



Texas Land Conservation Financing Study

Land Conservation Funding Options
November 2004



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Executive Summary

Over the past decade (1990-2000), Texas was the eighth fastest growing and the second most populous state in the country with 20,851,820 inhabitants in 2000. U.S. Census data for 2000 indicated that the population of Texas experienced a 22.8 percent change during the 1990s. At that time, three of the states largest cities were home to over one million people. According to the Texas State Data Center and Office of the State Demographer, the population of Texas may surpass 23 million people by the year 2005.¹ In addition, Texas experienced rapid growth and urbanization over the past few decades. Texas is losing an average of 283 acres of open space to development daily. Eighty percent of all Texans now live in urban areas and approximately half live in four major population centers: Dallas, Fort Worth, Houston and San Antonio.

Texas has one of the most expansive park systems in the country that draws in approximately 13 million visitors each year. Yet, Texas is far behind national averages for the amount of parkland per capita in urban areas and the state park system has a backlog of millions of dollars in repairs. The current funding for parks and open space will neither address the shortfall in acreage nor the need for additional land, facilities and programs as the population continues to grow.

In 2001, a study conducted by Texas Tech University for the Texas Parks and Wildlife Department identified a number of state parks needs. For example, Texas has an average of 52 acres of parkland per 1,000 people statewide. While this is above the national average of 45.25 acres, Texas is one of the fastest growing states in terms of population and has one of the highest rates of conversion of open space to development. Therefore, in order for the state park system to remain competitive, there must be an increase of 3 acres per 1,000 people by 2030. This feat will require an additional 1.4 million acres of protected land throughout the state.

The Trust for Public Land did a local needs assessment in 2001 as well, which identifies additional local park needs.

- ❑ Local governments across Texas need to acquire 45,737 acres, valued in excess of \$687 million, in order to meet existing parks, recreation and open space land acquisition needs.
- ❑ Renovation and restoration funding needs for existing park, recreation and conservation lands and facilities exceed \$1.5 billion.
- ❑ Funding needs for new recreational facility construction to address existing demand exceed \$1.45 billion.

¹ Figure based on a number of scenarios listed on the Data Center website, <http://txsdc.tamu.edu/tpepp/2004projections/>

- ❑ Local governments across the state need an estimated \$3.29 billion in capital funding in order to meet existing demand for land acquisition, renovation, restoration and new facilities.

The Texas Parks and Wildlife Department (TPWD) is the primary state agency that funds open space and conservation projects on both the state and local levels. Currently the TPWD receives just 0.4 percent of the total budget allocations for the state. The Department has budgeted only \$5.05 million each year for the current biennium for land acquisition. Local governments have made strides to protect land by passing 35 conservation measures since 1998 raising over \$720 million in order to purchase or make improvements to open space and parks. Approximately 250,000 acres, or 0.14 percent of the total acres for the state, are owned or operated by local governments. Private organizations have conserved more than 1.3 million acres of land. However, while voter approval of conservation measures is high, many cities and towns in Texas are underserved in terms of open space per capita. Despite the issuance of millions of dollars in bonds the state is unable to provide adequate incentives for the purchase of open space. For example, the local park grant program under the State Park Division of the TPWD provides a 50/50 matching award to any approved land acquisition proposals submitted by local governments. Yet, the Division has to turn down many applications each year due to fiscal constraints.

The root source of the disparity in conservation need and supply can be found in budget allocations. It is crucial that more funding be made available for parks and open space preservation. On June 22, 2003, Texas Governor Rick Perry signed into law a \$117.4 billion biennial budget for Fiscal Year 2004 – 2005. The current biennial budget for the TPWD is approximately \$460 million. However, only \$10.1 million is allocated for land acquisition in this biennium in the TPWD budget. By looking at the policy frameworks in place in states with some of the most successful land conservation programs, The Trust for Public Land recommends that the Texas legislature consider the following step, increase state funding for TPWD in order to make a substantial state investment in parks and open space throughout the state.

Two potential mechanisms are to increase the cap on the amount of revenue appropriated to the State Park Division of the TPWD from the sale of sporting goods and the issuance of a general obligation bond. By increasing the total funding for the Department and committing some of the additional funds to the local park grant program, the state will provide incentives to local governments, making them strong partners in the state's land conservation efforts and adding local dollars to the total amount of funding committed to this purpose. Incentive programs, such as tax credits for conservation, should be implemented to encourage private land conservation. These methods will ensure that Texas will continue to remain second in the country in terms of biodiversity and above the national average for park space per 1,000 people.



Introduction

The state of Texas encompasses approximately 176 million acres of land.² In terms of landmass, Texas is the largest state in the continental United States. The popular image of the Lone Star state during the first half of the twentieth century often included rolling hills, expansive prairies and miles of undeveloped terrain. However, this image has altered over the last few decades. As the state becomes more heavily urbanized and land development continues, the need for parks and open space, particularly near population centers, will grow dramatically. Current funding for parks and open space will not allow the state to meet its current goals let alone future needs that will come with continued population growth.

Successful open space conservation includes a combination of any of the following approaches: acquisition, conservation, the creation of parkland, trails and greenways, the preservation of farmland and watershed protection. These objectives can only be achieved through adequate funding and by utilizing all available fiscal mechanisms. The report will highlight successful case studies from states around the country. The report will conclude with an analysis of how Texas has fared in terms of its open space conservation policy framework and what the state can do to move forward on land conservation funding.

