

1 By Winfield.

S. B. No. 123.

2 [In the Senate.—January 31, 1939, read first time and referred to
3 Committee on Finance; February 21, 1939, reported favorably.]

4
5 **A BILL**

6 TO BE ENTITLED

7 *An Act dedicating and establishing the Big Bend National Park in Brew-*
8 *ster County, Texas, and defining the area of said park and defining*
9 *the duties and powers of the Texas State Parks Board in regard thereto,*
10 *and transferring certain lands belonging to the State Public School*
11 *Fund to the State of Texas for park purposes only, and providing a*
12 *consideration therefor, and transferring and conveying certain mineral*
13 *estates now owned by the State Public School Fund in said area to*
14 *the State of Texas for park purposes only and providing a consider-*
15 *ation for said transfer and conveyance; and authorizing the Board*
16 *to make exchange of lands previously acquired for park purposes*
17 *under certain Acts lying outside the area defined by this Act for land*
18 *lying within said area and fixing a maximum price that shall be paid*
19 *by the Board for the purchase of land in said area where said con-*
20 *sideration is to be paid out of appropriations from the General Fund*
21 *of the State, and further providing that all lands acquired by the*
22 *State for park purposes under Chapter 100, Acts First Called Session,*
23 *Forty-third Legislature, within said area is to be transferred to the*
24 *State of Texas for park purposes and to be designated as a part of*
25 *the land dedicated herein as the Big Bend National Park, and making*
26 *an appropriation for the carrying out of the provisions of this Act*
27 *and providing a method for disbursing said appropriation and pro-*
28 *viding that the United States Government may acquire title to said*
29 *property within said area and authorizing a conveyance by the State*
30 *of Texas to the United States Government for park purposes and*
31 *declaring an emergency.*

32 Be it enacted by the Legislature of the State of Texas:

33 SECTION 1. That when the title to the following described lands sit-
34 uated in Brewster County, Texas, shall have become vested in the State
35 of Texas for park purposes under the terms of this Act or any previous
36 Act or Acts or that has been acquired or that has become vested under
37 any previous Act or Acts, such lands shall be and are hereby estab-
38 lished, dedicated and set apart as a public park for the benefit and
39 enjoyment of the people and shall be known and designated as the "Big
40 Bend National Park" which area is approximately defined by the fol-
41 lowing metes and bounds:

42 Beginning at a point on the north bank of the Rio Grande River marked
43 by a wooden monument painted white, about six feet high, and located
44 at Long. 102° 50' 47"

45 Lat. 29° 22' 09"

✓46 Thence: N 65° 20' W approximately 9.1 miles to B. M. 5857 on Sue
47 Peaks;

✓48 Thence: N 18° 0' W approximately 11.8 miles to a point at Long.
49 103° 2½'; Lat. 29° 35';

✓50 Thence: N 52° 30' W approximately 9.4 miles to a point at Long.
51 103° 10'; Lat. 29° 40';

✓52 Thence: N ½ mile;

✓53 Thence: W ½ mile;

✓54 Thence: S ½ mile to a point ½ mile west of Long. 103° 10'; Lat.
55 29° 40';

✓56 Thence S 5° 15' E approximately 5.8 miles to a point at Long. 103°
57 10'; Lat. 29° 35';

✓58 Thence: S approximately 7.8 miles;

✓59 Thence S 83° 30' W approximately 13.7 miles to B. M. 4405;

✓60 Thence S 42° 30' W approximately 20.6 miles to B. M. 2316;

61 Thence N 82° 30' W approximately 9.5 miles to a monument similar
62 to the one described at the point of beginning and located on the N bank
63 of the Rio Grande River at Long. 103° 46' 17"; Lat. 29° 14' 48";

64 Thence: Following the international Boundary Line along the Rio

Land Office 2-11-96

Secy State 2-5-33

Approved and passed
effective 5-12-39

1 Grande River in a generally easterly direction to point of beginning,
2 containing approximately 788,000 acres.

3 Provided, however, in the event it should prove advantageous to the
4 State of Texas in acquiring land within this area to include other and
5 adjoining lands than that comprised within the foregoing boundaries,
6 then it will be permissible under this Act to acquire such additional
7 lands in such amounts just so the total amount purchased or acquired
8 in said area does not exceed one million acres.

9 SEC. 2. The Texas State Parks Board is hereby empowered and
10 authorized to carry out the purposes and provisions of this Act and to
11 employ such employees or assistants as may be necessary from time to
12 time for the accomplishment of the provisions herein set forth. That
13 the members of said Parks Board shall not receive any additional com-
14 pensation for their services, except to be reimbursed for all necessary
15 and actual travelling expenses incurred in carrying out the provisions
16 of this Act.

