efficiency standards are somewhat different for these two classifications. This exhibit demonstrates that wide efficiency variations exist within each park type. For example, park and recreation area cost recovery figures ranged from a low of .7 percent up to 94 percent, while historical areas ranged from .1 percent up to 56 percent. This illustrates the need for the agency to develop acceptable cost recovery standards to be attained by parks and historical areas and to then have a system in place that would identify and take remedial action on parks that are attaining efficiency rates which vary from acceptable agency standards. While standards may differ for historical areas, variations within this standard should also be considered.

The agency evaluates facility use and cost summaries each year for all parks to determine how well they did in terms of visitation, gross receipts, expenditures,

EXHIBIT C

Range of Cost Recovery by Park Type  
Fiscal Year 1983

**A. State Parks and Recreation Areas - Four Highest:** **% Cost Recovery**

1.	Palo Duro Canyon -	SP	94%
2.	Huntsville -	SP	84%
3.	Indian Lodge -	SP	82%
4.	Kerrville -	SRA	80%

**Four Lowest:**

5.	Big Spring -	SRA	.7%
6.	Mother Neff -	SP	13%
7.	Caprock Canyons -	SP	13%
8.	Guadalupe River -	SP	17%

**B. Historical Areas - Four Highest:** **% Cost Recovery**

1.	Stephen F. Austin -	SHP	56%
2.	Port Isabel -	SH Structure	49%
3.	Landmark Inn -	SHS	40%
4.	Texas State Railroad -	SHP	27%

**Three Lowest:**

5.	Governor Hogg Shrine -	SHP	.5%
6.	Fort McKavett -	SHS	.6%
7.	Jose A. Navarro -	SHS	.1%

cost per visit and cost recovery. If a park exceeds desired efficiency rates, two courses of action are generally followed. One step is to reduce costs by making operation adjustments, shutting down utilities in low use months and limiting staff. The other step is to increase visitation by promotion efforts. These steps are helpful in controlling costs, however, they do not always provide enough alternatives for problem parks.

The agency should improve the methods used for dealing with inefficient parks to include more alternatives. While it is appropriate that some categories of parks, such as historical areas, experience higher operation costs, improvements could be made within each category. The methods used should address two situations -- parks that experience seasonal low use periods and parks which have costs continually below accepted agency standards. Action taken to deal with parks could range from attempts to cut costs and increase utilization to the consideration to divest the system of parks where prior efficiency action was not effective. Some additional actions that the agency could consider for parks that experience seasonal low use periods include:

1. Close parks during low use periods to perform necessary maintenance activities.
2. Close parks during low use periods to allow public hunting where appropriate.
3. Shorten camping seasons or hours of operation for day use.

Actions that could be considered by the agency to deal with continually cost inefficient parks include:

1. Sell or trade the park.
2. Transfer the park to local jurisdictions for operation.
3. Add revenue-generating facilities if not present, such as campsites.

This review and action system should be performed yearly to ensure that the park system remains responsive to the public's recreational need while operating in the most cost efficient manner possible. Trends in use and efficiency of parks should be identified so that the information can be included in planning processes for future parks.

**The agency should be required to dedicate 20 percent of available acquisition funds to natural area acquisition.**

According to the commission's policy guidelines for the administration of state parks, natural areas are areas that retain their unique natural character and are established primarily for preservation of outstanding ecological, biological, geological or scenic features of statewide significance. The state park system is composed of a total of 118 parks, three of which are specifically categorized as natural areas. Two of these natural areas, Enchanted Rock and Lost Maples, are currently operating. Enchanted Rock State Natural Area was acquired with the assistance of the Nature Conservancy, a private, non-profit conservation group in 1978, and Lost Maples was acquired through purchase in 1975. The 4,753 acre Hill Country State Natural Area - Merrick Unit was acquired by donation in 1982, but development proceedings are still years away. In addition to these three designated natural area parks, the department has undeveloped areas within 41 existing park units. While these areas are not specifically categorized as natural areas, they do provide similar recreational opportunities.

The agency has an in-house priority list of natural area sites it is most interested in obtaining. Additionally, the Natural Heritage Biological Inventory program initiated in 1983 between the Nature Conservancy and the General Land Office identifies endangered plant and animal species and ecosystems statewide. This inventory can be used by the agency to continue identifying significant natural resources within the state, including potential natural area parks. While these efforts are helpful in terms of identifying potential sites to be used for natural areas, more efforts are still needed.

The agency's efforts to acquire natural area park sites have been limited. The current acreage provided by natural area parks remains low, while interest in the natural resources of the state appears to be growing. As shown in Exhibit D, designated natural area parks represent only four percent of the total 194,000 acres of park land and only three percent of the 118 total parks in the system. The agency's informal policy in the past has been to split acquisition efforts between the various park types in the following manner: 50 percent parks and recreational areas, 30 percent natural areas and 20 percent historical areas. While this informal policy has served only as a guideline, the agency has fallen substantially short of it for natural areas. The increasing interest in natural resources of the state, such as natural area parks can be measured several ways. A 1982 citizen survey performed by the comprehensive planning branch found that 78 percent of the citizens surveyed believed the state should be doing more to protect the state's natural

resources and environment. The 1985 TORP draft identified the concern for loss of natural resources with recreation potential as one of the top ten recreational concerns statewide. The TORP draft also identified walking/hiking trails, which are usually part of a natural area park, as the most popular activity in total participation days, estimating a need for 759 additional miles of trails by 1985. From these estimates, it appears that efforts made for the acquisition and protection of the state's natural resources have been inadequate.

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Exhibit D

**PARK ACREAGE BY TYPE PARK**

<u>Park Type</u>	<u>No. of Parks</u>	<u>% of Total</u>	<u>Acreage</u>	<u>% of Total</u>
Parks and Fishing Piers	38	32%	114,398.83	59%
Recreation Areas	38	32%	63,902.27	33%
Historical Areas	39	33%	7,400.47	4%
Natural Areas	<u>3</u>	<u>3%</u>	<u>8,570.67</u>	<u>4%</u>
<b>TOTAL</b>	<b><u>118</u></b>	<b><u>100%</u></b>	<b><u>194,272.24</u></b>	<b><u>100%</u></b>

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Several factors have hampered more aggressive acquisition of natural areas. First, the implementation of the cigarette tax funds to finance state parks in 1979 caused park acquisition efforts to become quite active. These acquisition efforts created a backlog of development projects which have since received funding priority. In the past, the agency has had the flexibility to interchange funds between acquisition and development projects, allowing the agency to use some of the acquisition funds for development and other purposes. As shown in Exhibit E, the 1983 acquisition expenditure was \$1,007,388. This amount was expended to acquire additional acres for previously acquired park sites and included no new site acquisitions. The funding priority assigned to development projects over the years has slowed acquisition efforts for all types of parks. Second, natural area site acquisitions have not been aggressive due to the higher priority placed on recreational parks, especially on reservoirs and near urban areas, over the past several years. This has been in response to the agency's acquisition of low cost Corps of Engineer reservoir sites that can be made quickly operational, and due to pressure placed on the agency to build more parks near growing urban population

centers, where 80 percent of Texans are now estimated to reside. Third, site investigations of natural areas, which precede acquisition efforts, have been limited. In 1978, an extensive number of natural area site investigations were performed and have since been followed up on only to a limited extent. The agency attempts to contact owners of identified natural area sites to determine interest in selling the property. If the owner is not interested in selling at the time of contact, the agency does not pursue further efforts to acquire the property except to monitor its availability. Such follow-up efforts have become a lower priority than the pursuit of offers made to the agency by landowners and other entities interested in negotiating.

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**Exhibit E**  
**PARK ACQUISITIONS**  
**Fiscal Years 1979 - 1983**

<u>Fiscal Year</u>	<u>Acquisition Expenditures</u>	<u>Acreage</u>	<u>20% of Acquisition Expenditures</u>
1983	\$1,007,388	13,635	\$ 201,477
1982	3,741,112	2,874	748,222
1981	22,388,420	47,534	4,477,684
1980	5,147,323	1,526	1,029,464
1979	2,069,766	2,351	413,953

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To more actively pursue acquisition efforts for natural areas, the agency should be required by statute to establish a holding fund for natural area acquisitions whereby 20 percent of the agency's yearly acquisition budget would be appropriated for this purpose. Acquisition funds should be accumulated until a sufficient amount is accrued to purchase agency prioritized natural area sites that become available. A 20 percent appropriation of funds for natural areas would amount to over \$200,000 per year if acquisition funds continue to be budgeted at a rate similar to the 1983 rate. This would amount to 100 acres per year at a price of \$2,000 per acre, which is more per acre than is generally paid by the agency, considering gifts, leases and bargains.

The appropriation of 20 percent of acquisition funds for natural areas should encourage the active investigation, negotiation and acquisition of such sites in order to increase the minimal amount of acreage and recreation opportunity currently provided by natural area parks. More active acquisitions of natural area resources would also address concerns about the state's role in protection of natural resources before they are irretrievably lost.

### Wildlife

#### The agency should be authorized to establish a preference point system for issuance of hunting permits on wildlife management areas.

In an effort to provide inexpensive hunting opportunities for Texas residents and to properly manage wildlife populations on certain commission-owned lands, the department holds public hunts on most of its wildlife management areas. Currently, the department has approximately 350,000 acres available for controlled public hunts at various times throughout the year, and was able to provide 28,000 man days of hunting opportunity in 1982. Hunting on these wildlife management areas is controlled through the issuance of special hunting permits. Although the method used to issue these permits depends upon the species to be hunted and the location of the hunt, the demand to hunt deer, turkey, javelina, ferrel hog, and chachalaca generally exceeds the available hunting opportunity by a considerable margin. In fact, 24,073 persons applied for the 2,600 deer hunting permits available in the 1982 season. Each year, a drawing is held to select the applicants who will receive a public hunting permit for that year. These permits are valid for a two day period at a particular location.