² Texas Environmental Profiles, *Public Lands and Recreation*. http://www.texasep.org/html/lnd/lnd_5pub.html.



State Background Information³

Population Growth

Between 1990 and 2000, the population of Texas increased by 3.8 million people, the second highest numeric population change in the country, following California, to nearly 21 million people. The 2003 population estimate for the state is 22,118,509 people. The growth in population was pervasive throughout the state; all 27 of Texas' metropolitan statistical areas grew, as did 73.2 percent of counties and 74 percent of cities. The three regions that showed the highest levels of population growth included areas along the Texas-Mexico border, areas in the central corridor of Texas from Dallas-Fort Worth through San Antonio, and the Houston-Galveston area. These trends put increasing pressure on existing natural resources.

Conversely, rural areas showed reduced levels of growth. By 2000, non-metropolitan counties accounted for only 15.2 percent of the total population growth in Texas (and received only 8.8 percent of the State's population increase in the 1990s), while metropolitan counties accounted for 84.8 percent of the population (and received 91.2 percent of the population increase). Metropolitan central city counties accounted for 67.1 percent of the total population, while suburban counties accounted for 17.7 percent of the population in 2000. Please reference the two charts below, which document population growth for selected Texas counties.

10 Fastest-Growing Texas Counties, 1990 - 2000

Geographic area	Total Pop.		Pop. Change 1990-2000		Housing Units Built 1990-2000
	2000	1990	Number	%	Percent
Texas	20,851,820	16,986,510	3,865,310	22.8	
Collin County	491,675	264,036	227,639	86.2	50.1
Williamson County	249,967	139,551	110,416	79.1	44.2
Rockwall County	43,080	25,604	17,476	68.3	39.3
Bandera County	17,645	10,562	7,083	67.1	37.8
Kendall County	23,743	14,589	9,154	62.8	38.6
Montgomery County	293,768	182,201	111,567	61.2	39.3
Denton County	432,976	273,525	159,451	58.3	40.2
Fort Bend County	354,452	225,421	129,031	57.2	37.7
Hartley County	5,537	3,634	1,903	52.4	18.2
Bastrop County	57,733	38,263	19,470	50.9	33.3

10 Largest Texas Counties, 1990 - 2000

Geographic area	Total Pop.		Pop. Change 1990-2000		Housing Units Built 1990-2000
	2000	1990	Number	%	Percent
Texas	20,851,820	16,986,510	3,865,310	22.8	
Harris County	3,400,578	2,818,199	582,379	20.7	16.2
Dallas County	2,218,899	1,852,810	366,089	19.8	14.3
Tarrant County	1,446,219	1,170,103	276,116	23.6	20.0
Bexar County	1,392,931	1,185,394	207,537	17.5	18.3
Travis County	812,280	576,407	235,873	40.9	25.9
El Paso County	679,622	591,610	88,012	14.9	20.6
Hidalgo County	569,463	383,545	185,918	48.5	37.8
Collin County	491,675	264,036	227,639	86.2	50.1
Denton County	432,976	273,525	159,451	58.3	40.2
Fort Bend County	354,452	225,421	129,031	57.2	37.7

³ Much information in this section has been excerpted from The Center for Demographic and Socioeconomic Research and Education, "A Summary of The Texas Challenge in the Twenty-First Century: Implications of Population Change for the Future of Texas," <http://txsdc.tamu.edu/download/pdf/TxChall2002.pdf>



Throughout the state, housing stock increased 21 percent, with more than 8 million homes constructed during the past decade. According to the Natural Resource Conservation Service's 1997 National Resources Inventory, Texas led the nation during the 1990s in converting rural and natural lands to commercial, industrial and residential uses. The current rate of converting open space to development is estimated at roughly 283 acres per day.⁴

The Need for Additional Land Conservation

Texas ranks 49th among states in per capita spending on state parks and falls well short of national averages for state and local parkland per resident. In terms of urban park spending, San Antonio spends \$54 whereas Seattle spends \$214 and Chicago spends \$131 per city resident. The national average of city park spending is \$80 per resident.⁵ While state governments around the country spent an average of \$14.20 on parks per person in 1998 and 1999, the Texas state government spent \$2.71 per person (63 percent below the national average).

Texas has 123 state parks totaling 601,564 acres of protected land. California has over 1.3 million acres of parkland throughout the state. Texas also has Wildlife Management Areas (WMAs) that are operated by the Wildlife Division of the TPWD. Currently there are 51 WMAs, encompassing about 756,464 acres of land. The Division of Wildlife for the state of Colorado protects over 1 million acres of land as wildlife habitat.⁶ In terms of urban park acreage, Houston has a total of 21,252 city park acres, Dallas has 21,670 acres, and San Antonio has 16,503 acres. Each of these cities has a population of over 1 million residents. The average between the three cities in acres per 1,000 people is 12.6 acres. The national average of city parkland is 16.2 acres per 1,000 people. Los Angeles, a huge, sprawling metropolis with over 3 million residents, and a city area of 300,201 acres is 10 percent parkland. Whereas Houston with a city area of 370,818 acres has only 21,252 acres, or 5.7 percent, of parkland.⁷

In 2001, the TPWD commissioned a study by Texas Tech University in order to illuminate the open space needs in the state and come up with a strategy for addressing any shortfall. One goal identified in this study is to provide more local parks to all types of jurisdictions, including cities, counties and special districts by increasing the amount of open space from the statewide average of 12.2 acres to 25 acres of land per 1,000 people. This increase will require an additional 558,722 acres of conservation land by 2030. Another goal in Texas is to increase the amount of state parks, including state historic sites, state parks and state natural areas. In order to successfully maintain a significant increase to the state parks system, Texas should adopt the ratio

⁴ "Texas Parks and Wildlife for the 21st Century *An Overview of the Texas Tech University Studies in Conservation and Recreation for the coming decades.*"

⁵ Harnik, Peter. "The Excellent City Park System *What Makes it Great and How to Get There.*" Published by The Trust for Public Land, 2003.

