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Key Points of Report

A Joint Study Report on The Parks and Wildlife Department's Commercial Fishery Programs and The General Land Office's Leases of State-Owned Lands

December 2000

Overall Conclusion

Neither the Parks and Wildlife Department (Department) nor the General Land Office (Office) is recovering the full cost of administering certain revenue-generating programs related to commercial fisheries and surface leases of state-owned land. Lack of sound cost allocation for these programs prevents the two agencies from adequately analyzing their cost and fee structures. In addition, the private oyster-bed leases administered by the Department do not appear to have basic terms and conditions to protect the interests of the State. It appears that the value of the Department's oyster-bed leases and the Office's coastal cabin lease permits exceed the income realized by the State for these leases.

Key Facts and Findings

Parks and Wildlife Department

- The Department did not recover approximately \$9.3 million of the costs for administering the commercial fishery programs in fiscal year 1999.
- The Department estimates that it spent approximately \$95,190 in fiscal year 1999 to manage and enforce the private oyster-bed leases. During the same period, the leases earned \$47,404 in license fees and lease revenue.
- The Department manages approximately 2,327 acres of private oyster-bed leases, recovering \$3 per acre per year. The estimated value of such leases is approximately \$1,000 per acre, based on the sales comparison method of appraisal performed by an independent appraiser.

General Land Office

- The Office did not recover the costs of administering four of its seven surface lease types for fiscal years 1998 and 1999, with one lease type not recovering approximately \$1 million of its costs. However, in total, these seven lease types collect more revenue than it costs to administer them.
- The majority of the revenue collected from the leases goes to the Texas Education Agency's Available School Fund and Permanent School Fund. The costs to administer the leases are paid from the Office's General Revenue Fund appropriations.
- The Office issues lease permits for 435 coastal cabins. The cabin structures are built, paid for, and maintained by the permit holders, but are owned by the State. The Office assesses an annual rent of \$0.60 per habitable square foot. The estimated value of the structures is \$18 per square foot, based on a depreciated replacement cost appraisal performed by an independent appraiser.

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This audit was conducted in accordance with Government Code, Section 321.013(f).

Executive Summary

Legislative Issues

Neither the Parks and Wildlife Department (Department) nor the General Land Office (Office) is recovering the full cost of administering certain revenue-generating programs related to commercial fisheries and surface leases of state-owned land. The amounts not recovered in these programs (estimated at \$9.3 million for the Department and \$1 million for one surface lease type at the Office in fiscal year 1999) are being funded through sales of other licenses and appropriated funds. The Legislature has not mandated that these programs be self-supporting through statutory guidance. Therefore, the agencies have not held that as an expectation.

Not only do the costs exceed the revenues, but the State is also not earning any return on its investment in these state resources. The estimated value of the Department's oyster-bed leases and the Office's coastal cabin permits exceed the income realized by the State for these leases.

The Legislature may wish to provide guidance to these agencies on the expectations for administering the programs so that the State's interests are protected. On page 3 of this report, the State Auditor's Office provides a list of possible options for the Legislature to consider. There are most likely other options available that are not listed due to the limited nature of this study.

Agency Issues

Neither agency has analyzed costs and revenues by individual fishery or lease type to determine if these activities were recovering their costs. When the State Auditor's Office requested this information, the agencies did not have a method for collecting it. The State Auditor's Office established a cost allocation methodology based on estimates to arrive at the numbers presented in this report.

Without accurate cost information by activity, the agencies could not assess whether costs could be reduced or whether

the fee structure is reasonable. The agencies should establish a cost allocation method so that they may collect this information. According to the agencies, management currently reviews cost by function rather than by individual fishery or lease type. Analyzing costs by individual fishery or lease type in conjunction with current practice would provide a complete picture for making management decisions.

The Department's private oyster-bed leases and the Office's coastal cabin permits share several characteristics that may not be in the State's best interest. No new leases are being issued, and because leases are consistently being renewed by the same individuals, the State does not benefit from a competitive environment.

Summary of Agency Responses

The management of the Parks and Wildlife Department and the General Land Office generally agree with this report's findings, options, and recommendations. The full text of the Parks and Wildlife Department's response begins on page 20. The full text of the General Land Office's response begins on page 33.

Summary of Objective and Scope

The State Auditor's Office and the Comptroller of Public Accounts performed this joint study at the request of Senator Bill Ratliff, Chairman of the Senate Finance Committee.

The State Auditor's responsibilities were to:

- Provide detailed information on the revenues collected compared to the costs incurred for administering the programs and leases.

Executive Summary, concluded

- Compare the General Land Office's and the Parks and Wildlife Department's leases to similar leases of state-owned land at other agencies.
- Examine lease terms and conditions to ascertain whether they represent the best interests of the State of Texas.

The Comptroller of Public Accounts' responsibility was to provide supplementary background research. In addition, the Comptroller of Public Accounts hired an independent appraiser to establish an estimated value of the leases.

The scope of the study included the commercial fishery programs at the Parks

and Wildlife Department and surface leases of state-owned land managed by the General Land Office. The study did not include oil and gas exploration and/or production lease programs, nor did it specifically include the Department of Health's role in the commercial fishery programs.

This study focused only on the financial aspects of the commercial fisheries and surface leases of state-owned land. This report does not discuss other aspects of the programs, such as environmental protection or economic impact.

Options for Legislative Consideration

Information provided by the State Auditor's Office

The Legislature may wish to consider providing guidance to the Parks and Wildlife Department and the General Land Office on expectations regarding the self-sufficiency and revenue-generating potential of the commercial fishery programs and leases of state-owned surface land.

Options could include:

- ★ Require full or partial cost recovery of all administrative and operational costs.
- ★ Mandate the agencies to report periodically on the costs of the programs.
- ★ Require the agencies to reduce the costs by a specified percentage.

The Legislature may wish to consider requiring the agencies to analyze the costs and benefits of the programs and report the results. The Legislature could consider the results and whether the State would be best served by continuing the programs.

The Legislature may wish to consider amending the Parks and Wildlife Code, Chapter 76, to:

- ★ Require the Parks and Wildlife Commission (Commission) to consider the commercial value of the oyster-bed leases when setting the fees.
- ★ Declare the interests that the State may have, if any, in the transfer and sale of the oyster-bed leases.
- ★ Provide authority to the Commission to prohibit or restrict the transfer and sale of the oyster-bed leases.
- ★ Incorporate other sanctions or penalties in addition to termination of the lease for leaseholders who do not pay by the due date.
- ★ Clarify the State's intentions regarding the current statutory prohibition disallowing one individual to "own or control" more than 100 acres.