Statutory limitations require that special permits be issued by the department through an impartial method of distribution. In addition, no person may receive a special permit for two consecutive years unless all applications for the preceding year have been filled. This requirement essentially limits a person's permit eligibility to every other year. While these limitations do provide all applicants a fair chance to be selected for a permit, they do not ensure that all persons who want to participate in public hunts will eventually be able to do so. If a system existed that would improve an applicant's future chance of being selected for a permit each time the applicant applies but is not chosen, hunters would be encouraged to continue to apply and a greater number of different people would be

able to participate in public hunts. One such system is to attach preference points to applicants who had applied before but had not been chosen. Priority could then be given to those applicants with preference points. To improve the method for issuing public hunting permits, the statute should be amended to authorize the department to establish a preference point system for issuing public hunting permits.

**Prohibition against hunting deer in state parks should be removed.**

Chapter 62 of the Parks and Wildlife Code authorizes the commission to prescribe an open season for hunting in a state park, fort, or other site where size, location or other physical conditions permit hunting. However, the Code expressly prohibits recreational hunting of deer in state parks.

As indicated in the previous recommendation, the demand for permits to participate in public deer hunts held on department wildlife management areas exceeds the opportunity by almost 1,000 percent. Out of approximately 25,000 applications, only 2,600 permits to hunt deer in the department's public hunting program were available. With the cost of deer leases escalating, this department program is one of the few opportunities many Texas residents have to participate in a deer hunt. The primary factor limiting the expansion of the program is the lack of available sites to conduct public hunts.

Presently, the state has 118 parks covering approximately 194,000 acres in the state park system. Many of these state parks have deer populations that exceed the carrying capacity of the acreage. In order to properly manage the deer populations and to protect the vegetation on these parks, deer populations often-times should be reduced. The primary method available to the department to address this problem is trapping deer and transplanting them to other parts of the state. This trapping and transplanting operation is expensive and time consuming.

Authorizing the department to conduct public deer hunts on suitable state park lands could provide additional hunting opportunity for Texas residents and, at the same time, provide the department with an additional management technique for the control of deer populations on park lands. Historically, the deer hunting season occurring in the fall also coincides with periods of low visitation for some parks around the state. Through a coordinated effort of the parks division and the wildlife division, the opportunity for public hunting could be expanded, the deer populations on state parks could be better managed, and the utilization of some

state parks experiencing low visitation could be improved. To allow the department to implement a deer hunting program in suitable state parks, the statute should be amended to remove the prohibition against recreational hunting of deer in state parks.

**Authorize the agency to accept donations of land or an interest in land for wildlife management purposes.**

The agency acquires land for wildlife management purposes mainly in the form of designated wildlife management areas around the state. The 19 agency-operated management areas are dedicated for research and demonstration purposes, public hunting and wildlife refuge areas. Acquisition of such property is generally done through purchase of the property, leases and memorandum of understanding agreements with the U.S. Forest Service. While the department has the authority to exchange existing property for land suitable as a game management area, the agency currently has no clear authority to accept land donations for purposes of wildlife management.

The agency does have authority to accept gifts of state park lands and has received a great deal of use from these donations in the past. Since fiscal year 1979, the agency has received donations of park lands totalling 2,223 acres, of which 2,037 acres will make up a natural area park. Another 186 acres were contributed to various historical areas and recreation areas. Donations of land or interest in land would be equally as useful to the agency for wildlife management purposes. Such donations would relieve the financial burden on the agency's budget for acquisition of wildlife management sites.

One activity occurring on wildlife management areas that has generated a great deal of public interest is the public hunting opportunity offered in these areas. Due to the high cost of private deer leases and the popularity of recreational hunting, public interest in the less expensive agency-operated public hunts held on 350,000 acres of wildlife management areas has been positive.

Presently, the agency is able to meet only approximately 10 percent of the current demand for this activity. New wildlife management lands dedicated to this and other purposes would assist the agency in filling this demand. To improve the agency's ability to acquire these areas, the statute should be amended to authorize the agency to accept gifts of land or interest in land for wildlife management purposes and to make improvements to the land to suit such purposes.

**The scope of the department's non-game program needs clarification.**

According to the department's operational plan, approximately 1,100 species or subspecies of vertebrates are found in Texas. In addition, several thousand species of mollusks and crustacean occur in Texas. Only a small portion of this wildlife is hunted, trapped, or fished as game animals or fish. The remainder of the wildlife species are considered nongame and are managed through a nongame program within the department.

Although considerable interest in Texas nongame species has been demonstrated, the department's activities in nongame management have been limited. Non-consumptive uses of wildlife have increased in Texas over recent years. The 1980 Texas Outdoor Recreation Plan indicates a demand of 8 million activity days of nature study recreation will exist in Texas for 1985. In addition, the Southeastern Association of Fish and Wildlife Agencies reports that Texas had over 3.4 million nonconsumptive users of wildlife in 1981. While the demand for nongame management information increases, the department's funding for these activities represents only three percent of the wildlife division's budget. Several problems have contributed to this imbalance.

One of the primary reasons the nongame program has received low priority in the department's budget process is that the nongame activities do not generally generate revenues which can be used to fund the program. Hunting, fishing, and commercial activities require licenses that have fees attached to their issuance, while nongame activities usually do not require licenses. In 1983, the legislature established a nongame and endangered species fund generated through donations and the proceeds from the sale of wildlife art prints and stamps. Revenues flowing into this fund are to be used only for specified purposes benefiting nongame and endangered species. Department staff indicate that work has begun on the development of artwork to be sold for the benefit of the nongame fund.

Although this funding source should boost revenues available to the nongame program, one other funding problem has hampered the nongame effort. Presently, the department has the authority to establish limitations on the taking, possession, transportation and exportation of nongame, fish and wildlife where the department considers it necessary for proper management. The department, however, does not have authority to collect fees when these limitations are imposed. In general, the department does collect a fee when issuing a permit in other programs if the taking

or possession is for a commercial purpose. At least one such activity relating to bobcat exportation already occurs in the nongame area. To clarify the department's authority in this area, the department should have the express authority to issue permits where necessary to manage the taking, possession, transportation, sale, or exportation of nongame. When this permit involves a commercial enterprise, the department should be authorized to charge a fee for the issuance of the permit.

One other area that has contributed to the limited scope of department activity in nongame management is the vague statutory identification of department responsibilities. Although the department is expressly required to develop and administer management programs designed to ensure continued availability of nongame species, and is required to conduct investigations of populations and habitat needs for nongame, the nongame chapter of the Code does not contain a definition of the term "nongame". Additionally, the department's responsibilities with regard to the management of nongame are too general to provide any real guidance as to the scope of the program.

When enacting the enabling legislation for the nongame and endangered species fund, the 68th Legislature included a definition of the term "nongame" and listed uses for the fund. Included in these uses were dissemination of information; scientific investigation; propagation, distribution, and restoration of species; research and management; and development and acquisition of habitat. The language provides a recent legislative guideline regarding the appropriate scope of a nongame program. To clarify the department's responsibilities regarding nongame management, a definition of "nongame" and "nongame management" similar to those found in Chapter 11 of the Code pertaining to the creation of the nongame fund should be included in Chapter 67 of the Code dealing with nongame management and regulations.

**Authority to include only native species on the Texas endangered species list needs clarification.**

To protect species of fish, wildlife, and plants that are threatened with extinction, the names of these species are placed on an endangered species list. While a species is on such a list, no person is allowed to possess, sell, distribute or offer for sale that species of fish, wildlife, or plant. Although certain exceptions to this prohibition exist, the program is designed to protect endangered or

threatened species so that their populations have an opportunity to stabilize and be enhanced. In Texas, a fish or wildlife species is classified as endangered if it is listed on the United States List of Endangered Foreign Fish and Wildlife, the United States List of Endangered Native Fish and Wildlife, or the Texas list of fish or wildlife threatened with extinction. In addition, species of native Texas plants are endangered, threatened or protected if they are listed on similar federal or state lists.

For both the Texas endangered species list and the Texas endangered plant list, the director of the Parks and Wildlife Department is responsible for updating the lists when necessary. If the federal endangered plant list is modified, Chapter 88 of the Parks and Wildlife Code requires the director to file an amendment to the Texas endangered plant list unless the director finds that the plant does not occur in this state. However, Chapter 68 of the Code seems to require the department director to amend the Texas endangered species list fish and wildlife when a modification of the federal list occurs regardless of whether the fish or wildlife species is found in Texas. This practice of placing fish or wildlife species which do not occur in Texas on the Texas endangered species list serves no useful purpose. To clarify the director's responsibility in this area, the statute should be amended to require the director to amend the Texas endangered species list only when the modification of the federal list affects a species that occurs in Texas.

**The technical guidance program should be statutorily mandated and its role expanded.**

Over 90 percent of the land in the state is estimated to be owned by private landowners. Because of this private ownership, effective wildlife and habitat management in the state depends upon the department's ability to get the cooperation and commitment of private landowners who control the vast majority of the state's total land acreage. The Texas Parks and Wildlife Department has an important opportunity to work with private landowners through the wildlife extension program.

The wildlife extension activity was established in 1973 for the purpose of providing free technical assistance to landowners and sportsmen on wildlife habitat and preservation. Agency biologists assist interested landowners in developing management programs through on-site visits, group workshops, field day demonstrations and the distribution of printed information. The program is carried out by five extension biologists scattered statewide at a cost of \$135,700 in fiscal year

1983. Since the program began, management programs and recommendations have been developed on over 16 million acres of privately owned wildlife habitat.

The wildlife extension program serves as a critical link between the agency which has the expertise in wildlife management and the landowner who is responsible for most of the actual management efforts. Landowners must be provided with information and techniques to manage wildlife resources effectively in order to reverse the trend toward habitat degradation which threatens many species. The review indicated that due to the large demand for the service, improvements should be made in several areas.