⁶ <http://wildlife.state.co.us/swa/>

⁷ Harnik, Peter. "The Excellent City Park System *What Makes it Great and How to Get There.*" Published by The Trust for Public Land, 2003.



of 55 acres per 1,000 people. Reaching this goal, as previously discussed, would place Texas in the 75th percentile in national rankings of state park systems and require an increase of 1.4 million acres per year.⁸

Furthermore, the study suggests that in order to keep at pace with the growing population of Texas, there should be additional acquisitions of 1.2 million acres of land for recreational uses. Opportunity for land acquisition efforts should be relative to population density. Indeed 99 percent of the population does not own any significant stretch of land for even a backyard, making the availability of land for recreational purposes crucial for underserved communities.⁹

In 2002, the Texas Parks and Wildlife Department formally adopted its *Land and Water Resources Conservation and Recreation Plan* in order to “guide the Department for the next 10 years in conserving the state’s natural and historic heritage and in providing public access to the outdoors.”¹⁰ One major goal identified in the plan is to open at least four 5,000 acre or larger sized parks near major urban centers. Accomplishing this goal will provide greatly needed parks and open space accessibility for millions of Texas’ urban residents. However, it will not meet the larger statewide goals identified in the Texas Tech University study.

Current Land Conservation Efforts

This section of the report provides an overview of the primary entities and programs that are protecting land for parks and conservation purposes in the state of Texas. More detail will be provided to each section later on in the report.

State

The TPWD is the leading state agency responsible for the management of state parks, natural lands, historic sites and wildlife management areas, as well as for the protection of fish and wildlife habitats. The General Land Office (GLO) and the Texas Forest Service manage other state public lands. There are approximately 1.4 million acres of state parks and wildlife management areas in the TPWD system. Of this amount about 600,000 are state parks, historical sites and natural lands. One-half of the state park system is leased from the federal

⁸ “Texas Parks and Wildlife for the 21st Century *An Overview of the Texas Tech University Studies in Conservation and Recreation for the coming decades*,” Texas Tech University, 2001.

⁹ Ibid.

¹⁰ “Land and Water Resource Conservation and Recreation Plan,” the Texas Parks and Wildlife Department, 2002.



government.¹¹ The Department programs and budget are covered in greater detail later in this report.

Federal¹²

At the federal level, parkland acquisitions are authorized by Congress and carried out by the National Park Service, an agency of the U.S. Department of the Interior. Each national park has its own legislation, which defines, among other things, the boundaries of the park. However, some national parks in Texas, such as the LBJ Park, the Big Thicket, and the Fort Davis National Historic Site may accept land donations and thus extend their boundaries without legislative approval. As of August 2001, there was no Congressional legislation designating additional acquisitions in Texas by the National Park Service. In Texas, the National Park Service manages approximately 1.2 million acres.

The U.S. Fish and Wildlife Service, an agency of the Interior Department, acquires wildlife habitat and refuges, which can also provide recreational opportunities for the public. These acquisitions are in response to Congressional action. The U.S. Fish and Wildlife Service manages approximately 643,697 acres of public lands in Texas.

The U.S. Forest Service, an agency of the U.S. Department of Agriculture (USDA), acquires national forestland in order to protect wildlife and natural habitats from clear-cutting. This provides recreational opportunities for residents living nearby. These acquisitions also are made at the direction of Congress. The U.S. Forest Service does not anticipate acquiring new forestland in Texas in the near future. As of 2002, there were 637,000 acres of national forestland in Texas, the majority of which are located in East Texas. The U.S. Forest Service also manages 118,000 acres of national grasslands.

Local

Several Texas counties and municipalities have taken important steps to protect local open space by developing programs to protect land for farms, wildlife, water protection, open space and parks, and committing local funds to these programs through general obligation bonds and local taxes. Since 1998, voters across Texas have voiced their strong support for parks and land conservation by approving more than \$720 million in local funds for these purposes.

Private

There are 39 land trusts in Texas as well as several local chapters of national land conservation organizations such as The Nature Conservancy and The Trust For Public Land. Together, these

¹¹ Texas Environmental Profiles, Public Lands and Recreation. www.texasep.org/html/Ind/Ind_5.html.

¹² Excerpted from Texas Environmental Profiles, Parkland Acquisition. www.texasep.org/html/Ind/Ind_5pub_acq.html.



nonprofit organizations have worked with private landowners to conserve more than 1.3 million acres of land.

Best Practices from Around the Country

In order to demonstrate how a successful land conservation program can be implemented in the state of Texas, it is necessary to highlight a few relevant illustrations. These case studies utilize a number of conservation approaches because no single one is sufficient on its own. As has already been stated, the TPWD is the state agency with the greatest amount of funding allocated for conservation purposes. However, participation in conservation programs is necessary at many levels. One entity or program alone cannot achieve all set goals. Effective land conservation practices require an array of funding sources and conservation tools, using top-down incentives and funding, as well as enabling legislation to encourage bottom-up leveraging of conservation dollars.