17 Said Board is hereby authorized and empowered to acquire either
18 by purchase or condemnation proceedings, or by gift or donation lands
19 within the foregoing area not now owned by the State of Texas or that is
20 not now owned by the State of Texas for park purposes, said land so ac-
21 quired to be used only for park purposes. Said Board is hereby authorized
22 and empowered to accept for park purposes any and all lands within said
23 area that may be offered or conveyed to it by any individual, group of in-
24 dividuals or corporation, private or municipal, having title to such land.
25 The Texas State Parks Board is also authorized to accept any and all
26 donations of funds or property that may be made to it for the purchase
27 of lands within this area, and is further authorized to use said monies
28 or property so donated in acquiring title to lands within this area, and
29 to pay for such lands and the cost of acquiring same, out of said fund,
30 such sums as in its discretion it may deem advisable. Provided, how-
31 ever, that no commission shall be paid to anyone in the acquisition of
32 said land. That the State Parks Board shall place any and all funds
33 so received by it in a special fund in the State Treasury to be used for
34 the sole and only purpose provided herein. Said Board is hereby vested
35 with the power of eminent domain, and in the exercise of said power
36 shall have the right to condemn for park purposes within the said area,
37 and may institute, maintain and prosecute suits in the name of the State
38 of Texas, for that purpose following the procedure applicable to the
39 condemnation of lands by counties or by railroads or any other method
40 authorized by law, and it is hereby made the duty of the Attorney
41 General or the County or District Attorneys of Brewster County, Texas,
42 to aid and assist the Board in the institution and prosecution of con-
43 demnation suits within said area. That all land acquired by said Board
44 shall be for the use and benefit of the State of Texas for recreational
45 park purposes and shall be under the supervision and control of the
46 Texas State Parks Board.

47 SEC. 3. The Legislature of the State of Texas hereby withdraws from
48 sale or lease all unsold public free school lands situated within the
49 boundaries of the area described in this Act and which has been desig-
50 nated as the Big Bend National Park and hereby transfers and con-
51 veys said land from the State Public School Fund to the State of Texas
52 for park purposes only, and upon payment being made for said land
53 as hereinafter set out the title thereto shall vest in the State of Texas
54 for park purposes only, and said land shall become a part of the Big
55 Bend National Park. Said land is hereby valued at the sum of one
56 dollar per acre which amount shall be paid therefor to the State Treas-
57 urer of the State of Texas to be credited to the State Public School
58 Permanent Fund as consideration for said lands and in lieu of said lands.
59 Said lands hereby transferred and conveyed are conveyed in fee simple
60 title without any mineral reservation. The amount of the consideration
61 for said conveyance of said Public School lands is to be paid out of any
62 appropriation hereinafter made in this Act, or that may hereafter be
63 made for said purpose in any other Act or Acts or from any gift or
64 donation of funds that may be made to the State Parks Board for the

1 purchase of land within the area that has been designated by this Act
2 as the Big Bend National Park. The Commissioner of the General Land
3 Office shall prepare a list of the lands now owned by the State Public
4 School Fund situated within this area and which has not heretofore
5 been transferred or conveyed by the provisions of Chapter 100, Acts
6 First Called Session of the Forty-third Legislature, and shall deliver
7 one copy to the Texas State Parks Board and shall certify and furnish
8 to the State Treasurer of the State of Texas a copy of said list show-
9 ing the number of acres and a proper description thereof, and on the
10 basis of said certificate the State Treasurer is hereby authorized to make
11 proper settlement, credits, and transfer of monies from the General
12 Fund of the State of Texas hereby appropriated to the State Public
13 School Fund, and to make proper settlement and credits from payment
14 received from the Texas State Parks Board out of any donations or
15 gifts of monies made to said Board to the State Public School Fund
16 for the purpose of purchasing said school lands for park purposes. That
17 the Texas State Parks Board is hereby authorized and empowered in
18 conjunction with the State Treasurer to designate the proper amount
19 of acreage contained in said certificate in accordance with the payments
20 so made in proportion to the amount paid therefor.