First, the priority within the wildlife division over the past years has, by necessity, been with programs that are statutorily mandated, such as regulation of game harvest and species research. The technical guidance program is not a statutorily mandated activity and is not eligible for federal funding, as are many wildlife programs. Therefore, the program has not been viewed as a priority in terms of staffing and budget. This lack of an express statutory mandate to perform this function has hindered the agency's ability to justify funding and staffing needs for the program.

Second, with only five biologists assigned to the program statewide, it is difficult to handle all of the incoming requests for assistance. This creates a backlog of requests that cannot be acted on quickly. An estimated 300 requests a year are received for the service, of which about half can be met. Some landowners choose to use the expertise of private consultants that perform similar service for a fee in order to get timely assistance. Further pressure is placed on the extension biologists' workload because the requests for assistance often come at the busiest times of the year for wildlife staff, such as during hunting seasons. Efforts to become more responsive to requests have been initiated by wildlife staff by using the assistance of wildlife biologists assigned to other program areas. Cooperative efforts between neighboring landowners have been initiated where feasible to get more landowners involved in wildlife management. However, in order to reach more landowners in a timely manner, group meetings such as workshops and field day demonstrations should be better utilized. The agency has used workshops to present talks and slide displays, and field day demonstrations to present wildlife management practices and research, although efforts of this type in staff man-days have declined since 1982. Due to the limited number of wildlife personnel available to provide technical assistance, the education role of the

program should be expanded to use more group efforts such as workshops and demonstrations to reach greater numbers of landowners.

Finally, the extension program's role should be expanded to handle nongame, waterfowl and fish habitat management requests. Development pressures in the state have adversely affected the amount and quality of habitat available for nongame wildlife, especially in urban settings where over 80 percent of Texans now reside. The extension program would be an appropriate avenue for providing assistance in development of habitat for nongame wildlife on residential and commercial property. Requests for assistance on urban management of nongame species are often directed to the extension program, but the agency is not equipped to deal with such requests. Agency plans to add a nongame urban biologist to the staff in the future will assist the expansion of the program to handle nongame assistance requests.

Landowners are also becoming more aware of the need to manage habitat frequented by waterfowl that use portions of the state for wintering grounds, as well as waterfowl that permanently reside in the state. Landowners that control critical waterfowl habitat, such as playas, lakes and coastal marshes, need to be provided the information and means to enhance their property in a way that would benefit waterfowl. Plans are being developed to add a wetland technical guidance individual to the staff to research and disseminate information on wetland management techniques. This effort is an appropriate step toward getting landowners involved in preserving wetland habitat in order to offset increasing losses of quality waterfowl habitat.

**Cooperative efforts should be promoted with other agencies that provide assistance to landowners.**

Technical assistance is provided to landowners by two other agencies in addition to the Texas Parks and Wildlife Department. These agencies are the federal Soil Conservation Service (SCS) and the Texas A&M Agriculture Extension Service. The SCS provides planning assistance to ranchers and farmers through conservation districts set up statewide, with this assistance generally concerning soil conservation techniques such as terracing and brush management. While the SCS does not specialize in wildlife management, about 25 percent of the plans developed for landowners do include general wildlife management where appropriate. This generally applies to farmers that use their land primarily for

agriculture purposes, but also own some plots of land that are better suited for wildlife habitat. Over 600 SCS field conservationists are located statewide to provide soil conservation planning assistance and three wildlife biologists headquartered in Temple respond to statewide requests for wildlife assistance. The field conservationists refer landowners to the wildlife biologists who have the expertise to handle specific wildlife management requests.

The Texas A&M Agriculture Extension Service utilizes 800 county agents statewide to provide educational efforts such as local radio programs, seminars, demonstrations and development of informational publications. Topics covered by the county agents vary from county to county depending on local needs. Subjects can range from beef production to pecan trees and may also cover wildlife management techniques such as deer census and maintenance of deer harvest records. While the county agents do not specialize in wildlife management, they receive training and back-up support from nine wildlife specialists that have statewide responsibility. Wildlife management appears to be becoming more important to landowners, resulting in the expansion of educational programs in this area. The county agents do provide some on-site consultations with landowners geared toward teaching landowners general application techniques they can perform with little follow-up assistance.

Since three separate agencies provide assistance and information to landowners, a need exists for coordination of efforts. Concerns have arisen in the past that information provided to landowners was not consistent or compatible from one agency to the next, creating confusion about land use management methods. While it appears this situation has improved somewhat over the years, coordination efforts are needed between SCS, A&M Extension and the Parks and Wildlife Department since the goals of the three agencies may vary.

The Texas Parks and Wildlife Department should promote more cooperative efforts between the three agencies to ensure that compatible information is provided landowners. While the agency is currently active in joint landowner education workshops sponsored by SCS and A&M, cooperative efforts would be better accomplished through department-initiated training workshops involving personnel from all three agencies. Additionally, active involvement in professional societies such as the Texas Chapter of the Wildlife Society and the Texas Section of the Society for Range Management, and regular exchanges of planning information between agencies would improve coordination.

**Increased in-service wildlife science training for game wardens would improve wildlife management efforts.**

As previously discussed, most land in Texas is privately owned. Effective wildlife management in this state depends upon a high level of cooperation from landowners to implement proven wildlife management techniques. This cooperation can best be encouraged when all Parks and Wildlife personnel that contact landowners are informed about current wildlife management practices and support the policies developed by the department's wildlife division. Because of the number of personnel and the nature of their duties, the 424 game wardens around the state maintain regular contact with landowners in their respective districts. In fact, game wardens made over 10.5 million non-violation contacts with persons throughout the state during 1982. With this amount of visibility as representatives of the Parks and Wildlife Department and their close relations with landowners statewide, it is important that game wardens be kept informed of the wildlife management practices that department biologists find useful in their area. When well informed, game wardens can support programs promoted by department biologists and avoid offering conflicting advice or opinions.

Currently, cadets in the game warden training program receive approximately 108 hours training on fish and wildlife related topics. Over the past four years, the annual in-service training for game wardens has included an average of four hours of wildlife training per year. While the current level of training is useful, additional hours of in-service training on wildlife topics would enhance game wardens' knowledge of wildlife management techniques practiced by field biologists. To improve the game warden's ability to support the wildlife divisions management efforts, the department should increase the amount of wildlife science training provided in the game warden's annual in-service instruction.

**Remove the \$20,000 annual ceiling on Black Gap Wildlife Management Area land acquisition expenditures.**

The Black Gap wildlife management area located in West Texas consists of 100,878 acres and was originally designated for use in protecting and restoring bighorn mountain sheep. The agency's statute requires that all expenditures for this property be made from Fund 9 and that the expenditures shall not exceed \$20,000 in one year. In order to expand efforts, expenditures for such wildlife

management areas occasionally include buying adjacent land should some become available. In the past, the \$20,000 ceiling on expenditures at Black Gap has not presented a problem, but this limit could hamper land acquisition efforts for property that becomes available in the future. The ceiling provision has been in the statute since 1945, and does not appear to serve any useful purpose currently. In fact, due to the high cost of real estate, it could prevent a future acquisition that would benefit the department. The statute should be amended to delete the \$20,000 ceiling on yearly land acquisition expenditures.

**Authorize the commission to adopt rules relating to recreation in wildlife management areas.**

The 19 wildlife management areas operated by the facilities operation program in the wildlife division provide sites for game management research, public hunting, animal and plant refuges, broodstock production and demonstration of wildlife practices. The total acreage provided by the 19 sites is over 350,000 acres and the most common use of the sites is public hunting, with 16 of the 19 areas allowing some level of this activity. Trends in recent years have been toward increasing the public use of these areas because they add valuable recreation acreage to the state's deficient supply of recreation space. By 1985, a deficit of over 50,000 acres of developed recreational park land is estimated for the state, according to the 1985 TORP draft document. It is appropriate that the agency use available methods for opening up new recreation acreage for public use.

Many of the wildlife management areas are open to the public for activities other than public hunting, such as self-guided tours of the area, bird watching and wildlife observation. However, the agency's rule-making authority on the use and regulation of wildlife management areas provided in Chapter 81 of the Code is too narrow in scope to address the general recreational use of such areas since current authority pertains only to hunting and fishing regulations, permits, and removal of fur-bearing animals. The agency should be given the authority to adopt rules concerning the recreational use of wildlife management areas, such as for camping, picnicking and hiking. This will allow the agency more flexibility on the use of the areas and will address a public need for more recreation opportunities by opening a substantial amount of acreage for recreation use.

## Fisheries

### Shrimp and oyster regulatory authority, except for the authority to establish seasons, should be delegated to the commission.

The regulation of the harvest of the state's fishery resources is currently accomplished through a system which applies three elements of control to the activity - a licensing operation, enforcement efforts, and a process to set the parameters or restrictions on the licensed activity. In two of these elements, the licensing operation and the enforcement effort, the commission's authority to regulate is consistent throughout the regulated fishery. Licenses are statutorily required for the harvest of fishery resources in both the sportfishing area and the commercial fishing industry. Enforcement efforts are conducted by game wardens and, when detected violations occur, statutorily defined penalties are applied. For the third area of regulation, uniformity does not exist in the process to set the parameters or restrictions on the harvest of fishery resources. This area of regulation, commonly referred to as regulatory authority, involves the determination of the seasons, and the locations, means, methods and quantity of the harvest for a particular species in the fishery. The 68th legislature passed the Wildlife Conservation Act which delegated this regulatory authority for all fish and wildlife to the Parks and Wildlife Commission. However, the regulatory authority for shrimp and oysters in most areas was excluded from this delegation. Of the 18 coastal counties, the department has been delegated regulatory authority for shrimp in only four counties and for oysters in nine of the counties. The result of this inconsistent delegation is a system where the regulatory authority for the statewide sportfishing activity and a small part of commercial fishing activity is placed with the Parks and Wildlife Commission, but the regulatory authority for the two major commercial fishing activities, shrimp and oysters, is left with the legislature.

