



**THE ATTORNEY GENERAL
OF TEXAS**

**CRAWFORD C. MARTIN
ATTORNEY GENERAL**

AUSTIN, TEXAS 78711

June 22, 1972

Hon. A. M. Aiken, Jr., Chairman
Senate Finance Committee
and
Hon. Bill Finck, Chairman
House Appropriations Committee
Capitol Station
Austin, Texas 78711

Opinion No. M-1164

Re: Authority of the Legis-
lature to appropriate funds
from the Texas Parks Fund
No. 31 for the purpose of
planning for statewide
development of all park
lands within the State.

Gentlemen:

You have requested our opinion concerning whether there is pre-existing law to support a proposed appropriation of funds from the Texas Parks Fund No. 31 to the Texas Parks and Wildlife Department for the purpose of planning for the statewide development of all park lands within the State.

The particular language reads as follows:

"PARK DEVELOPMENT:

"State Comprehensive Outdoor Recreational Plan--For updating Texas' comprehensive outdoor recreational plan, including personnel services, classified personnel, travel and other expenses."

Texas Parks Fund No. 31 is created by the provisions of Article 7.06(3)(a), Title 122A, Taxation-General, Vernon's Civil Statutes, which provides in part:

"Fifty cents of the tax levied under this Article on each 1,000 cigarettes shall be credited to a new special fund known as the Texas Parks Fund which may be used by the Parks and Wildlife Department for the acquisition, planning, and development of state parks and historic sites. . . ." (Emphasis added.)

Article 6081r, Vernon's Civil Statutes, provides for the planning and development of outdoor recreational resources and

specifically authorizes the Parks and Wildlife Department to cooperate with the Federal government in programs for the planning, acquisition, operation and development of the outdoor recreational resources of the State. Certain portions of Article 6081r are particularly relevant. Sec. 2 reads:

"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."

A portion of Sec. 3 reads:

"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 program 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. . . .

"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 including as a part of a state plan cities, counties, water districts, river authorities, and special districts

in outdoor recreation having interests in the planning, development, acquisition, operation, and maintenance of outdoor recreation resources and facilities."

It seems obvious that in order for the State to properly plan for the expenditure of its own moneys in such manner as to best satisfy the need of the public for parks and recreational facilities, the State must be able to take into account in its planning what is available to the public from other sources. It also seems obvious that proper planning would encourage the State and local authorities to coordinate their efforts to serve the public. The planning of State parks and recreational areas necessarily includes consideration of parks and recreational facilities of cities, counties and other units of government.

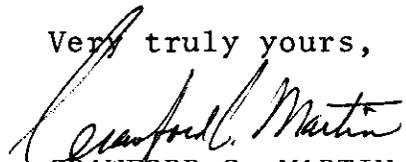
Section 44 of Article III of the Constitution of Texas requires an appropriation to be supported by pre-existing law. An appropriation for the purpose of planning for the statewide development of all park lands is within the purpose authorized by Article 7.06(3)(a) of Title 122A, Taxation-General and Article 6081r, Vernon's Civil Statutes.

You are therefore advised that the proposed appropriation would be supported by pre-existing law.

S U M M A R Y

An appropriation for the purpose of planning for statewide development of all park lands is supported by pre-existing law. Art. 7.06(3)(a), Title 122A, Taxation-General and Art. 6081r, both of Vernon's Civil Statutes.

Very truly yours,


CRAWFORD C. MARTIN
Attorney General of Texas

Prepared by John Reeves
Assistant Attorney General

APPROVED:
OPINION COMMITTEE

Kerns Taylor, Chairman
W. E. Allen, Co-Chairman
Pat Bailey
Harriet Burke
James Quick
John Banks

SAMUEL D. McDANIEL
Staff Legal Assistant

ALFRED WALKER
Executive Assistant

NOLA WHITE
First Assistant