

BILL ANALYSIS

C.S.H.B. 884

By: Seaman
Culture, Recreation, & Tourism
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law does not allow for a license management program (license moratorium) for the commercial oyster fishery. In affect, any person can obtain a license to commercially harvest and sell oysters in Texas. The commercial oyster fishery is the only Texas inshore open access commercial fishery. This open access system has led to over-capitalization of the commercial oyster fishery resulting in a decline in economic stability in the industry. The Texas Oyster Advisory Committee and other oyster fishery participants are concerned that boats and fisherman from the limited entry fisheries (i.e. crab, finfish, and bay and bait shrimp fishermen) and other states could lead to a further over-capitalization of their fishery and a destabilization of the oyster industry in Texas. This is particularly obvious during high oyster production years that correspond with poor oyster production years in other Gulf States. Production is quickly harvested and market prices are depressed when new entrants enter the fishery to take advantage of high production times, thus reducing the length of the effective harvesting season and profits for the traditional participants in the Texas fishery. Creation of a license management program (license moratorium) is in agreement with the management tenets set forth in the Texas Parks and Wildlife Oyster Fishery Management Plan and has been supported by the TPWD Oyster Fishery advisory committee. Elements similar to those created in Subchapter F of this act can be found in the Finfish License Management Program, the Crab License Management Program and the inshore Shrimp License Management Program currently being administered by the department.

The purpose of this bill is to provide the Parks and Wildlife Commission authority to create a license management program for the commercial oyster fishery. That authority would allow regulation of issuance and renewal of commercial oyster licenses based on historical participation in the fishery. Conditions for administration of the program are established and a 7-member review board elected by commercial oyster boat license holders is created to review any hardship or appeal cases regarding eligibility and to provide advice on the appeals and administration of the program. This authority will provide further economic stability in the industry and thus provide greater economic activity and impact to the state in the future.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Parks and Wildlife Commission in SECTION 1 of this bill.

ANALYSIS

Section 1 B Directs TPWD that after August 31, 2005, to limit the issuance and renewal of commercial oyster boat licenses to those: (a) vessels that are owned by the person seeking the license; (b) persons who are licensed on the day the renewal is sought or at the end of the previous license year; and (c) vessels intended to be licensed and used as a commercial oyster boat. Coast Guard Documentation (i.e., if required for the vessel) and a Texas certificate of registration are required to obtain or renew a license.

This section also creates a commercial oyster boat license review board made up of 7 members. The commercial oyster boat license holders will elect the review board and a member must hold a commercial oyster boat license. Further, this section directs the Executive Director to create procedures for election and operation of the Review Board. This section also directs the Executive Director and the Commission to adopt procedures and any rules necessary to carry out

the requirements of this subchapter. TPWD is directed to report to the oyster advisory committee on or before January 1, 2010 on the status of the program.

Section 2 B This section directs the Commission to adopt rules to administer the program and directs the Executive Director to adopt procedures for the election of the board as soon as is practicable after the effective date of this Act and indicates that the election of the review board must be held by Nov. 1, 2005.

Section 3 B Determines the effective date of the act.

EFFECTIVE DATE

This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to the each house, as provided by Section 39, Article III of the Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 884 modifies the original by changing the wording Alicense management@to Alicense moratorium@throughout the bill.

C.S.H.B. 884 clarifies who will be eligible to renew a license and removes language that did not clearly distinguish who was eligible for renewal.

C.S.H.B. 884 clarifies that Texas boat registration was required for vessels before licenses could be renewed along with Coast Guard Documentation, if it is required that it be documented.