Several problems have resulted from this inconsistent delegation of regulatory authority. First, the shared responsibility for the coastal fishery regulation does not encourage the development of a comprehensive coastal fishery management plan. A comprehensive fishery management plan should cover all species in the fishery and should include planning, measuring the resource, developing management techniques to accomplish the planned objectives and, finally, moni-

toring the effect of implemented management techniques. For a fisheries resource, the authority to establish seasons, set minimum sizes for harvest, set catch limits, and limit the gear that can be used, is an essential management tool. Under the current regulatory scheme, this part of shrimp and oyster management is handled by the legislature. Such a regulatory scheme limits the department's ability to manage the coastal fishery as a unit and contributes to the potential for conflicts between the regulations controlling the harvest of various coastal species. Uniform delegation of regulatory authority to the department would allow the department to develop a coast-wide management program in which management activities for one species are compatible with those of other species.

Second, the current regulatory framework does not allow timely adjustments to be made to the shrimp and oyster management system. Shrimp available for harvest are essentially an annual crop. The production and growth of this annual shrimp population varies from year to year and may widely fluctuate due to factors such as water temperature and fresh water flows into bays where young shrimp are developing. These variations can necessitate changes in the length of shrimping seasons, the catch limit, and the closing and opening of waters to shrimping. Additionally, oyster populations are subject to wide annual variations due to water conditions. With the regulatory authority for these species maintained by the legislature, necessary adjustments to shrimp and oyster regulations can be made no more frequently than every two years. The transfer of shrimp and oyster regulatory authority to the commission would provide additional flexibility in the management of these resources to appropriately respond to changing conditions or emergency situations. This flexible approach would allow maximum use of the resource while also providing necessary protection to the shrimp and oyster populations.

Additionally, the existing regulatory scheme does not allow regulatory type decisions to be made by the policy-making body that has the most knowledge of shrimp and oyster management. Although the Parks and Wildlife Commission does not currently make regulatory decisions concerning shrimp and oysters and does not have a comprehensive management plan in place for these species, it does conduct sampling and tagging programs which generate considerable information on shrimp and oyster populations and life cycles. While the legislature is an appropriate forum for the development of policies and guidelines, the application of these policies should be left to an administrative body which has the expertise and

information to make operational decisions. Proper delegation of regulatory authority also encourages the development of innovative, workable management techniques. Agency staff who monitor a particular resource, research problems, and enforce existing regulations are best able to identify necessary improvements to the management process. Through the administrative process, changes can be implemented and modified in an efficient fashion. Several current situations in the shrimp industry, such as the 50 percent live bait requirement, dual licensing problems, and enforceability of catch limits, result from statutory requirements in the shrimp act and present difficult problems to both the department and the shrimp industry. Delegation of regulatory authority to the department would require the department to address these problems and attempt to develop workable solutions.

Finally, delegation of shrimp and oyster regulation to the Parks and Wildlife Commission would reduce the amount of legislative consideration currently required to regulate shrimp and oyster resources in Texas. A considerable amount of legislative time is necessary to handle the large number of bills introduced relating to shrimp and oysters. During the 67th and 68th Legislatures, a total of 37 bills were introduced pertaining to shrimp or oysters. With regulatory authority delegated to the department, the legislature could concentrate on policy issues and leave the operational decisions to the department.

One element of the regulatory authority for shrimp and oysters seems to be more critical to the industry's harvest of shrimp and oysters than the other elements. The setting of appropriate seasons for various segments of the shrimp industry appears to have a significant impact on the financial success of each part of the industry. The shrimp industry has evolved into a three-part industry -- the bait, the bay, and the gulf fisheries. Because all three of these shrimp industries are essentially competing for the same shrimp, the determination of the seasons for each is of vital importance to all shrimpers. In setting the shrimp seasons, the opportunity of each of the shrimp industries to engage in their occupation is controlled. As a result of this major financial impact, the issue of determining bay seasons and the gulf closure has become a highly sensitive topic. Oftentimes, the most appropriate forum for consideration of issues of such a sensitive nature is the legislature. The legislative forum provides wide representation directly responsible to the people and provides the gulf coast communities a voice in the decision-making process. For this reason, the determination of the shrimp and oyster

harvest seasons would be appropriately left under the control of the legislature, with the remainder of shrimp and oyster regulation delegated to the commission.

To provide a uniform and effective coastal fishery management system while maintaining legislative control over critical elements of the shrimp and oyster industries, the regulatory authority for shrimp and oysters, except for the authority to establish harvest seasons, should be delegated to the Parks and Wildlife Commission.

### Resource Protection

#### Resource protection activities within the department should be consolidated and made a separate division in the agency's organizational structure.

The resource protection unit within the fisheries division of the Parks and Wildlife Department is designed to protect fish and wildlife populations by preventing unnecessary destruction of their habitats. In performing this function, three types of operations are basically conducted by the resource protection unit. First, the unit conducts pollution surveillance activities by investigating fish kills, providing lab analysis for all department divisions to determine environmental damage due to pollution, and reviewing draft discharge permits issued by the Railroad Commission and Texas Department of Water Resources. Second, an environmental assessment program is operated to prevent or minimize adverse impacts of development projects upon the state's fish and wildlife resources. Finally, the unit issues permits for the scientific use of protected fish and wildlife species and for the authority to remove sand, shell or gravel from public waters.

In addition to the activities conducted by the resource protection unit, other related environmental protection activities are conducted as separate programs within the fisheries division and the wildlife division. Efforts to control noxious vegetation which obstructs reservoirs and waterways are conducted through the aquatic habitat enhancement branch in the fisheries division. A statewide habitat mapping system and mitigation efforts for wildlife habitat lost due to reservoir construction are carried out in the resource planning unit in the wildlife division.

Several problems have resulted from the organizational location of these different operations within various department divisions. Because the existing organizational structure allows the resource protection branch to be operated as an activity within the department's fisheries division, the director of fisheries has

responsibility for the unit's budget matters and general supervision. The organizational placement of the unit in the fisheries division creates a potential for conflict-of-interest problems to arise and a perception that resource protection is not a priority of the department. First, the environmental protection unit's responsibilities are related to both fish and wildlife protection. In general, its overall objective is one that is independent of the other department divisions, yet requires close coordination and cooperation with all divisions. The location of the resource protection unit within the fisheries division creates the potential for fisheries-related activities to be given a different priority than wildlife activities.

Second, a more direct potential for conflict of interest exists in the area of wildlife habitat mitigation. Habitat mitigation is an activity conducted by the department to attempt to get land set aside for wildlife habitat by project developers whose projects are destroying other wildlife habitat. Currently, the major focus of mitigation efforts occurs in the area of new reservoir construction. The impoundment of new reservoirs creates a direct conflict between fish and wildlife interests. While a new reservoir creates more habitat for fish populations, it also results in the destruction of valuable wildlife habitat. Although the major mitigation work is done in the resource planning unit of the wildlife division, the resource protection branch in the fisheries division is involved in the operation as a coordinator of the effort and in the review of the environmental impact statements required on large water development projects. With both of the department's responsibilities regarding the impoundment of a new reservoir -- developing a fisheries management plan for the reservoir and securing adequate lands for mitigation of wildlife habitat -- being placed in the same department division, a potential conflict of interest exists within the division.

Finally, the identification of the resource protection branch as a sub-component of the fisheries division tends to promote the perception to the public and those that deal with the agency that the unit's operations and responsibilities are less important than those such as fisheries and wildlife which have received division status. While this perception may not be justified, the department's efforts in this area should appear to the public to have the priority and importance that other department functions have. Effective protection of fish and wildlife resources depends upon the public's perception of the department's commitment to the effort. The public plays an important role in notifying the department of potential hazards to fish and wildlife.

Aside from the conflict-of-interest problems related to locating the resource protection branch in the fisheries division, consolidation of all resource protection activities now conducted by various units in the fisheries and wildlife divisions would improve the coordination between these operations. Currently, these efforts occur in two separate divisions and are therefore supervised by two different division directors. Modifying the organizational structure so that all resource protection activities are supervised by one director who is responsible to the executive director would ensure that a consistent, uniform approach is taken in all matters. To eliminate potential conflicts and improve coordination among resource protection efforts within the department, the agency should consolidate all resource protection activities in a separate agency division.

**Authorized uses of Game, Fish, and Water Safety Funds should be expanded to include resource protection activities.**

The Game, Fish and Water Safety Fund No. 9 is currently used by the department to provide approximately 44 percent of its annual budget. In general, the fund is derived from a variety of sources including the sale of hunting and fishing licenses, permit fees, fees for boat registration and titling, fines, and federal aid. The uses of the fund are statutorily limited to activities related to game and fish administration, conservation, enforcement, and administration of the water safety laws.

This fund is available as a revenue source for almost all department activities related to fish and wildlife except one. Resource protection operations provided by the department have been financed out of general revenue funds which make up approximately 35 percent of the department's budget. While the pollution surveillance and environmental assessment operations carried out by resource protection are directly related to the preservation of existing habitat necessary to support fish and wildlife populations, funds designated for fish and wildlife management have been unavailable to support these operations. This limitation has reduced the department's flexibility in securing funds necessary for an aggressive resource protection operation. In fact, the budget for the resource protection activity has increased only 29 percent since 1976, while the wildlife division's budget has increased 148 percent over the same period. Because an effective resource protection activity is a vital element of sound fish and wildlife conservation practices and because appropriate funding is essential to effective operations,

the statute should be amended to authorize the use of Game, Fish and Water Safety Funds for resource protection activities.

The department's authority to perform resource protection activities should be expanded and placed in statute.

The resource protection branch of the Parks and Wildlife Department is generally responsible for the protection of the state's fish and wildlife populations and their habitats. In carrying out this responsibility, the department conducts operations which include the investigation of fish kills and pollution complaints; coordination with other state agencies regarding discharge permits; and the review and comment on environmental impact statements and project applications.

