

Problems with Dedicating Sales Taxes From Sporting Goods

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As filed, HJR 71 would constitutionally dedicate approximately \$100 million per year of sales tax revenue to the Texas Department of Parks & Wildlife. This sales tax revenue is the amount estimated by the Comptroller to be derived from the sale of sporting goods items throughout the state.

Unfortunately, this dedication of a portion of the state's sales tax revenue would dilute the state's already largely ineffective expenditure growth limit. Article 8, Section 22 of the Texas Constitution specifies that the limit only applies to "appropriations from state tax revenues not dedicated by this constitution." Therefore, any additional constitutionally-dedicated revenues will fall outside the purview of the constitutional spending limit.

One stream of tax revenue and spending that is not covered by the state expenditure limit is that from the motor fuels tax. Three quarters of that tax is constitutionally dedicated to the construction, maintenance, administration, and law enforcement on Texas roads. The other quarter is dedicated to public education spending. Various occupational fees and

oil taxes are dedicated for certain purposes as well.

All of the revenues just mentioned are well-defined. That is, we know where each and every dollar of these revenues came from. At the end of the fiscal year we can say exactly how many dollars came from the fuel tax and from occupational fees. We cannot say that about the so-called sporting goods tax. The sales tax revenues that result from the purchases of baseballs, footballs, and water skis are not directly measured. It is estimated based on national consumption surveys. In other words, the \$100 million in revenue from that portion of the sales tax from sporting goods represents an educated guess. The true revenue could be significantly higher or lower.

Many have been angry over diversions of the motor fuels tax, part of which has been used to fund the Office of the Attorney General. It also provides the vast bulk of funding for the Department of Public Safety although much of that department is not strictly devoted to highway law enforcement. Some have even expressed anger that 25 percent is devoted to public education, a dedication that

continued on back

occurred in the 1940s. The reason is that there is no connection between the consumption of motor fuels and schools.

Twenty percent of the so-called sporting goods sales tax revenue, it is estimated, comes from the sale of bicycles. Another 20 percent is estimated to derive from exercise equipment. Roughly 20 percent more derives from hunting equipment and firearms. A tiny fraction of any of these items is ever used in a state park. Their sale has nothing to do with parks. Texas Parks & Wildlife *does* manage hunting in the state but there are license fees to cover that expense.

A check of the state's cash report and recent appropriations indicates that Texas Parks & Wildlife is not appropriated all of its own fee revenues. Perhaps this is the real issue. The fees that Texas Parks & Wildlife collects need to be

poured back into the agency. Perhaps fees at some campgrounds can be increased, especially during busy holiday weekends. There are certainly ways to make sure those who use and enjoy the parks are the ones who pay for them.

The Legislature should be held accountable for this. The ultimate avoidance of accountability, however, is a dedication of general tax revenues to a particular department. The buck can always then be passed to the voters of Texas who will probably pass the amendment HJR 71 proposes. But, the voters will not know that the expenditure limit is being bypassed. They will not know that fees they otherwise pay are being diverted. They will not know that "sporting goods" includes items like snow skis that are never—and never will be—used in Texas state parks. ★