Substantial State Investment

The foundation of an effective land conservation program is strong fiscal commitment on the part of state government through a stable revenue source. Substantial state investment fosters program development and long-term vision. Some existing state programs rely on a single revenue stream, while others use a combination of dedicated revenue sources. Other state revenue sources include license plate revenues, hunting and fishing license fees, hotel/motel tax, cigarette tax, state income tax, and oil and gas revenue.

Examples of Dedicated Revenues for State Land Conservation

Revenue stream	Examples
General obligation bonds	California, Rhode Island
Sales tax	Missouri, New Jersey
Lottery income	Colorado, Minnesota
Real estate transfer tax / fees	Florida, Massachusetts
General fund appropriations	Arizona, Washington

Enable Local Financing

Federal and state governments by themselves often cannot meet conservation needs. Communities are looking for local financing options to fill the gap. State enabling legislation makes local governments partners in protecting open space resources.

Common local financing options include the property tax, local option sales tax, and general obligation bonds. Other local revenue sources include special assessment district fees, impact fees, local income tax, and real estate transfer tax.

Examples of Local Finance Options Land Conservation

Revenue stream	Selected states that authorize local use
Property tax	Ohio, New Jersey, Massachusetts
Sales tax	Georgia, Colorado, Florida
General obligation bonds	Florida, Illinois, New Jersey
Special assessment districts	California
Impact fees	Florida, Washington
Income tax	Pennsylvania
Real estate transfer tax / fees	Maryland, New York

State Incentives for Local Conservation

State incentives for local action strengthen partnerships between state and local governments. Incentives, often in the form of matching grants and low-interest loans, encourage local governments and nonprofit conservation organizations to develop programs and create financing mechanisms to leverage state funds.



State – Federal Partnerships

A partnership that unites the desires and goals of multiple levels of government to protect natural resources encourages coordinated actions that further open space preservation. State and federal partnerships broaden the base of support for land conservation goals and leverage scarce conservation resources.

Tax Credits

State laws can provide income or other tax credits to private landowners who donate land or easements to public or private, nonprofit entities for conservation purposes. Tax incentive programs offer a strong supplement to other open space funding programs by encouraging private, voluntary land conservation. Particularly when combined with existing federal and state charitable deductions, conservation tax credits may make conservation a more attractive option for landowners than development. Tax credits can be targeted to state-specific objectives or farmland protection.



Select Funding Programs

New Jersey (State Investment, Incentives)

The Green Acres Program was created in 1961 to preserve New Jersey's natural, historic and cultural heritage. From 1961 to 1995, voters overwhelmingly approved nine state bond issues, generating more than \$1.4 billion for parks and open space acquisition. Permanent funding for the program was secured in 1998 when voters approved a constitutional amendment dedicating \$98 million annually for ten years from the existing state sales tax, and authorizing the issuance of up to \$1 billion in revenue bonds.

In 1989, New Jersey passed landmark legislation that enables counties and municipalities to raise additional local funds by establishing voter-approved Open Space Trust Funds supported by property taxes. Through the Green Acres Planning Incentive Program, the state offers matching funds to communities that develop an open space and recreation plan and approve a dedicated tax for land acquisition. Eligible communities may receive a 50 percent matching grant and a 2 percent interest loan for 20 years to make the immediate purchase of land possible. Proceeds from the local open space tax are then used to repay the loan. Green Acres also provides matching grants to nonprofit organizations to acquire land for public recreation and conservation purposes. As of November 2003, all 21 counties and more than 200 municipalities have established an open space tax by voter referendum. Since 1961, more than 513,000 acres of land have been preserved with Green Acres funds. The goal, established by Governor Christine Todd Whitman in 1999, is to preserve 1 million acres over ten years.

Florida (State Investment, Incentives)

Florida has made two ten-year commitments to substantial conservation funding. Florida Preservation 2000 was enacted in 1990 after proposals by Governor Bob Martinez's Commission on the Future of Florida's Environment. Under the legislation, \$3 billion in state revenue bonds were issued over ten years. The bonds were backed by revenue from the documentary stamp (real estate transfer) tax. By 1999, over one million acres had been protected by the state and local governments. Governor Jeb Bush made renewed funding a major component of his 1998 campaign, and set the stage for Florida Forever, a successor program to Preservation 2000. Voters then passed a constitutional amendment to extend bonding authority for land conservation and recreation in November 1998. Like Preservation 2000, Florida Forever provides for \$3 billion over 10 years in revenue bonds for state and local agencies to protect



open space. Yet Florida Forever provides greater funding for urban land and parks protection (24 percent, up from 10 percent), and has a greater emphasis on conservation easements.

Massachusetts (Local Financing, Incentives)

Massachusetts' Community Preservation Act, signed into law in September 2000, combines local enabling authority with a commitment of state funds to urge communities to implement a local property tax for open space. Cities and towns are authorized to impose a surcharge (of up to 3 percent) on the local property tax to be used for open space, affordable housing, and historic preservation. State matching funds are provided from a \$20 surcharge on most recorded documents, including deeds of conveyance and mortgages. Each year 80 percent of state matching funds will be divided among communities that have adopted the Act based on the total amount raised by the local open space tax. The state will match between 5 and 100 percent of local funds depending upon the number of participating communities, so there is an added incentive for cities and towns to move quickly in order to leverage a larger portion of state funds.