Although the department currently conducts these activities, the Parks and Wildlife Code does not expressly require that the department carry out these responsibilities. Implicit authority for these duties is contained in the Code through the department's responsibilities to manage and conserve the state's fish and wildlife resources. Requirements that the department, as one of several agencies, have an opportunity to review certain Corps of Engineers permit applications and environmental impact statements on certain projects are contained in federal statutes that control these projects. No requirement, however, currently exists to require the department to review permits issued by the Texas Department of Water Resources (TDWR). The result of this piecemeal authority is that no one state agency in Texas has the clear responsibility to act as the advocate for the protection of the state's fish and wildlife. While the department has been conducting these activities to the extent that funds are available and through sufficient implied authority, the department is not specifically required to perform this function. Without this express statutory responsibility, the scope of the department's efforts can fluctuate according to policies set by the commission and the ability of the department to justify funding requests.

In addition to making the department's current activities relating to pollution surveillance and environmental assessment statutory responsibilities, two other activities should be required of the department in its role as advocate for fish and wildlife resources. First, the department should be required to testify at other state and federal agency hearings or present information to such agencies making decisions which directly affect the state's fish and wildlife resources. By providing

such information where necessary, federal agencies and other state agencies will be making informed decisions with regard to the impact on fish and wildlife.

Another area that has become increasingly important over the past few years is the impact of water flows in rivers and streams on the state's fisheries resources. These flows affect not only the inland fresh water fisheries, but also the coastal fisheries where the rivers and streams empty into the bay systems. Proper flow into the bays and estuaries along the coast, both in the amount of fresh water introduced and the consistency of flow levels during particular times of the year, is critical to the successful spawning cycles of many marine species. Although TDWR is charged with the responsibility to investigate the effects of freshwater flow patterns into the bays and has done extensive work in this area, the impact of those flows on marine aquatic life has not been studied in a comprehensive coast-wide manner. Some information is prepared through a cooperative effort between TDWR and the Parks and Wildlife Department relating to the impact of flows on certain marine species in particular areas. While close cooperation is needed between these two agencies to develop an accurate picture of flow effects on bays and estuaries, the Parks and Wildlife Commission should have the responsibility to study the impact of flows on the coastal fishery and to recommend to TDWR flow patterns which would maintain a stable fishery population. Certainly, TDWR is the agency responsible for making the final decision on water use, reservoir releases, and the resulting flows in rivers and streams, and into bays. However, the Parks and Wildlife Commission has the primary responsibility for the fishery resource and should be the agency that determines the needs of that resource.

To clarify the department's responsibilities in the area of resource protection, the statute should be amended to clearly designate the department as the agency responsible for protecting the state's fish and wildlife resources. Statutory responsibilities should include investigation of fish and wildlife kills, review and comment on project permits which impact fish and wildlife, providing information to other agencies making decisions impacting fish and wildlife, and recommendations to TDWR concerning flows in rivers and streams and into bays and estuaries.

**Expiration date for scientific permits should be changed to a date one year after issuance.**

The department is authorized to issue a permit to qualified persons allowing them to take protected wildlife for propagation purposes, zoological gardens, aquariums, and scientific purposes. Under this authority, approximately 650 permits are issued annually to professional biologists and graduate students associated with universities, museums, state and federal agencies, private research foundations, or environmental firms. Currently, the statute provides that these permits expire on the last day of the year issued. This permitting and renewal process is carried out by two staff personnel within the department's resource protection branch. This system creates an unusually high workload for the permit staff during the months of December and January when over 600 permits expire and are subject to renewal. A better distribution of the workload would result if the expiration dates for the permits were staggered. To provide for this staggered renewal system, the statute should be amended to provide that scientific permits expire one year from the date of issuance.

### **Enforcement**

#### **Penalty provisions in the Parks and Wildlife Code should be simplified and standardized.**

The primary enforcement sanction available to the department is the application of criminal penalties provided in the Parks and Wildlife Code for violations of a code provision. A wide variety of activities, ranging from commercial fishing operations to camping at state parks, are controlled through these sanctions. Depending upon the nature and severity of the violation, game wardens throughout the state either issue citations to violators or arrest them and take the violator into custody. After a complaint has been filed by the game warden in the court of proper jurisdiction, the justice of the peace or the county judge hears the case and sets penalties where required. In fiscal year 1982, the department issued over 44,000 citations to violators of the code provisions and collected almost \$1.4 million in penalties assessed by the courts.

Aside from the problems of detecting violations and apprehending violators, the effectiveness of the enforcement system depends upon both the appropriateness of the penalty applied to a particular violation and a clear understanding, by the violator and judges administering the law, of which penalty applies to a particular violation.

An appropriate penalty system should have the flexibility to apply a light penalty to an inadvertent minor violation, but also have the potential to severely penalize habitual offenders or flagrant violators. In addition to being flexible, the statutory language mandating this system must be clear and simple to understand. Without clear understanding of the penalties by both the persons involved in the regulated activity and the judges applying the sanctions, the enforcement operation does not achieve the proper deterrent effect, nor are the penalties for violation fairly and evenly administered across the state.

Current penalty provisions in the Parks and Wildlife Code are neither consistently appropriate nor are they easily understood. Throughout the Code, approximately 122 different violations are listed. For these 122 violations, 47 different penalties are provided, resulting in a penalty system where at least every third violation listed has a different penalty attached. Currently, these penalties range from a fine of \$5 to \$25 all the way to a fine of \$2,500 to \$5,000 or 6 to 12 months jail time or both. While many of the penalties provide for enhancement after multiple convictions, the penalties generally do not differentiate between inadvertent violations and flagrant, intentional violations. For example, the same penalty is applied to a sportfisherman who exceeds the catch limit for shrimp by a few pounds as is applied to a commercial shrimper exceeding the catch limit by several hundred pounds.

Additionally, penalties provided in the Parks and Wildlife Code do not appear to be universally applied by the courts which handle the cases. In reviewing penalties actually assessed by the courts for shrimp violations relating to exceeding the catch limit, department staff found that the average penalty assessed was below the minimum fine provided in statute. In 1983, the average fine for exceeding the shrimp limit, a violation which carries a \$200 minimum fine, was \$141.

Much of the confusion relating to the application and appropriateness of penalties for violation of the Code can be tied to the Code itself. The provisions listing the violations and penalties are scattered throughout the code in a manner that permits overlapping penalties and makes a clear understanding of the enforcement system difficult.

In an area of regulation such as the one covered by the Parks and Wildlife Department where many different violations are possible, the statutory scheme for listing violations and penalties used in the Penal Code can simplify and clarify the

enforcement system. Such a scheme would provide a penalty section which lists a schedule of penalties available for particular violations described in other statutes or provisions. Using this system, the Parks and Wildlife Code could be modified by designating a chapter of the Code to set out classes of violations and the penalties attached to each. Some of these classes could provide for penalty enhancement in order to apply more severe penalties where multiple convictions have occurred within a particular time frame. Violations listed throughout the Code would then refer to the penalty schedule rather than listing penalties in all parts of the Code.

To simplify and standardize penalties in the Parks and Wildlife Code, the Code should be amended to provide a standard penalty schedule which would be applied to the various violations listed by reference.

**A system to document prior offenses would improve the department's ability to obtain enhanced penalties.**

Currently, many of the violations listed in the Parks and Wildlife Code have penalties that enhance or increase in severity if the violator has a prior conviction within a particular period of time preceding the current violation. A majority of the violations in the Code carry penalties that on first conviction can properly be handled in justice of the peace courts. Justice of the peace courts, however, are not courts of record and no court documentation which can provide positive identification of the convicted violator is recorded. In fact, many times in uncontested cases the violator never appears before the justice of the peace but merely mails in the fine. The result of this system is that evidence necessary to obtain enhancement on a second or subsequent conviction is not available.

The enhancement mechanism is an essential element of the department's ability to effectively enforce the Parks and Wildlife Code. It is this authority to apply a small penalty to an unintentional first offense while imposing increased penalties on subsequent offenses that effectively stops the habitual offender but does not over penalize the inadvertent violator. While enhancement of penalties is necessary to provide the proper balance for fish and wildlife enforcement efforts, the department has had limited success in proving prior convictions. Only in limited situations where the convicting judge provided testimony at the hearing on the subsequent conviction have game wardens been successful in getting enhanced penalties for second offenses.

Although the department has a system for filing records of prior convictions and retrieving them when necessary, this documentation lacks the element of positive identification of the violator. One system that is currently used to document prior convictions in driving while intoxicated cases requires the clerk of the court where the conviction occurred to forward information obtained by law enforcement relating to the positive identification of the defendant to the Department of Public Safety. A certified copy of this information is then admissible in subsequent convictions. A similar system could be used by the Parks and Wildlife Department for violations that carry an enhanced penalty upon second or subsequent convictions. The game warden could be authorized to obtain positive identification at the time the violation occurred. This positive identification could be a photo, a fingerprint, or another form of identification and could be attached to the complaint filed by the game warden in justice court. Persons who violated Code provisions that carried enhanced penalties would be required to make personal appearances before the justice court. Upon conviction, the justice of the peace would be required to certify the identity of the person and forward that certification of identification and conviction to the Parks and Wildlife Department. This certification could be admissible in subsequent violation proceedings to prove the prior conviction. Although this process would create additional responsibilities for the game warden, it would dramatically improve the department's ability to deal with the habitual violator. To improve the department enforcement capability, the department should be allowed to require and obtain positive identification, including photographs and fingerprints, when issuing a citation for a violation with an enhanced penalties for multiple offenses. Additionally, court clerks should be required to submit a certification of the conviction and the defendant's identity to the department.

**The commission's authority to recover damages for the value of destroyed fish and wildlife should be clarified.**

Fish and wildlife populations located in the state are the property of the people of this state. As a valuable asset to the state, these fish and wildlife populations not only provide substantial recreational opportunities and aesthetic enjoyment for Texas residents, but they also support large hunting and fishing related industries. When a person or corporation destroys fish or wildlife through

an activity that is in violation of existing statutes or permit restrictions, that person or business entity should compensate the state for the loss it sustained.

