

## **BILL ANALYSIS**

S.B. 272  
By: Williams  
Culture, Recreation, & Tourism  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Current law does not allow for a license management or license moratorium program for the commercial oyster fishery. As a result, 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 overcapitalization 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 fishermen from the limited entry fisheries (i.e., crab, finfish, and bay and bait shrimp) and other states could lead to a further overcapitalization of their fishery and a destabilization of the oyster industry in Texas, particularly during high oyster production years that correspond with poor oyster production years in other states along the Gulf of Mexico. 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.

The purpose of C.S.S.B. 272 is to authorize the Texas Parks and Wildlife Department (department) and the Parks and Wildlife Commission (commission) to create a license moratorium 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 seven-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 administration of the program. This authority may generate economic activity in the state and new opportunities for those involved in commercial fisheries.

The commission currently manages the fishery by placing restrictions on areas for fishing, times for fishing, size limits, bag and possession limits, and quantity and type of gear under the authority of Chapter 76, Parks and Wildlife Code. C.S.S.B. 272 allows the commission to control the issuance of new licenses, establishes a moratorium on new or renewed licenses unless certain conditions are met by a license applicant, and establishes criteria for license renewal in subsequent years. Creation of a license moratorium program 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 Oyster Fishery Advisory Committee. Elements similar to those created by this act can be found in the Finfish License Management Program, the Crab License Management Program, and the inshore Shrimp License Management Program currently administered by the department.

### **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. Amends Chapter 76, Parks and Wildlife Code, by adding Subchapter F, as follows:

#### **SUBCHAPTER F. OYSTER LICENSE MORATORIUM**

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Sec. 76.401. OYSTER LICENSE MORATORIUM PROGRAM. Requires the Texas Parks and Wildlife Department (department) to implement an oyster license moratorium program.

Sec. 76.402. ISSUANCE AND RENEWAL OF COMMERCIAL OYSTER BOAT LICENSES. (a) Prohibits the department, after August 31, 2005, from issuing or renewing a commercial oyster boat license unless certain conditions are met.

(b) Requires an applicant for a new or renewed commercial oyster boat license for a vessel to submit to the department certain application materials.

Sec. 76.403. OYSTER LICENSE MORATORIUM REVIEW BOARD. (a) Requires the holders of commercial oyster boat licenses to elect an oyster license moratorium review board of seven members.

(b) Specifies that a member of the review board must be a holder of a commercial oyster boat license.

(c) Sets forth a certain geographical distribution which must be reflected in selecting the seven members of the review board.

(d) Requires the review board to advise the Parks and Wildlife Commission (commission) and the department and make recommendations concerning certain administrative aspects of the oyster license moratorium program.

(e) Requires the executive director of the department to adopt procedures for the election and operation of the review board. Requires the executive director to solicit and consider recommendations from the commercial oyster boat license holders regarding the procedures and the continued need for the board.

(f) Provides that the review board is not subject to Chapter 2110 (State Agency Advisory Committees), Government Code.

Sec. 76.404. PROGRAM ADMINISTRATION; RULES. Requires the executive director of the department to establish administrative procedures to carry out the requirements of this subchapter. Requires the commission to adopt any rules necessary for the administration of the program established under this subchapter.

Sec. 76.405. REPORT OF PROGRAM STATUS. (a) Requires the department, by January 1, 2010, to report to an advisory committee appointed by the presiding officer of the commission to address issues relating to oysters in this state. Requires the report under this section to include certain information. Provides that this section expires September 1, 2010.

SECTION 2. (a) Requires the commission, as soon as practicable, to adopt rules necessary to administer the oyster license moratorium program established under Subchapter F, Chapter 76, Parks and Wildlife Code, as added by this Act.

(b) Requires the executive director, as soon as practicable after the effective date of this Act, to adopt procedures for the election of the oyster license moratorium review board under Section 76.403, Parks and Wildlife Code, as added by this Act. Provides that as soon as practicable after the adoption of election procedures, but not later than November 1, 2005, the election of the oyster license moratorium review board must be held.

SECTION 3. Effective date: upon passage or September 1, 2005.

#### **EFFECTIVE DATE**

Upon passage or September 1, 2005