



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**WAGGONER CARR  
ATTORNEY GENERAL**

September 30, 1965

Honorable John Connally  
Governor of Texas  
Austin, Texas

Opinion No. C-518

Re: Whether Texas is authorized to participate in the Land and Water Conservation Fund Act, Public Law 88-578, and can receive and disburse funds for the purpose of the Act.

Dear Governor Connally:

You have requested an opinion from this office concerning whether the Parks and Wildlife Department is authorized to receive Federal funds under the Land Conservation Fund Act, Public Law 88-578. In addition, you have pointed out that before the State of Texas is eligible to receive certain grants-in-aid apportioned to it in the amount of \$3,544,969 the United States Department of the Interior, Bureau of Outdoor Recreation, requires that the following authority be vested in some state agency or agencies:

- "1. To prepare and maintain a Comprehensive State Outdoor Recreation;
- "2. To develop, operate, and maintain outdoor recreation areas and facilities;
- "3. To acquire land, waters, and interests in land and waters for recreation purposes;
- "4. To enter into contracts and agreements with the United States and an appropriate agency thereof;
- "5. To keep financial and other records relative to such contracts and agreements;
- "6. To furnish appropriate officials of the United States such reports and information as are required for the conduct of the grant program;

"7. To coordinate its recreation activities with those of other State Agencies and governmental units;

"8. To receive Federal moneys;

"9. To disburse Federal moneys;

"10. To assure the United States that the State has the ability and intention to finance its share of any project proposed;

"11. To assure that areas acquired or developed with money granted from the Fund will be operated and maintained for public recreation purposes;

"12. To enter into agreements on behalf of political subdivisions and public agencies, and to require from such entities the necessary financial and other assurances."

Senate Bill 165, Acts of 59th Legislature, Regular Session, 1965, Ch. 112, p. 269 provides that:

"Section 1. The Parks and Wildlife Department of the State of Texas is hereby designated as the State Agency to cooperate with the Federal Government in the administration of the provisions of any federal assistance programs for the planning, acquisition, operation, and development of the outdoor recreation resources of the State, including the acquisition of lands and waters and interests therein, and specifically to cooperate with the Federal Government in the administration of the provisions of the 'Land and Water Conservation Fund Act of 1965' (Public Law 88-578) effective January 1, 1965, and any amendments which may be added thereto from time to time, in the event no other State Agency is by law designated to cooperate with the Federal Government in the administration of the provisions of such Act or other Acts which may be hereafter enacted by the Congress.

". . . The Parks and Wildlife Department is hereby authorized and directed to cooperate with the proper departments of the Federal Government and with all other departments of the state and local governments including as a part of a state

plan water districts, river authorities, and special districts in out-door recreation in the enforcement and administration of the provisions of the Federal Acts and any Amendments thereto. . . .It is the intent of the Legislature to add to the purposes, functions and duties of river authorities and water districts or other political subdivisions organized under Article III, Section 52, or Article XVI, Section 59, of the Constitution of Texas, and counties, to acquire lands for public recreation purposes, to construct thereon facilities for public use, to provide for the operation, maintenance and supervision of such public recreation areas, and to enter into agreements with other local, state or Federal Agencies for planning, construction, maintenance, and operation of such facilities, together with necessary access roads thereto, and to maintain adequate sanitary standards on the land and water areas as a part of and adjacent to such recreation areas.

. . . .

"Sec. 2. The Parks and Wildlife Department is authorized and empowered to prepare, maintain, and keep up-to-date a state-wide comprehensive plan for the development of the outdoor recreation resources of the State of Texas; to develop, operate, and maintain outdoor areas and facilities of the state and to acquire land, waters, and interests in land and waters for such areas and facilities.

"Sec. 3. The Parks and Wildlife Department is authorized to apply to any appropriate agency or officer of the United States for participation in or the receipt of aid from any Federal programs as now provided by law or as may hereafter be provided respecting outdoor recreation. The Parks and Wildlife Department is authorized to enter into contracts and agreements with the United States or any appropriate agency thereof for the purpose of planning, for acquisition of, and development of outdoor recreation resources of the state in conformity with the provisions of the 'Land and Water Conservation Fund Act of 1965' and any Amendments thereto, and in conformity with any other Federal Act the purpose of which is the development of outdoor recreation resources of the state. The Department shall keep financial and other records relating to such programs and shall furnish to appropriate officials and agencies of the United States and of the State Government such reports and information as may be reasonably necessary to enable such officials and

agencies to carry out their responsibilities for the administration of such programs.

"In order to obtain the benefits of any such programs, the Parks and Wildlife Department shall coordinate its activities with and represent the interests of all agencies and political subdivisions of the State of Texas. . . .

"Sec. 4. The Parks and Wildlife Department shall make no commitment or enter into any agreement pursuant to the authority under this Act until it has determined that sufficient funds are available to it for meeting the state's share, if any, of the cost of the project. It is the legislative intent that to such extent as may be necessary to assure the proper operation and maintenance of areas and facilities acquired or developed pursuant to any program participated in by the State of Texas under authority of this Act such areas and facilities shall be publicly maintained for outdoor recreation purposes.

"The Parks and Wildlife Department may enter into and administer agreements with the United States or any appropriate agency thereof for plans, acquisition, operation, and development of projects involving participating Federal aid funds on behalf of any political subdivision or subdivisions of the State of Texas. . . . provided that such political subdivision or subdivisions shall provide certification and give necessary assurance to the Department that they have available sufficient funds to meet their share if any, of the cost of the project and that the acquired or developed areas will be operated and maintained at the expense of such subdivision or subdivisions. . . . for public outdoor recreation use.

"Sec. 5. The Parks and Wildlife Department is authorized to accept and expend any Federal moneys allocated to the State of Texas for any projects or programs established for the purpose of carrying out the provisions of this Act and for administrative expenses and/or any other expenses incident to the administration of said projects or programs.

"The Parks and Wildlife Department is authorized to receive and expend funds from the

state, counties, and cities, and from any other source for the purpose of carrying out the provisions of this Act. . . ."

In view of the foregoing provisions contained in Senate Bill 165, we are of the opinion that the Parks and Wildlife Department is authorized to participate in the "Land and Water Conservation Fund Act", Public Law 88-578, and to receive and expend funds for such purpose.

In addition, we are of the further opinion that the provisions of Senate Bill 165 vests in the Parks and Wildlife Department the authority required by the United States Department of the Interior, Bureau of Outdoor Recreation, to make the State of Texas eligible to receive certain grants-in-aid pursuant to the "Land and Water Conservation Fund Act", Public Law 88-578.

S U M M A R Y

The Parks and Wildlife Department, pursuant to the provisions of Senate Bill 165, Acts of the 59th Legislature, Regular Session, 1965, Ch. 112, p. 269, is authorized to participate in the "Land and Water Conservation Fund Act", Public Law 88-578.

The provisions of Senate Bill 165 vests in the Parks and Wildlife Department the authority required by the United States Department of the Interior, Bureau of Outdoor Recreation, to make the State of Texas eligible to receive certain grants-in-aid pursuant to the "Land and Water Conservation Fund Act," Public Law 88-578.

Very truly yours,

WAGGONER CARR  
Attorney General

By:



Pat Bailey  
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PB:mkh

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APPROVED:  
OPINION COMMITTEE

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APPROVED FOR THE ATTORNEY GENERAL  
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