Currently, the ability of the Parks and Wildlife Commission to initiate litigation and successfully recover damages for destroyed fish and wildlife is unclear. Legal principles which provide the basis for recovery in these actions include both common law doctrines and statutory authorities. Under common law, the state, as the owner of the wildlife or fish destroyed, has a right to be compensated for the loss. Section 26.124 of the Texas Water Code authorizes the department to initiate a suit for injunctive relief or civil penalties when an unauthorized discharge into any state waters affects aquatic life or wildlife. This provision also requires the department to pursue these matters through the county or district attorney's office and applies a \$10,000 limit for each violation.

In determining what remedies are available to the department and how the department is to proceed, several problems arise. First, it is unclear whether the department can use the Attorney General's Office to pursue the case or whether the department must file a complaint with the local district attorney in the area where the violation occurred. It is also unclear whether the legislature, when it enacted Section 26.124 of the Texas Water Code intended to make the statutory penalty the exclusive remedy, thereby eliminating the common law right of recovery in unlawful discharge situations.

For the department to be able to effectively protect the state's fish and wildlife resources, clear authority for the department to initiate actions through the Attorney General's Office and a sound basis for recovery are necessary. The Attorney General's Office has an environmental division that is staffed with attorneys who have experience in handling this type of resource protection case. Local district attorneys are mainly involved in criminal prosecution and do not deal with pollution cases on a daily basis. In addition, local prosecutors usually have heavy caseloads and may not be able to attach as high of a priority to the case as could the Attorney General's Office. Clarification of the department's basis for recovery in these actions could be achieved by providing the department clear statutory authority to sue for compensatory damages when fish or wildlife have been destroyed by an illegal act. This clarification could also authorize the department to develop a schedule of values for particular species of fish and wildlife that would be used to calculate the dollar value of the loss that occurred.

To clarify the department's authority to recover damages for destroyed fish and wildlife, the statute should be amended to authorize the department to recover damages for the value of illegally destroyed fish and wildlife.

**EVALUATION OF OTHER SUNSET CRITERIA**

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The review of the agency's efforts to comply with overall state policies concerning the manner in which the public is able to participate in the decisions of the agency and whether the agency is fair and impartial in dealing with its employees and the general public is based on criteria contained in the Sunset Act.

The analysis made under these criteria is intended to give answers to the following questions:

1. Does the agency have and use reasonable procedures to inform the public of its activities?
  2. Has the agency complied with applicable requirements of both state and federal law concerning equal employment and the rights and privacy of individuals?
  3. Has the agency and its officers complied with the regulations regarding conflict of interest?
  4. Has the agency complied with the provisions of the Open Meetings and Open Records Act?
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## EVALUATION OF OTHER SUNSET CRITERIA

This section covers the evaluation of the agency's efforts in applying those general practices that have been developed to comply with the general state policies which ensure: 1) the awareness and understanding necessary to have effective participation by all persons affected by the activities of the agency; and 2) that agency personnel are fair and impartial in their dealings with persons affected by the agency and that the agency deals with its employees in a fair and impartial manner.

### Open Meetings/Open Records

The review of this area indicated that the commission has generally complied with the provisions of the Open Meetings Act and the Open Records Act. Timely notices of commission meetings are filed with the Office of the Secretary of State. Executive sessions held by the commission appear to be properly announced and are used to discuss permissible topics, such as personnel matters, land acquisitions, and matters involving agency litigation. While almost all of the information maintained by the agency is considered public, certain information relating to boating accident reports, law enforcement efforts, and personnel records is withheld from public disclosure in accordance with the Open Records Act. The agency has developed a written department procedure for employees to follow when formal requests for information under the Act are received. This procedure directs the staff to forward all requests to the director who then coordinates distribution efforts with the department's general counsel.

### EEOC/Privacy

A review was made to determine the extent of compliance with applicable provisions of both state and federal statutes concerning affirmative action and the rights and privacy of individual employees. The agency is currently operating under an affirmative action plan and has developed detailed procedures for posting vacancies and interviewing applicants when job vacancies occur. Employee grievances are handled according to established procedures which can result in the selection of a grievance panel composed of agency employees to hear the complaint.

The agency was operating under a consent agreement relating to its employment practices for five years prior to the court order's expiration in December 1983. Although the agency is no longer under the court order, certain justice

department reporting requirements have been continued to show compliance. While the agency's work force continues to have a predominance of white males in professional positions, the agency has shown improvement in the area of equal employment through an increase in the number of minorities employed and a decrease in the number of formal grievances filed against the agency.

### **Public Participation**

The commission encourages public participation in its activities and policy-making processes through two types of public hearings. First, the commission considers both written and oral testimony at its regularly scheduled commission meetings. At these meetings, the public has an opportunity to comment on rules proposed for adoption by the commission and make general presentations to the commission. Second, the commission holds annual local hearings in each county around the state. These local meetings provide an opportunity for the public to comment on proposed changes in hunting and fishing regulations affecting that particular area. Attendance at these county meetings is generally low except in counties where changes in the game and fish regulations are opposed. In an effort to address this attendance problem, a recommendation designed to streamline the county meeting process is included in the policy-making section of this report.

The agency informs the public of its activities through the use of commission publications, weekly radio programs, news releases, and toll-free telephone information services. Publications distributed by the commission range from the Texas Parks and Wildlife monthly magazine, with over 140,000 subscribers, to a wide variety of information pamphlets distributed at parks and agency regional offices. A 15-minute weekly radio program relating to different areas of agency operation is distributed to radio stations statewide. In addition, weekly news releases describing regulation changes or significant events in agency activities are circulated to newspapers, television stations, and radio stations. Finally, the agency operates toll-free WATS lines to encourage public inquiries relating to department activities.

### **Conflict of Interest**

The review indicated that the commission has established adequate procedures for making commission members and employees aware of their responsibilities under conflict-of-interest statutes. New employees are provided an employee handbook containing excerpts of the conflict-of-interest laws and are informed of the statutory restrictions during an employee orientation session. New commission

members receive this information in an orientation package and during a staff briefing on the subject. Also, agency policy requires that all outside employment or professional activities be reviewed by the employee's supervisor. Any potential conflict identified is reviewed by the the executive director.

Although procedures to inform commission members of statutory conflict-of-interest requirements seem adequate, a review of the documents filed with the Office of the Secretary of State indicated that not all commission members had filed the required financial statements. After being notified of this deficiency, the agency indicated that the necessary filings have now been made.



## **ALTERNATIVES**

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The analysis of whether there are practical alternatives to either the functions or the organizational structure are based on criteria contained in the Sunset Act.

The analysis of alternatives is directed toward the answers to the following questions:

1. Are there other suitable ways to perform the functions which are less restrictive or which can deliver the same type of service?
  2. Are there other practical organizational approaches available through consolidation or reorganization?
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## ALTERNATIVES

As part of the review of this agency, the functions performed by the agency were evaluated to determine if alternatives to current practices were available. State agencies with functions similar to those performed by this agency were reviewed to determine if they had developed alternative practices which offered substantial benefits and which could be implemented in a practical fashion. In addition, the practices of other states were reviewed in a like fashion and it was determined that their practices were similar to those of Texas. It was concluded that a practical alternative to a current practice does exist, and it is discussed below.

**Mandatory hunter safety training could reduce the number of hunting accidents in Texas.**

In order to legally hunt on private land during an open hunting season in Texas, only two things are generally necessary. You must have purchased a valid hunting license and you must have the permission of the landowner on whose land you are hunting. Currently, the only prerequisite to the issuance of a hunting license is the payment of a fee. No age restriction or training requirements are attached to the issuance. This results in a hunting system in Texas which relies primarily upon the landowner to control hunter safety. The landowner determines the number of hunters allowed on the lease and, at least theoretically, has some idea of their knowledge of hunter safety.

During 1983, over 1.3 million Texas hunters were paid license holders and it is estimated that 12 million days of hunting opportunity were provided in Texas. Also during this period, 80 hunting accidents were reported statewide. While the number of accidents is down from 97 accidents in 1982, the number of accidents in 1983 is up 16 percent over those in 1980.

Presently, 32 states have adopted some type of mandatory hunter safety training for hunters. Although the remainder of the states, including Texas, have voluntary hunter safety training programs in place, the national trend is toward mandatory programs. Since 1976, the percent of states with mandatory programs has increased from 46 percent to 64 percent. A majority of the mandatory training programs in other states require the program only for first time license buyers and for persons under a certain age. Some states which have made the transition from voluntary to mandatory training have experienced dramatic improvements. For

example, Utah experienced a 92 percent decline in hunting accidents caused by juveniles within two years from implementation of mandatory training.

In a random mail survey conducted by the Parks and Wildlife Department of hunters who purchased hunting licenses for the 1977-78 hunting season, approximately 55 percent of the persons responding were in favor of mandatory training. The survey also indicated that the respondents favored limiting the training requirement to first time hunters and to persons 12 - 17 years of age.

Hunter safety training courses in Texas are taught by volunteer instructors who are certified by the department. In 1983, 1,200 certified Texas hunter safety instructors were able to certify 13,000 students. Although Texas would probably have to increase the number of certified instructors if the program became mandatory, California, a state with a similar number of licensed hunters, is able to certify 40,000 students annually with 1,500 instructors. Apparently, with only a small increase in the number of instructors, Texas could effectively handle a mandatory hunter safety training program that could reduce the number of hunting accidents in the state.

Drawbacks related to the implementation of mandatory training in Texas expressed during the review are that the training is not needed in Texas because of the extent of landowner control over hunters and because the additional cost of the training in dollars and time would tend to discourage some from hunting. In Texas, 90 percent of the land in the state is privately owned, differing from other states that often have considerable federal lands. Because of this private ownership, Texas has an additional layer of landowner control over hunting that many states do not have. Additionally, the increased cost and time commitment would place an extra burden on the hunters. It appears, however, that the benefits which could accrue from the mandatory training outweigh the drawbacks.