21 SEC. 4. That where the mineral estate has been severed from the
22 surface estate in Public Free School lands situated within the bound-
23 aries of the area which has been designated herein as the Big Bend
24 National Park, the Legislature of the State of Texas hereby transfers
25 and conveys all the mineral estate now owned by the State of Texas
26 for the benefit of its Public Free School Fund to the State of Texas
27 for park purpose only and the title to said mineral estate shall vest
28 upon the payment of the consideration hereinafter set out. The amount
29 of consideration for said conveyance shall be at the rate of fifty cents
30 per acre and shall be paid to the State Treasurer of the State of Texas
31 to be credited to the Public School Permanent Fund as consideration for
32 said mineral estates in said lands and in lieu of said mineral estates
33 in said public school lands. That said consideration shall either be paid
34 by a transfer to be made by the State Treasurer from the General
35 Fund of the State of Texas to the Public School Fund from the appro-
36 priation hereinafter made in this Act or from appropriations that may
37 be hereafter made for said purpose or may be made by proper credit
38 to be made by the State Treasurer from payments that may be made
39 by the Texas State Parks Board from the special fund established by
40 this Act for the purchase of lands situated within the area that has
41 been designated as the Big Bend National Park. That upon the taking
42 effect of this Act, the Commissioner of the General Land Office shall
43 prepare a list of the lands in which the State of Texas owns only the
44 mineral estate situated in the area designated as the Big Bend National
45 Park herein for the benefit of the State Public School Fund and shall
46 deliver one copy to the State Parks Board and one copy to the State
47 Treasurer and shall certify to the State Treasurer the number of acres
48 covered by said mineral estates and a proper description thereof which
49 certificate shall form the basis for the credits to be made by the State
50 Treasurer covering the transfer and conveyance of the mineral estates
51 covered by this Act.

52 SEC. 5. That the Texas Parks Board is hereby authorized to
53 exchange any lands that has been acquired for park purposes under the
54 provisions of Chapter 100, Acts First Called Session of the Forty-
55 third Legislature, and that may have been acquired for park purposes
56 under Chapter 95, Acts Regular Session Forty-third Legislature, that
57 is situated outside of the boundaries of the area described and desig-
58 nated in this Act as the Big Bend National Park, for lands not yet
59 acquired for park purposes within the area which has been designated
60 in this Act and designated as the Big Bend National Park.

61 SEC. 6. The Board in the purchase of lands within said area from
62 private owners thereof, shall not pay a greater price than Two (\$2.00)
63 Dollars per acre, exclusive of improvements thereon, for voluntary sales
64 where the consideration is to be paid out of appropriations made from

1 the General Fund of the State of Texas, provided this limitation shall
2 not apply on lands acquired through condemnation proceedings. That
3 all such lands shall be acquired in fee simple title without any reserva-
4 tion of any character whatsoever. That where lands have been sold
5 by the State of Texas for the benefit of the Texas Public School Fund
6 on the deferred payment plan and there are now outstanding balances
7 due from the purchasers upon obligations executed for the purchase of
8 said land and as a part of the consideration therefor, the Board shall
9 place a value on the purchasers' equity therein and pay such purchaser
10 or purchasers therefor not to exceed the amount of Two (\$2.00) Dollars
11 per acre, exclusive of improvements where said consideration is to be
12 paid out of appropriations made from the General Fund of the State
13 of Texas, and to pay the State of Texas for the benefit of the Public
14 School Fund the amount of unpaid balance due thereon. The limitation
15 as to the amount that shall be paid per acre for the land shall not apply
16 to payments that are to be made out of the special fund created by this
17 Act but shall only apply to payments or part-payments to be made out
18 of the appropriations payable out of the General Fund of the State of
19 Texas.

20 SEC. 7. That all lands acquired by the State of Texas for park pur-
21 poses under the provisions of Chapter 100, Acts First Called Session,
22 Forty-third Legislature which is situated within the area herein defined
23 and designated as the Big Bend National Park is hereby transferred
24 and conveyed to the State of Texas for park purposes and shall be desig-
25 nated as the Big Bend National Park.

26 SEC. 8. There is hereby appropriated out of the general fund of the
27 State of Texas out of any money, not otherwise appropriated, the sum
28 of One Thousand Dollars, or so much thereof, as may be necessary, to
29 be expended by the Board for the acquisition of lands for the Big Bend
30 National Park and the State Treasurer in payment of lands acquired
31 in Section 3 and 4 of this Act, for the fiscal year ending August 31,
32 1941. The expenditure of the money herein appropriated to the Board
33 shall be on accounts properly approved by the Board and such approval
34 shall be sufficient authority for the State Comptroller of Public Accounts
35 to draw warrants and the State Treasurer to pay such warrants in
36 accordance with the general law covering the issuance and payment
37 of warrants by the Comptroller and Treasurer respectively, of the State
38 of Texas.