Illinois (Local Financing)

In the state of Illinois, there are a number of forest preserve districts (roughly 10-15) whose primary mission is to preserve open space, protect wildlife habitat and provide passive recreation. These districts are authorized under Illinois statute and may be created only through voter approval by a simple majority. Forest preserve districts are separate legal entities, generally coterminous with a county's boundaries. The county's elected officials—board of commissioners—also serve as the elected officials of the forest preserve districts, with the president elected from his/her peers. All forest preserve districts may levy a property tax for general operations purpose (limited to .06 percent of property value) and may also levy above this level for additional maintenance and operations, with voters able to seek a referendum on the higher levy. Finally, all forest preserve districts may submit bond questions to voters for land acquisition and capital improvements, subject to approval by a majority of voters.

California (Tax Credits)

In June 2000, the California legislature approved the Natural Heritage Preservation Tax Credit Act to provide an additional tool to address open space needs and to safeguard the state's natural habitats. Under this program, a landowner who donates property, or a conservation easement, to provide for the protection of wildlife habitat, open space, or agricultural land, will receive a state tax credit of 55 percent of the fair market value of the land. If the credit allowed exceeds the



landowner's tax liability, the excess may be carried over in up to seven succeeding years until the credit is exhausted. The Act authorizes a total of up to \$100 million in tax credits to be awarded over the next five years.



Texas State Land Conservation Programs

Texas Parks and Wildlife Department (TPWD)

Overview

The Texas Parks and Wildlife Department (TPWD) was established in 1963 to protect Texas' natural resources, and inherited the functions of many state programs. That year, the Parks Board (created in 1923), and the Game and Fish Commission (created in 1907) merged to form the Department. The TPWD oversees many conservation initiatives within the state, and is made up of nine members appointed by the Governor with the advice and consent of the Senate.

The State Parks Division of the TPWD is responsible for protecting, interpreting and managing cultural and natural resources and providing recreation opportunities throughout the state. The division oversees more than 600,000 acres of land owned or leased by the department, including 123 state parks, historic sites and natural areas. The division also provides planning assistance and matching grants to local communities for the acquisition and development of local parks, public boat ramps and other facilities.¹³

TPWD Budget

These functions are funded by appropriations from the Texas Legislature as well as from fees for service and motorboat fuel taxes. The TPWD was appropriated \$460,242,080 in FY '04 – FY '05, which represents roughly 0.4 percent of the total state budget. See the chart below. Between 1997-2001, the Department spent \$3,929,760 on land acquisition.¹⁴ For the current biennium, \$5 million has been budgeted by the Department into the capital account for land acquisition. However, the focus of the TPWD in recent years has been on addressing the need for extensive repairs to the state park system. By 1996, there was a \$75 million repair backlog for the department. Therefore, in 1997, \$60 million of general revenue bonds were levied. Then in

¹³ www.tpwd.state.tx.us/admin/about_us/spmain.htm.

¹⁴ "Land Acquisition and Conservation Planning Policy," TPWD, State Parks Division, July 2003.



2001, as a component of voter-approved Proposition 8 (discussed in the following section), \$101.5 million in bonds were issued in order to address this problem.

Budget Chart for the 2004-2005 Biennium

Total State Budget	Total TPWD Budget	Total Parks Division Budget
\$117,400,000,000	\$460,460,241	\$136,621,000

Proposition 8

In November 2001, voters passed a statewide ballot measure with 69.7 percent of the vote to authorize the issuance of up to \$850 million in general obligation bonds for 13 state agencies. The Texas Parks and Wildlife Department was budgeted to receive \$101.5 million of that total, which would be used to fund repairs and improve state parks, wildlife management areas, and fish hatcheries across the state. However, the 78th Legislature suspended the issuance of these bonds. It was decided that the \$4 million cost of issuing the debt service on the TPWD’s portion of the bonds was not possible with a \$10 billion deficit.

State Parks Division Budget

Prior to 1994, state and local parks were supported by a state cigarette tax – 2 cents per pack sold – and federal revenues from oil and gas royalties. However, due to a decline in revenue from the sale of cigarettes, the Department asked the Legislature to replace the cigarette tax as a source of revenue with a portion of the state sales tax attributable to sporting goods. Beginning September 1, 1995, the Texas Legislature has appropriated an amount not to exceed \$32 million per year from the revenue generated from the sale of sporting goods to fund the state park system and local grants program of the State Parks Division. During FY ‘04 the revenue generated by the sale of sporting goods is approximately \$94 million. The amount allocated to the TPWD (\$32 million) is about 33 percent of the total. Furthermore, the Texas Legislature only appropriated



70 percent of the total amount allotted to the TPWD for FY '04 and FY '05.¹⁵ The other 30 percent was cut back from the TPWD appropriations budget.¹⁶

At the present time, \$15.5 million of funding is apportioned annually to the local park grant program in order to support local governments by providing matching funds to cities and counties around Texas for the acquisition and development of recreation facilities and parks. Another \$15.5 million is budgeted for the state park system overseen by the TPWD for improvements. In particular, this funding assists state park operations including personnel costs, equipment, supplies and materials and utilities.¹⁷ The remaining \$1 million funds a capital account. Beginning in 2000, the local park grant program was allocated an additional \$5 million in interest per year, which was primarily used to fund the Recreation Grants program. Therefore, for three years, the local park grant program received about \$20 million each year in funding. However, for the first time, the Recreation Grants program did not receive the authority to utilize this interest for the current biennial budget. This was in addition to the loss in revenue due to the 30 percent appropriations decrease, therefore greatly undermining the effectiveness of the local park grant program.