**The agency's technical guidance program could be discontinued and the program transferred to Texas A&M Extension Services**

The technical guidance program performed within the wildlife division has a staff of five biologists which provide technical assistance to nearly 200 individual landowners statewide annually with a budget of \$135,700 for fiscal year 1983. This activity is not statutorily mandated and has remained a relatively low priority within the wildlife division, representing only 2.6 percent of the division's budget in 1983. This program, however, provides a critical function in terms of securing

cooperation with private landowners, who control over 90 percent of the state's land, for land conservation and wildlife habitat preservation. In 1973, the program was initiated so that experienced biologists could offer on-site assistance to interested landowners by providing information and demonstrating techniques for wildlife habitat preservation. Wildlife habitat in the state is degrading at a rapid rate due to urban and industrial expansion, changes in land and water use practices by agricultural interests, and the population influx into the sunbelt. If the expected rate of degradation continues, certain wildlife and waterfowl habitat will be irretrievably lost and the recreational harvest of some species may be eliminated.

Currently, efforts to assist landowners, farmers and ranchers with land conservation are primarily provided by three agencies in the state, the Parks and Wildlife Department's technical guidance program with a staff of five, the Federal Soil Conservation Service with a field staff of 600 field people statewide, and the Texas A&M Agriculture Extension Service staffed with 800 county extension agents statewide. The focus of all three programs differ somewhat, with Parks and Wildlife Department's main interest being in providing wildlife management and habitat preservation assistance to landowners, SCS focusing on soil conservation planning and erosion control, and A&M Extension maintaining an educational role covering a variety of agricultural and land use subjects. While all three agencies do some work with landowners in an assistance role and deal with wildlife management to some extent, the most intensive wildlife management landowner assistance efforts are provided by Parks and Wildlife Department.

The SCS has three wildlife biologists headquartered in Temple which provide direction and support for district conservationists needing wildlife management information and expertise. Yearly training is provided to field personnel on topics such as deer and fish management in order to educate staff in these areas. The SCS estimates that 25 percent of the soil conservation plans provided ranchers include wildlife management as an integral part.

Texas A&M field extension associates perform educational, research, and extension services in each of the state's 254 counties by responding to needs and interests expressed by local residents, landowners and farmers. Extension services include evening meetings and symposiums, demonstrations of techniques, and landowner site visits when the information conveyed would have general application. Nine people specialize in wildlife in the A&M extension program, including

areas such as game and terrestrial wildlife, wildlife damage control, wildlife education and conservation. The nine specialists provide back-up assistance to county agents for wildlife topics.

By having three primary agencies which provide advice and assistance to landowners concerning land use practices, the potential for overlap and for providing conflicting information to landowners occurs. The review attempted to determine if a transfer of functions within the state programs would provide more consistent information to landowners, improve the efficiency or effectiveness of service delivery or reduce costs.

Results of the review indicated that the primary benefits resulting from a transfer of the technical guidance program to the Texas A&M Extension program would be the availability of more consistent information for a greater number of landowners and ranchers. Since A&M's focus has been on public education, with more extensive utilization of group workshops, public meetings, and information distribution, a greater number of landowners could receive information efficiently and effectively. In addition, information services could be provided more consistently by consolidating efforts. The Parks and Wildlife extension biologists are currently unable to meet 50 to 60 percent of the requests they receive for technical assistance. With 800 field staff available statewide for the A&M extension service, compared to five Parks and Wildlife extension biologists, it is anticipated that the A&M staff would be better able to accommodate the workload created by landowner requests for assistance. The final area of evaluation, reduction in costs, would not offer many benefits in favor of the transfer of services. In terms of cost reduction, the cost of operating the program through the Parks and Wildlife Department is \$135,700 a year for five wildlife biologists. The cost of this service through A&M is estimated to be \$218,510 for five extension associates performing comparable work. Should the technical guidance program be transferred to A&M, specialization in the area of wildlife management assistance would require additional effort. While A&M has nine wildlife specialists statewide, they provide support services to the other extension agents and do not generally provide direct assistance to landowners. The county agents are not wildlife specialists and must rely on the support of the nine specialists in this area.

It is likely that if technical guidance services were transferred to the Texas A&M extension program, some degree of specialty in wildlife management might be lost and no real cost savings would be produced. However, it appears that the

benefits from the efficiency and effectiveness brought to the program through A&M's existing structure and the reduction of conflicting information to the landowner would outweigh the drawbacks.

**Authority to set seasons for shrimp and oyster harvests could be delegated to the commission.**

Currently, the authority to establish harvest seasons, set catch limits, establish the method and equipment used for harvest, set minimum sizes and open and close waters to shrimp and oyster harvest rests with the legislature. In a previous recommendation contained in this report, it was recommended that all shrimp and oyster regulatory authority, except the authority to establish harvest seasons, should be delegated to the commission. Because the harvest seasons for the various segments of the shrimp industry have become highly controversial and are extremely important to the financial success of each part of the shrimp industry, the authority to set these seasons was left with the legislature. In the legislative forum, the coastal communities through their elected representatives could have a voice in this determination.

This voice or representation, however, could be provided in another manner. A recommendation contained in the policy-making section of this report proposed the creation of a fisheries advisory committee that could advise the commission on fishery related matters. This advisory committee, if established by the commission, would be composed of members representing a variety of interests in the sport and commercial fishing industry. Such an advisory committee could also provide an appropriate vehicle to represent the interests of the various elements of the shrimp industry. The delegation of the authority to establish shrimp and oyster harvest seasons to the commission which has access to the advice of a fisheries advisory committee could provide several benefits.

First, the commission would have the authority to adjust the opening and closing dates for shrimp bay seasons and gulf closures to more closely match the migration patterns of the shrimp. The timing of the annual shrimp migration from the bays to the gulf can vary from year to year depending upon water temperature and fresh water flows into the bays. With the authority to set these season dates, the commission could coordinate the harvest activities with the existing environmental conditions, thereby maximizing the shrimp and oyster harvests.

Second, a simpler, more direct participation of the various elements of the shrimping and oyster industry would occur in setting the season dates. Through the

fisheries advisory committee, the coastal industries could review data collected by the department and the resulting staff proposals. In addition, this committee could comment on the proposal and indicate suggestions to improve season proposals for shrimp and oysters. This type of input allows all interested groups to make comments in a single forum based upon a single set of data. The legislative process works very differently and is basically a lengthy process which is designed to make policy decisions only after considerable deliberation. Decisions which must be made in response to changing environmental conditions are better made in an administrative forum.

One drawback to allowing the commission to set shrimp and oyster seasons is that the commission is not required to establish a fishery advisory committee and, if it does establish such a committee, the coastal communities do not have control over the selection of the members of the committee. As a result, there is no guarantee that the composition of the commission-appointed advisory committee would represent all parts of the shrimp and oyster industry. In addition, the setting of seasons is too important to these industries to be decided by policy-making bodies that may be insulated from industry input. While it appears that this drawback is an appropriate concern, the benefits that would accrue from the ability to adjust shrimp and oyster seasons annually and to make adjustments on an emergency basis would outweigh this concern.

**The department could be required to intervene in Texas Water Commission hearings when a substantial deviation from the department's river and stream flow recommendations is at issue.**

In the Review of Operations section of this report, it was recommended that the Parks and Wildlife Department make recommendations to the Texas Department of Water Resources concerning the flows in rivers and streams necessary to maintain stable fishery resources in state waters. This recommendation resulted from a finding that the Parks and Wildlife Department is the state agency with primary responsibility for the protection of fish and wildlife resources. Through these recommended flow schedules developed by the department and communicated to TDWR, the Texas Water Commission would be fully aware of the flow needs for bays and estuaries to maintain stable marine fish populations. Variations in coastal finfish and shellfish populations can have a substantial effect on the \$200 million commercial fishing industry.

In certain situations where substantial deviations from these recommended flow schedules are proposed or are at issue, Texas Water Commission's knowledge of the department's recommendations may not be adequate to properly protect fish and wildlife resources. The Texas Water Commission, in making decisions on reservoir releases and water rights cases, properly considers many different positions brought before it, with the impact on fish populations being only one factor. The nature of these hearings is such that additional information from the Parks and Wildlife Department addressing allegations raised during the course of a hearing could be essential to present a balanced view before the commission. Only in cases where proposed action would cause a substantial deviation from the department's recommended flow schedule would the department's participation be necessary.

In order for the department to properly participate in a water commission hearing, the department should be allowed to intervene in the hearing as a party. Party status would allow the department to present evidence, cross-examine witnesses and appeal final orders if necessary. Although the department is currently involved in a reservoir release proceeding before the water commission and has been allowed party status in that case, clear authority for the department to receive party status in all water rights cases before the water commission should be expressly provided in statute. This would eliminate any question concerning the department's status when participating in these hearings.

While the above approach would ensure that the impact on fish and wildlife resources is properly considered in water commission hearings, two drawbacks to this proposal have been encountered. First, the inclusion of the Parks and Wildlife Department in these hearings could add to the length and complexity of the hearings, thereby slowing the entire process. Also, the process could eventually result in an adversary relationship between TDWR and the Parks and Wildlife Department, especially if the department routinely appealed commission orders. It appears, however, the benefits accrued through the participation of the department in these hearings outweigh the potential drawbacks mentioned.



**OTHER POLICY CONSIDERATIONS**

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During the review of an agency under sunset, various issues were identified that involve significant changes in state policy relating to current methods of regulation or service delivery. Most of these issues have been the subject of continuing debate with no clear resolution on either side.

Arguments for and against these issues, as presented by various parties contacted during the review, are briefly summarized. For the purposes of the sunset report, these issues are identified so they can be addressed as a part of the sunset review if the Sunset Commission chooses to do so.

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## OTHER POLICY CONSIDERATIONS

This section covers that part of the evaluation which identifies major policy issues surrounding the agency under review. For the purpose of this report, major policy issues are given the working definition of being issues, the resolution of which, could involve substantial change in current state policy. Further, a major policy issue is one which has had strong arguments developed, both pro and con, concerning the proposed change. The material in this section structures the major question of state policy raised by the issue and identifies the major elements of the arguments for and against the proposal.

