

## **BILL ANALYSIS**

C.S.S.B. 932  
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Culture, Recreation & Tourism  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Texas is widely regarded as one of the top oyster-producing states in the United States. Oyster harvests have dropped over the past several years, however, and a large portion of the state's oyster reefs have disappeared in the aftermath of recent hurricanes. In addition, data collected by certain sources indicate a long-term decline along the Texas coastline in market-size oysters.

Over the past decade, hundreds of thousands of cubic yards of oyster shell have been removed from the state's public oyster reefs, some of it sent out of state and never recovered and some sold within the state for road bed construction fill and driveways or to the poultry industry as a feed additive. C.S.S.B. 932 proposes to implement measures to enhance the oyster shell recovery and replacement program.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Parks and Wildlife Commission in SECTIONS 2, 3, and 4 of this bill.

### **ANALYSIS**

C.S.S.B. 932 amends the Parks and Wildlife Code to specify, in a provision authorizing the Parks and Wildlife Commission by proclamation to establish and conduct a program to require the recovery of oyster shell from and replacement of oyster shell in the coastal waters of Texas to maintain or enhance public oyster reefs, that the program authority includes the recovery of other suitable cultch material. The bill authorizes the Parks and Wildlife Department (TPWD) to accept grants and donations of money or materials from private or public sources to be applied to the oyster shell recovery and replacement program.

C.S.S.B. 932 establishes the oyster shell recovery and replacement program account as a separate account in the game, fish, and water safety account; specifies that the oyster shell recovery and replacement program account consists of money deposited to the account under the bill's provisions; and makes provisions of law relating to the use of dedicated revenue inapplicable to that account.

C.S.S.B. 932 requires TPWD to collect a fee of 20 cents or an amount set by the Parks and Wildlife Commission, whichever is greater, from a licensed commercial oyster fisherman for each box of oysters harvested by the fisherman from the water of Texas. The bill requires the commission by rule to adopt policies and procedures for the issuance of oyster shell recovery tags or other means to collect the fee and establishes requirements for the use of such tags and the information contained on the tags.

C.S.S.B. 932 requires TPWD to deposit to the credit of the oyster shell recovery and replacement program account all revenue, less allowable costs, from the fees collected under the bill's provisions. The bill limits appropriation of money in the account to the recovery and enhancement of public oyster reefs. The bill requires TPWD to consult with members of the

oyster industry regarding the management of oyster beds in Texas.

C.S.S.B. 932 requires the Parks and Wildlife Commission, rather than the commissioner of health, before closing any area to the taking of oysters upon finding that the area is being overworked or damaged or the area is to be reseeded or restocked, to publish notice in a daily newspaper of general circulation in the area to be closed. The bill removes a requirement that before such closing, notice must be posted in fish and oyster houses in two towns nearest the area to be closed.

C.S.S.B. 932 requires areas closed under such conditions to reopen by the beginning of the next public oyster season unless sound biological data indicates that the need for closure still exists. The bill authorizes the commission by rule to establish procedures and criteria for closing such areas. The bill authorizes the commission to delegate to the executive director of TPWD the duties and responsibilities under provisions of law relating to closing areas to the taking of oysters.

C.S.S.B. 932 requires the commission, not later than January 1, 2012, to adopt rules for the recovery of oyster shells in accordance with the bill's provisions and rules necessary for the implementation of those provisions. The bill makes conforming and nonsubstantive changes.

#### **EFFECTIVE DATE**

September 1, 2011.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.S.B. 932 differs from the original, in the provision requiring the deposit to the credit of the oyster shell recovery and replacement program account of all revenue, less allowable costs, by specifying as the source of revenue the fees collected under the bill's provisions, whereas the original specifies as the sources of revenue all fees collected under the bill's provisions relating to the account and grants and donations received under the oyster shell recovery and replacement program.

C.S.S.B. 932, in the provision authorizing the Parks and Wildlife Commission to delegate duties and responsibilities relating to closing areas to the taking of oysters, specifies delegation to the executive director of the Parks and Wildlife Department (TPWD), whereas the original specifies the director of TPWD.