All of the \$15.5 million dedicated to the TPWD's local park grant program from the revenue from the sale of sporting goods goes into the Texas Recreation and Parks Account (TRPA). The TRPA also receives appropriated funds through the stateside of the Land and Water Conservation Fund in order to award grants to local sponsors. The five grant programs administered under this account include the Outdoor Recreation Grant, the Indoor Recreation Grant, the Small Community Grant, The Regional Park Grant, and the Community Outdoor Outreach Program.

Financial assistance is provided on a 50/50 matching basis on individual projects that are submitted to the TPWD for approval, except for Community Outdoor Recreation Program, which does not require a match. In addition, the Regional Park Grant program requires at least a 50 percent match, but may involve a much greater commitment on the part of the sponsor. Furthermore, special appropriations by the Legislature (funding without competition) sometimes require a match and sometimes they do not. Of the \$20.5 million received annually from the allocation of the sporting goods tax including the additional \$5 million in accumulated interest, \$3.3 million is set aside for indoor projects, \$1.25 million for outdoor outreach activities and the remainder for outdoor projects.

¹⁵ Natural Resource Agency budget, *Parks and Wildlife Department*, VI-30, May 27, 2003.

¹⁶ Telephone conversation with Elaine Dill, TPWD, September 10, 2004.

¹⁷ Email correspondence with Walt Dabney, State Park Division Director, TPWD.



There are two cycle periods for the TPWD's grant program. The grant deadlines are: outdoor grants – January 31 and July 31; indoor grants – July 31; small community grants – January 31; and regional grants – January 31. It takes six months for the TPWD to review all of the grant applications. The local park grant program received a total of 41 grant requests (this number excludes the recreational trails grants) by the January 31 deadline. The August 2004 Commission hearing funded 12 outdoor grants, 3 regional grants and 15 small community grants. The total amount of money requested from the outdoor grants program, the regional grants program and the small community grants programs were approximately \$10.2 million, \$9.4 million and \$1.2 million respectively, totaling \$20.8 million. The sum total of money granted for all three programs was \$10.3 million.¹⁸ Less than half of the amount of funding requested by grant applications was received. This is a common funding trend. In fact, each year, the TPWD is only able to approve a fairly small percentage of the total number of grant applications that the Department receives due to fiscal constraints.

Chart of TPWD Priority Grant Funding Between August, 2001 – January, 2004

Commission Meeting Date	Total Funds Requested	Funds Approved	Total Number of Projects	Total Number of Projects Approved
Aug-01	\$ 18,384,700	\$ 6,127,605	107	26
Nov-01	\$ 200,000	\$ 200,000	1	1
Jan-02	\$ 29,853,557	\$ 9,075,962	61	18
Aug-02	\$ 25,698,846	\$ 9,587,315	105	40
Jan-03	\$ 33,877,576	\$ 9,962,685	68	20
Aug-03	\$ 31,031,226	\$ 7,277,888	75	29
Jan-04	\$ 19,796,878	\$ 5,465,082	41	11

The grant proposals by local governments must be for land acquisition or structural improvements. The TPWD has the legal authority to authorize land acquisitions for use as a state park or natural area, for use as a wildlife management area, use as a historic site, solicitation, receipt or transfer of land, sale or exchange of land, or for the purpose of purchasing land for use as a fish hatchery. The Land Conservation Program coordinates with the land-holding divisions to develop acquisition priorities. The Wildlife Division and the State Parks Division over see these lands as the major land-holding divisions for the Department. The local park grant program prioritizes which grant applications will be approved for funding based on the competitiveness of the proposal, not on the greatest need for open space or maintenance.¹⁹

¹⁸ "Local Park Grant Requests and Awards FY79 to Present," TPWD, local government grant program.

¹⁹ "Land and Water Resource Conservation and Recreation Plan," the Texas Parks and Wildlife Department, 2002.



Local Programs

Texas counties and municipalities have also taken important steps to protect open space. They have launched local programs to protect land for farms, wildlife, water protection, open space and parks and committed local funds to these programs through general obligation bonds.

The property tax is the single largest revenue source for many local jurisdictions and the proceeds may be expended for parks and open space. However there is no authority by which a portion of the tax may be dedicated for this purpose, so expenditures are subject to the annual appropriations process. The only means by which counties and municipalities may generate significant dedicated funds for land conservation is by increasing the sales tax or by issuing general obligation bonds. Increased levy of the sales tax and issuance of general obligation bonds may be authorized only after approval by a majority of the voters. Bonds also require approval by the public finance division of the Attorney General's office.²⁰

Since 1998, voters across Texas have voiced their strong support for parks and land conservation by approving more than \$720 million for these purposes through increased levy of the sales tax and local bond referenda. The rate of approval for local ballot measures voted upon between 1998 and 2003 is roughly 88 percent, compared to the nation-wide approval rate of 79 percent. Please reference the chart below, which describe election results for local sales tax and bond referenda that were voted upon between 1998 and 2003.