**Should a state documentary stamp tax be established for sale of real estate with a percentage of the revenues supporting parks and wild-life land acquisition.**

Resources available for acquisition of park sites have been limited over the past years for a variety of reasons and appear to be even more unstable for the future. At the same time, recreational demand is increasing at a steady rate due to population growth in the state. This situation has resulted in a difficult task for department staff who must attempt to acquire park sites at a rate that stays ahead of inflation and growth while funding for the projects decline.

Two problems in particular hamper the future of park expansion efforts--instability in park funding sources and gradual withdrawal of the federal government as a recreation provider. Traditional sources of funding for parks in the past have included state parks and local park funds (LPF), supported by cigarette tax revenues, and federal land and water conservation funds (L&WCF). However, for fiscal year 1982 and 1983, a percentage of the LPF cigarette tax revenues was diverted to a special Texas Sesquicentennial Museum Fund, causing the department to transfer \$2.3 million that would have been used for park purposes to that fund. While the museum fund only used \$325,125 and diverted the remaining 1.9 million back to the department, the potential loss of funds was quite significant and the potential for a future diversion exists. The federal L&WCF funds have been diminishing over the years as well. The future of these funds is also questionable, as indicated in the chart on the following page.

**Federal Government Allocations to the  
Parks and Wildlife Department  
Since 1979**

<u>Year</u>	<u>Allocation</u>
1983	\$ 3,266,113
1982	-0-
1981	7,411,617
1980	12,622,570
1979	15,538,010

Currently, the Committee on Environmental Affairs Subcommittee on Parks and Recreation Needs has been charged to study the diminishing role of the federal government as a recreation provider. Initial findings of the subcommittee support the conclusion that the federal activity in park services is declining. The Corps of Engineers has closed or reduced operations at 42 Corps parks facilities and is considering further reductions in operations at reservoirs constructed in cooperation with a local sponsor. The U.S. Forest Service is planning to announce the closure of some parks in the national forests in Texas. The Bureau of Reclamation has announced park closures, and federal technical assistance programs for local agencies have been cut by the National Park Service. Since federal agencies have contributed about one-half of the recreation land and one-third of the developed park acreage in the state, their diminishing role as a recreation provider will contribute to the shortage of recreational opportunity in the state.

The steadily increasing demand for recreation opportunities can be shown in several ways. First, park visitation increased by nearly 4 million between 1979 and 1983, to the current level of 18.3 million visitors. Second, the 1985 TORP draft indicates that developed recreational land deficits in the state will amount to over 50,000 acres by 1985 and over 74,000 acres by 1995. Undeveloped acreage or open space needs, which are more difficult to quantify, are not included in this estimate and will increase the deficit. Finally, according to the Parks and Wildlife Department, the level of park acreage provided in the state park system will drop from the current level of 12 acres per 1,000 population to 9 acres per 1,000 population in the years ahead if no new acquisition occurs. Because of park overcrowding in certain areas, diminishing federal parks and growth demands, the department estimates a level of 14 acres per 1,000 population serves as a more desirable goal for state park expansion efforts. To reach this goal in 15 years, 100,000 additional acres must be acquired, which would amount to 6,600 acres per

year of new park site acquisitions. At an average rate of \$1,000 per acre paid by the department to acquire land, given gifts, leases and bargains, an estimated \$6.6 million per year will be needed by the year 2000 to achieve the 14 acres per 1,000 population goal. A review of the agency's acquisition expenditures for the last five years indicates that this amount of money will most likely not be available if recent appropriation trends are maintained (refer to Exhibit E in Review of Operations, Parks Section).

It is apparent that recreational opportunities will not keep pace with demand unless new resources are devoted to park acquisition. One such resource that has been instituted in Florida is the documentary stamp tax on real estate transactions. In Florida, the document tax is a tax on the sale of land and property, including stock transfers, deeds, bond issuances, and promises to pay on items such as cars and boats. The tax is tied directly to the selling price of the property and the county tax collector sells the buyer the documentary stamps which are then affixed to the deed. Revenues from the tax are placed in the Florida Department of Natural Resources Land Acquisition Trust Fund (LAT), from which money is appropriated by the legislature for fixed capital outlays, park operations and park acquisitions. Total revenue for the LAT fund in Florida is roughly \$35 to \$38 million per year.

The implementation of a documentary stamp tax in Texas could be initiated on the sale of residential and commercial property in the state at a rate of \$1.00 per \$1,000, with the tax tied to the most recent appraised value of the property according to the tax rolls. The implementation of this tax could result in revenues in excess of \$61 million per year for the state based on a rough estimate of \$61 billion dollars of real estate transactions per year at \$1.00 per \$1,000 broken down as follows in the chart below.

**1983 Estimate  
Real Estate Transactions in Texas**

Single Family	26.2	billion
Land	15.3	
Commercial	14.0	
Vacant Lots	3.0	
Multiple Family	2.5	
	61.0	billion

Certain exemptions could be made, such as for small landowners to take the financial burden off first-time homeowners and landowners. A portion of the total

revenues could be designated for land acquisition purposes, with the rest of the revenues supporting other state-administered programs.

One benefit that could be achieved through this document tax pertains to the ability of the tax to create a fairly stable source of revenue for states, such as Texas, experiencing steady population growth and having an active real estate market. The tax also allows for those most responsible for the reduction of potential recreation acreage, by purchasing and developing land, to pay for the creation of new recreation land.

Opposition for this tax will come largely from the real estate industry and landowners who will not welcome a new source of taxation. While the tax for property purchases would be initially paid by the buyer, it will ultimately be passed on to the consumer, which will pose a drawback to the plan.

**Should the agency be given the authority to use tracts of land for multiple purposes.**

Currently, the agency's ability to use purchased tracts of lands for multiple purposes is limited by statutory fund usage restrictions which require that property purchased with certain funds be used for the intended purpose of the fund. For example, acquisitions made through park funding sources require that the funds be used for park purposes only, thereby prohibiting the agency from using a portion of the land for other suitable purposes, such as wildlife management habitat. Agency acquisitions for parks, waterfowl, whitewing dove and nongame habitat must meet the designated purposes outlined for the respective funding sources. Designation of specific uses for funds is an appropriate mechanism to prevent the conversion of money from one source to an unintended purpose, such as using park money to purchase waterfowl habitat. However, this limitation does create a restriction on the agency's use of suitable land for more than one purpose. Some tracts of land owned or leased by the agency have an appropriate terrain to provide for a park on part of the land and to use another portion of the land for wildlife habitat. Multiple use of agency controlled land has been successfully attempted at sites acquired through donation, such as the South Llano site which has a park on one-fourth of the acreage and a wildlife management area on the remainder.

This principle could be applied to agency purchased land. Some safeguards could be provided by limiting the amount of multiple use that could occur at a single site. The result of this multiple use authority would, however, provide the

agency with the ability to use land for its best suited purpose. The advantages of giving the agency this authority include better utilization of land and better inter-division coordination and cooperation.

Opponents of the multiple purpose philosophy would raise concerns that certain areas, such as nongame habitat and species preservation, would be abandoned by the agency in favor of more park development. Another concern that would be raised is that commingling of funds would occur, thereby diluting the value of special fund designations for particular purposes.



**ACROSS-THE-BOARD RECOMMENDATIONS**

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From its inception, the Sunset Commission identified common agency problems. These problems have been addressed through standard statutory provisions incorporated into the legislation developed for agencies undergoing sunset review. Since these provisions are routinely applied to all agencies under review, the specific language is not repeated throughout the reports. The application to particular agencies are denoted in abbreviated chart form.

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**TEXAS PARKS AND WILDLIFE DEPARTMENT**

Applied	Modified	Not Applied	Across-the-Board Recommendations
			<b>A. GENERAL</b>
*			1. Require public membership on boards and commissions.
X			2. Require specific provisions relating to conflicts of interest.
X			3. Provide that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board.
X			4. Require that appointment to the board shall be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee.
X			5. Specify grounds for removal of a board member.
X			6. Require the board to make annual written reports to the governor, the auditor, and the legislature accounting for all receipts and disbursements made under its statute.
X			7. Require the board to establish skill-oriented career ladders.
X			8. Require a system of merit pay based on documented employee performance.
X			9. Provide that the state auditor shall audit the financial transactions of the board at least once during each biennium.
X			10. Provide for notification and information to the public concerning board activities.
X			11. Place agency funds in the Treasury to ensure legislative review of agency expenditures through the appropriation process.
X			12. Require files to be maintained on complaints.
X			13. Require that all parties to formal complaints be periodically informed in writing as to the status of the complaint.
X			14. (a) Authorize agencies to set fees. (b) Authorize agencies to set fees up to a certain limit.
X			15. Require development of an E.E.O. policy.
X			16. Require the agency to provide information on standards of conduct to board members and employees.
X			17. Provide for public testimony at agency meetings.
X			18. Require that the policy body of an agency develop and implement policies which clearly separate board and staff functions.

\*Already in statute or required.

Texas Parks and Wildlife Department  
(Continued)

Applied	Modified	Not Applied	Across-the-Board Recommendations
			<b>B. LICENSING</b>
		X	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
		X	2. Provide for notice to a person taking an examination of the results of the exam within a reasonable time of the testing date.
		X	3. Provide an analysis, on request, to individuals failing the examination.
		X	4. Require licensing disqualifications to be: 1) easily determined, and 2) currently existing conditions.
		X	5. (a) Provide for licensing by endorsement rather than reciprocity.  (b) Provide for licensing by reciprocity rather than endorsement.
X			6. Authorize the staggered renewal of licenses.
		X	7. Authorize agencies to use a full range of penalties.
		X	8. Specify board hearing requirements.
		X	9. Revise restrictive rules or statutes to allow advertising and competitive bidding practices which are not deceptive or misleading.
		X	10. Authorize the board to adopt a system of voluntary continuing education.

\*Already in statute or required.