39 SEC. 9. The United States Government, through the Secretary of the
40 Interior or any other Agency, is hereby authorized to acquire title, to
41 hold, occupy and possess the area herein defined as the Big Bend National
42 Park and the Governor of the State of Texas is hereby authorized to
43 execute a deed of conveyance to the United States Government covering
44 the area acquired under the terms of this Act as the Big Bend National
45 Park for the use of the public for recreational park purposes, in con-
46 sideration of the United States Government agreeing to establish and
47 maintain said area as a National Park under an Act of Congress, being
48 Public—No. 157, enacted by the 74th Congress of the United States and
49 to cede to the United States jurisdiction over said lands in conformity
50 with the provisions of Article 5247, of the Revised Civil Statutes of
51 Texas, 1925; reserving, however, to the State of Texas, the right to
52 retain concurrent jurisdiction with the United States over every portion
53 of the lands so ceded, so far, that all process, civil or criminal, issuing
54 under the authority of this State or any of the courts or judicial officers
55 thereof, may be executed by the proper officers of the State, upon any
56 person amenable to the same within the limits of the land so ceded as
57 the area for the Big Bend National Park, in like manner and like effect
58 as if no such cession had taken place; and, reserving further, to the
59 State the right to levy and collect taxes on sales or products or com-
60 modities upon which a sales tax is levied in this State, and to tax per-
61 sons and corporations and franchises and properties, on land or lands
62 deeded and conveyed under the terms of this Act; and reserving also,
63 to persons residing in or on any of the land or lands deeded or con-
64 veyed under the terms of this Act to the United States Government

1 the right to vote at all elections within the counties, in which said land
2 or lands are located, upon like terms and conditions and to the same
3 extent as they would be entitled to vote in such counties had not such
4 lands been deeded or conveyed as aforesaid to the United States of America.
5 Provided further, that all school children under eighteen years of age
6 shall be admitted without charge to said Park area which has been
7 designated as the Big Bend National Park.

8 SEC. 10. The fact that the United States Government has been author-
9 ized by an Act of Congress of the United States through the Secretary
10 of the Interior to establish and dedicate and maintain a National Park
11 to be known as the "Big Bend National Park of the State of Texas,"
12 provided the State of Texas will convey title to said area free of any
13 cost to the United States Government, and the fact that the lands lying
14 within said area is of little, if any, value for any purpose, and the fact
15 that the establishment of a National Park in this area by the United
16 States Government will be of great benefit to the people of the State of
17 Texas and the country at large, both from a standpoint of recreation
18 and economic development, creates an emergency and an imperative
19 public necessity that the Constitutional Rule requiring bills to be read
20 on three several days in each House be and the same is hereby suspended,
21 and this Act shall be in full force and effect from and after its passage,
22 and it is so enacted.

23
24 COMMITTEE REPORT

25 COMMITTEE ROOM,

26 Austin, Texas, February 20, 1939.

27 *Honorable Coke Stevenson, President of the Senate.*

28 SIR: We, your Committee on Finance, to whom was referred Senate
29 Bill No. 123, a bill to be entitled,

30 An Act dedicating and establishing the Big Bend National Park in Brew-
31 ster County, Texas, and defining the area of said park and defining
32 the duties and powers of the Texas State Parks Board in regard thereto,
33 and transferring certain lands belonging to the State Public School
34 Fund to the State of Texas for park purposes only, and providing a
35 consideration therefor, and transferring and conveying certain mineral
36 estates now owned by the State Public School Fund in said area to
37 the State of Texas for park purposes only and providing a consider-
38 ation for said transfer and conveyance; and authorizing the Board
39 to make exchange of lands previously acquired for park purposes
40 under certain Acts lying outside the area defined by this Act for land
41 lying within said area and fixing a maximum price that shall be paid
42 by the Board for the purchase of land in said area where said con-
43 sideration is to be paid out of appropriations from the General Fund
44 of the State, and further providing that all lands acquired by the
45 State for park purposes under Chapter 100, Acts First Called Session,
46 Forty-third Legislature, within said area is to be transferred to the
47 State of Texas for park purposes and to be designated as a part of
48 the land dedicated herein as the Big Bend National Park, and making
49 an appropriation for the carrying out of the provisions of this Act
50 and providing a method for disbursing said appropriation and pro-
51 viding that the United States Government may acquire title to said
52 property within said area and authorizing a conveyance by the State
53 of Texas to the United States Government for park purposes and
54 declaring an emergency.

55 Have had the same under consideration, and I am instructed to report
56 it back to the Senate with the recommendation that it do pass and be
57 printed.

58 ROBERTS, Chairman.
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~~FILE WITH BREWSTER Co RFD Sta. 60~~
~~COPY OF S. B. 123.~~

File No. Sketch File No. 47
Brewster County
Enabling State Legislation of Big Bend Nat'l. Park
Filed 10-20-1 19 89
GARRY MAURO, Com'r
By (Douglas Howard)