

By: Eiland

H.B. No. 2148

A BILL TO BE ENTITLED

AN ACT

relating to oyster shells and an oyster shell recovery and replacement program.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 76.020, Parks and Wildlife Code, is amended to read as follows:

Sec. 76.020. OYSTER SHELL RECOVERY AND REPLACEMENT PROGRAM. The commission by proclamation may establish and conduct a program to require the recovery of oyster shell or other suitable cultch material from, and replacement of oyster shell in, the coastal waters of the state to maintain or enhance public oyster reefs.

SECTION 2. Subchapter A, Chapter 76, Parks and Wildlife Code, is amended by adding Section 76.021 to read as follows:

Sec. 76.021. OYSTER SHELL RECOVERY AND REPLACEMENT PROGRAM ACCOUNT; FEE. (a) The oyster shell recovery and replacement program account is a separate account in the game, fish, and water safety account. The account consists of money deposited to the account under this section. The account is exempt from the application of Section 403.095, Government Code.

(b) The department may accept grants and donations of money or materials from private or public sources to be applied to the oyster shell recovery and replacement program account.

(c) The department shall collect a fee of 20 cents or an amount set by the commission, whichever is greater, from a licensed

1 commercial oyster fisherman for each box of oysters harvested by
2 the fisherman from the water of this state.

3 (d) The commission by rule shall adopt policies and
4 procedures for the issuance of oyster shell recovery tags or other
5 means to collect the fee imposed by this section. A tag required by
6 this section must:

7 (1) be affixed to the outside of each box of oysters at
8 the time of harvest, in the location of harvest;

9 (2) contain information required by the Department of
10 State Health Services under the National Shellfish Sanitation
11 Program; and

12 (3) remain affixed during transportation of the
13 oysters to a dealer.

14 (e) The department shall deposit to the credit of the oyster
15 shell recovery and replacement program account all revenue, less
16 allowable costs, from the following sources:

17 (1) all fees collected under Subsection (c); and

18 (2) grants and donations received under Subsection
19 (b).

20 (f) Interest earned on the oyster shell recovery and
21 replacement program account shall be credited to the account.

22 (g) Money in the oyster shell recovery and replacement
23 program account may be appropriated only for the recovery and
24 enhancement of public oyster reefs under Section 76.020.

25 (h) The department shall consult with members of the oyster
26 industry regarding the management of oyster beds in this state.

27 SECTION 3. Section 76.115, Parks and Wildlife Code, is

1 amended by amending Subsection (c) and adding Subsections (d), (e),
2 and (f) to read as follows:

3 (c) Before closing any area, the commissioner shall provide
4 notice 72 hours before the closing [~~post notices of the closing in~~
5 ~~fish and oyster houses in two towns nearest the area to be closed~~
6 ~~and shall publish notice in a daily newspaper of general~~
7 ~~circulation in the area to be closed. The notices shall be posted~~
8 ~~and published at least three days before the effective date of the~~
9 ~~closing~~].

10 (d) Areas closed under this section must reopen by the
11 beginning of the next public oyster season unless sound biological
12 data indicates that the need for closure still exists.

13 (e) The commission by rule may establish procedures and
14 criteria for closing areas under Subsection (a).

15 (f) The commission may delegate to the executive director
16 the duties and responsibilities under this section.

17 SECTION 4. Not later than January 1, 2012, the Parks and
18 Wildlife Commission shall adopt rules:

19 (1) for the recovery of oyster shells in accordance
20 with this Act; and

21 (2) necessary for the implementation of this Act.

22 SECTION 5. This Act takes effect September 1, 2011.