



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

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ATTORNEY GENERAL**

November 15, 1960

Mr. H. D. Dodgen
Executive Secretary
Game and Fish Commission
Austin, Texas

Opinion No. WW-959

Re: Authority of the Game
and Fish Commission to
expend monies from the
Game and Fish Fund for
the construction of piers
into the Gulf of Mexico
or inland bays, for the
purpose of accommodating
the public in their rec-
reational fishing activi-
ties.

Dear Mr. Dodgen:

Your request for an opinion reads as follows:

"The Legislative Budget Board and the Game and Fish Commission have raised the question as to whether or not the Game and Fish Commission, out of its existing funds, may construct piers into the Gulf of Mexico or the inland bays for the purpose of accommodating the public in their recreational fishing activity.

"Article 4018, R.C.S. 1925 and Article 895, V.P.C. 1925, as amended by Acts 1951, 52nd Legislature, Chapter 476, and Acts 1947, 50th Legislature, R.C.S., Chapter 297, are fundamentally the basic authority for the existence of and the duties of the Game and Fish Commission.

"Chapter 23, 56th Legislature, Third Called Session, 1959, appropriated funds to be expended by the Game and Fish Commission, but it does not appear that any special appropriation was made for the expenditure of Game and Fish Funds for the construction of piers for the accommodation of the public in their recreational fishing activities.

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"Therefore, we respectfully request your opinion as to whether or not under the general authority granted to the Game and Fish Commission they are authorized to expend any of the funds from the Special Game and Fish Fund for the construction of piers into the Gulf of Mexico or the inland bays for the purpose of accommodating the public in their recreational fishing activity."

The powers and duties of the Game and Fish Commission are specified in Title 67 of the Revised Civil Statutes of Texas, 1925, as amended (Article 4016-4075b, V.C.S.) and Title 13, Revised Penal Code of Texas, 1925, as amended (Articles 871-978n-2, V.P.C.).

Article 4018, Vernon's Civil Statutes, prescribes the general powers of the Game and Fish Commission to be the execution of the laws relating to game, fish, oysters and marine life and such further duties as are imposed by legislation and to examine or have examined all streams, lakes or ponds when requested to do so, for the purpose of stocking such waters with fish best suited to such locations. Article 895 further provides for the purchase, introduction, propagation and distribution of game and wild birds, authorizes the dissemination of information pertaining to the conservation and economic value of wild animal life. In addition to the foregoing general duties of the Game and Fish Commission, the Legislature has specified certain detailed duties of the Game and Fish Commission in the enforcement of the Game and Fish Laws of this State.

It cannot be said that the general duties set out above imply authorization to construct recreational facilities for the public, such as the piers mentioned in your request and we have been unable to find any specific authorization which would authorize such construction. Therefore, your question is governed by the maxim that "The express mention of one thing implies the exclusion of another." See Ellis v. First National Bank in Dallas, 311 S.W. 2d 916 at 921 (Civ. App. 1958) err. ref. n.r.e., and 39 Tex. Jur., "Statutes," § 100, p. 189.

Since the Legislature has not authorized the Game and Fish Commission to construct recreational facilities, it is our opinion that you do not have the authority to expend funds from the Game and Fish Fund for the construction of piers into the Gulf of Mexico or inland bays for the purpose of accommodating the public in recreational fishing activities.

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SUMMARY

The Legislature has not authorized the Game and Fish Commission to expend funds from the Game and Fish Fund for the construction of piers into the Gulf of Mexico or inland bays for the purpose of accommodating the public in recreational fishing activities.

Yours very truly,

WILL WILSON
Attorney General of Texas

By *John Reeves*
John Reeves
Assistant

JR:ms

APPROVED:

OPINION COMMITTEE
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Virgil R. Pulliam
James P. Ryan
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REVIEWED FOR THE ATTORNEY GENERAL
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