²⁰ Government Code § 1201.065.



Chart of Texas Conservation Measures, 1998-2003

Jurisdiction Name	Date	Finance Mechanism	Conservation Funds Approved	Pass?	Status
Plano	5/2/98	Bond	\$8,010,018	yes	Pass
Arlington	5/2/98	Sales tax		no	Fail
Austin	5/2/98	Bond	\$61,000,922	yes	Pass
Dallas	5/2/98	Bond	\$1,640,285	yes	Pass
College Station	11/3/98	Bond	\$3,529,217	yes	Pass
College Station	11/3/98	Bond	\$520,000	yes	Pass
College Station	11/3/98	Bond	\$1,835,000	yes	Pass
Austin	11/3/98	Bond	\$40,583,575	yes	Pass
Austin	11/3/98	Bond	\$7,997,231	yes	Pass
Irving	2/6/99	Bond	\$5,500,000	yes	Pass
Collin County	2/20/99	Bond	\$2,082,820	yes	Pass
McKinney	2/20/99	Bond	\$561,221	yes	Pass
San Antonio	5/1/99	Bond	\$2,800,125	yes	Pass
Allen	6/12/99	Bond	\$22,000,000	yes	Pass
Grand Prairie	11/2/99	Sales tax	\$75,907,860	yes	Pass
Arlington	1/1/00	Sales tax		no	Fail
El Paso	5/6/00	Bond	\$4,000,000	yes	Pass
San Antonio	5/6/00	Sales tax	\$65,000,000	yes	Pass
Austin	11/7/00	Bond	\$13,400,000	yes	Pass
Hays County	6/2/01	Bond	\$3,500,000	yes	Pass
Texas	11/1/01	Bond		yes	Pass
Travis County	11/6/01	Bond	\$28,600,000	yes	Pass
Alvin	11/6/01	Bond	\$3,150,000	yes	Pass
Cedar Park	11/6/01	Bond	\$10,600,000	yes	Pass
Harris County	11/6/01	Bond	\$6,000,000	yes	Pass
Houston	11/6/01	Bond	\$80,000,000	yes	Pass
Round Rock	11/6/01	Bond	\$17,300,000	yes	Pass
Highland Village	5/4/02	Bond		no	Fail
Highland Village	5/4/02	Bond		no	Fail
Highland Village	5/4/02	Bond		no	Fail
Highland Village	5/4/02	Bond		no	Fail
Pasadena	8/1/02	Bond	\$13,500,000	yes	Pass
Frisco	9/14/02	Bond	\$5,200,000	yes	Pass
Lewisville	9/14/02	Sales tax		yes	Pass
Dallas	5/3/03	Bond	\$3,667,144	yes	Pass
Dallas	5/3/03	Bond	\$42,874,109	yes	Pass
Missouri City	9/13/03	Bond	\$395,000	yes	Pass
Harlingen	9/13/03	Bond		no	Fail
San Antonio	11/4/03	Bond	\$3,890,000	yes	Pass
Collin County	11/4/03	Bond	\$5,500,000	yes	Pass
Bexar County	11/4/03	Bond	\$3,700,000	yes	Pass



Benchmarking Texas

Substantial State Funding

A number of potential revenue sources have been considered to fund open space acquisition in Texas. The favored fiscal mechanism to increase the amount of funding available is to raise the cap on the revenue appropriated to the TPWD from the sale of sporting goods. However, this study will look further at general obligation bonds in order to have a more encompassing perspective on the means to increase conservation funding for Texas.

Increasing the Cap

One means to increase funding would be to raise the \$32 million cap on the amount of revenue allocated to the TPWD from the sale of sporting goods. There is a significant amount of additional funding generated by the sale of sporting goods each year that goes into the state's general fund in order to certify the budget (see the following table).

<u>Fiscal Year</u> <u>Goods</u>	<u>State Sales Tax Collections from the Sale of Sporting</u>
2002	\$87,119,000
2003	90,905,000
2004	93,821,000
2005	97,125,000
2006	100,583,000

As shown, during FY '04 the revenue generated by the sale of sporting goods is approximately \$94 million. The amount allocated to the TPWD is about 34 percent of that total. However, the Texas Legislature cutback on the total amount appropriated to the TPWD for FY '04 and FY '05 as mentioned previously.²¹ If the cap on the amount of revenue dedicated to the Department from the funds generated by the sale of sporting goods were raised, the TPWD could expand its

²¹ Natural Resource Agency budget, *Parks and Wildlife Department*, VI-30, May 27, 2003.



conservation efforts significantly. This additional funding would greatly benefit the work of the TPWD and result in a higher quality of life for Texans across the state. A meaningful increase option would be to raise the cap on the total revenue generated by the sale of sporting goods that is allocated to the TPWD from roughly 34 percent, or \$32 million, to about 80 percent. Using the total sale figure from FY '04, this would guarantee \$43 million in additional funding to the TPWD budget with a total allocation of \$75 million. This would be a decrease of 0.00037 percent of the total budget for the state per year.

Meanwhile, this additional funding would increase the budget of the local park grant program and greatly increase the number of grant applicants that would receive funding. Local government park systems could expand their programs and more Texas residents would have access to parks. This revenue would also increase the amount of funding allocated to the state park system. During recent years the division has functioned in a state of fiscal shortfall with many projects remaining on the backlog due to monetary constraints. Additional funding would allow the Division to upkeep the state park system and remain competitive with other state systems of equal size. State parks draw in thousands of visitors each year adding the benefit of funding coming in from tourist spending in the state.

General Obligation Bonds

The issuance of statewide general obligation bonds for park and open space acquisition is another viable finance mechanism. While the amount of debt authorized by the state has increased significantly over the past 10 years, Texas' debt remains far smaller than the debts of other large states and well below the state's constitutional debt limit.²² The state currently carries bond ratings of Aa1/AA/AA+ from Moody's, Standard and Poor's, and Fitch IBCA ratings agencies, respectively.²³

Borrowing, by issuing bonds, presents a number of opportunities and drawbacks. On the one hand, borrowing can provide the state with the revenue and flexibility it needs up front to fund large-scale park and open space projects, when land is available and less expensive than it will be in the future. Bonds ensure a steady stream of funding that is not dependent on the fluctuations of the operating budget.

General obligation (GO) bonds are a popular open space financing tool at the state and local levels because they allow for the immediate purchase of land and they distribute the cost of acquisition. However, interest charges add costs to the price of the project and there is generally stiff competition for GO bonds among many programs in need of financing. Finally, Texas

²² The maximum annual debt service on debt payable from the general revenue fund must not exceed 5 percent of the average general revenues for the previous years. As of August 2002, the state has outstanding debt applicable to the limit of 2.2 percent.

²³ AAA ratings are the highest. AA or A also indicate good credit quality, but not as strong as AAA ratings. Only 8 states have been rated AAA by all three agencies.



must be mindful of how continued increases in debt will affect its bond ratings, as ratings can influence the interest rate charged on the loans.

It is also important to keep in mind that due to a budget shortfall, the 2003 Legislature suspended issuance of millions of dollars in voter-approved bonds, including Proposition 8 bonds for park development and improvements as mentioned previously in the report.²⁴

Bonds require a constitutional amendment that must initially be approved by a 2/3 vote of both houses of the legislature and by a majority of the voters in a statewide election.²⁵ The maturity date of the bonds may not exceed 40 years.²⁶ Bonds may bear an interest not exceeding a weighted annual average of 12 percent.²⁷

Texas voters have shown strong support for statewide bonds, passing at least seven bond measures at the ballot since 1995 for roads, education, parks, veterans' housing, correctional facilities and other capital purposes. Most of these measures passed with greater than 60 percent of the vote. However, this mechanism is not always appropriate or feasible and local governments should have the option to utilize other dedicated revenue streams.

Local Financing Authority

Local governments in Texas are important partners in financing and preserving open space. Counties and municipalities are authorized to acquire land and easements for a variety of purposes including parks, trails, watershed protection, floodplain management, farmland and cultural and historic preservation. They are further authorized to utilize certain local finance mechanisms to fund land acquisition for these purposes. The sales tax and general obligation bonds are the principal local revenue sources permitted for land conservation. As mentioned previously, between 1998 and 2003, Texas local governments have used this authority to pass 35 conservation measures and to generate more than \$720 million in funds for land conservation.

Local Incentives

To increase local government participation in land conservation efforts, the focus clearly should be on increased statewide funding. If more money is made available to the local park grant program under the State Park Division of the TPWD then more local governments are likely to apply for the funding. At current funding levels, an average of less than 50 applications have

²⁴ Tompkins, Shannon. State agency sends SOS over budget. *Houston Chronicle*, September 5, 2004.

²⁵ Email from Jim Thomassen, Office of the Attorney General, 6 August 2002.

²⁶ Government Code, 1251.001.

²⁷ Texas Constitution, Article III, 65(a).



received grants in each of the past three years. State incentives in the form of matching funds for conservation proposals will increase the total amount of funding available to conservation efforts not only through the department, but also from the required 50 percent match by the applicant.

The state might also consider establishing a revolving loan fund that would be available to local governments that adopt an open space finance measure. This type of incentive structure has spurred significant local participation in several other states including Georgia, Massachusetts, and New Jersey. For example, in 1989, the New Jersey legislature enacted legislation authorizing counties and municipalities to establish a voter-approved Open Space Trust Fund supported by property taxes. The Green Acres Planning Incentive Program was then created to offer 50 percent matching funds and two percent interest loans for 20 years to communities with open space and recreation plans (OSRP) and dedicated open space taxes. Since then, all 21 counties and 198 municipalities in the state have established an open space tax by voter referendum.

The Community Preservation Act in Massachusetts has stimulated great participation from local governments in order to increase funding for conservation efforts, historic preservation and affordable housing. Such a program could be implemented in Texas in order to increase the amount of partnership between the state and local governments in order to provide more funding to conservation work in communities of all kinds.

Tax Credit programs

As the principal state agency overseeing conservation projects with a budget of over \$460 million, it is discouraging that so little of the TPWD budget is appropriated for actual acquisition. In a state that is geographically so large, a vast majority of the population lives in crowded urban areas. Much could be done in order to encourage land preservation and acquisition programs in Texas in order to provide a higher quality of life for every citizen.

Given that more than 94 percent of the land in Texas is in private hands and much of that land is in agriculture, incentive programs should be put into place in order to encourage farmers and landowners to support conservation, such as an effective tax credit for conservation or purchase of development rights programs.

Currently there is no tax credit program specifically aimed at providing land for conservation. In Texas the only tax credit programs that exist are agriculture and wildlife exemptions on property taxes.

