

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 27, 2011

TO: Honorable Ryan Guillen, Chair, House Committee on Culture, Recreation & Tourism

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB1026 by Phillips (Relating to the review, notice, and hearing requirements associated with certain deer permits.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1026, As Introduced: an impact of \$0 through the biennium ending August 31, 2013.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill would amend portions of the Parks and Wildlife Code (PWC) regarding the review, notice and hearing requirements associated with breeder deer permits and the procedures the Texas Parks and Wildlife Department (TPWD) must follow regarding the destruction and removal of permitted deer and breeder deer from a facility. The bill would add provisions relating to the revocation, suspension, and refusal of deer permits. The bill would provide that TPWD director, may suspend, revoke, or refuse to renew a permit after notice and hearings and after considering various factors such as a permit-holder's previous convictions, threats to public safety, prior misrepresentations, outstanding tax issues, or liabilities for the value of wildlife captured or killed in violation of the PWC. The provisions would apply to permits including Trap, Transport and Transplant (TTT); Trap, Transport, and Process (TTP); Deer Breeder; and Deer Management.

The bill would provide an appeal from TPWD's permit revocations, suspensions or refusals would take place in a district court in the county where the permitted facility is located, or the county where the permit-holder resides. The appeal would be conducted as a new trial. The bill would amend provisions relating to Deer Breeders and Deer Management Permits regarding the notice and procedures for TPWD destroying or removing permitted deer. TPWD must provide notice to a permit-holder before the destruction or removal of deer from a facility. The notice must be sent certified mail and contain: a short statement identifying specific deer to be destroyed or removed; the date of destruction/removal, which cannot be sooner than the 10th day after the notice date; and a detailed explanation of the reasons for the destruction or removal of the deer. The bill would take effect September 1, 2011.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2012	\$0
2013	\$0
2014	\$0
2015	\$0
2016	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>Game, Fish, Water Safety Ac</i> 9	Change in Number of State Employees from FY 2011
2012	(\$403,181)	2.9
2013	(\$328,579)	2.9
2014	(\$329,469)	2.9
2015	(\$329,469)	2.9
2016	(\$330,359)	2.9

Fiscal Analysis

This analysis estimates the total fiscal impact to TPWD would be \$1,721,058 for the fiscal period 2012-2016 incurred in the General Revenue-Dedicated Game, Fish, and Water Safety Account No. 9.

Methodology

The bill would amend the appeal process for a denial of renewal of a deer permit to be the same as that for a permit revocation or suspension. The appeal would involve hearings before the State Office of Administrative Hearing (SOAH), which can take several months from the filing to the final written order by the executive director. According to TPWD, SOAH conducts an estimated 4 to 5 hearings per fiscal year for revocations or suspension, and the bill would result in an estimated 26 additional hearings per fiscal year for renewal denials.

This analysis assumes one additional staff attorney (paid an annual salary of \$70,033 plus benefits) would be needed to handle potential appeals, together with travel costs to hearings in district courts in the permit-holder's home county (\$5,000 per year), and standard equipment, including a computer (\$8,767 in fiscal year 2012 only). Total costs estimated in this portion of the analysis are \$103,311 in fiscal year 2012, \$94,544 in fiscal year 2013, \$94,851 in both fiscal years 2014 and 2015, and \$95,158 in fiscal year 2016.

According to current TPWD protocol, unlawfully possessed deer are confiscated, euthanized and tested due to animal health disease concerns. TPWD reports an estimated 300 deer assumed to be unlawfully possessed are currently euthanized each fiscal year. Deer that are possessed legally must have an identifying "ear tag," therefore deer that are illegally possessed do not have any identification.

The bill would require TPWD to identify the specific deer to be destroyed in the notice to the permit-holder. Specific deer could not be euthanized until at least 10 days after the notice date. This analysis assumes that for TPWD to identify the deer in the notice TPWD must first capture or anesthetize each suspect deer to be tagged. TPWD would then have to return in ten days (or later) to euthanize the tagged deer suspected of carrying disease. This analysis assumes this process would cost the equivalent of 1.9 additional Natural Resource Specialist III FTEs (paid an annual salary of \$51,013 plus benefits per FTE). Additionally, the costs of capturing and/or anesthetizing deer are significantly higher than euthanizing. Costs include specialized equipment such as temporary corrals, drop nets, dart rifles, scopes and binoculars incurred in fiscal year 2012 (approximately \$65,835). Professional services include a private veterinarian to serve as a "Humane Officer" during the anesthetizing process (costs assume a flat rate of \$1,000 per facility visited each year or \$61,000 for 61 facilities, which represents 5 percent of the 1,227 deer breeding facilities estimated to be operating in the state). Variable costs such as darts, sedation, ear tags, and needles would be incurred for each fiscal year (approximately 15,950). Additional costs include a 4WD pickup truck (approximately \$22,625 per FTE) and computers in fiscal year 2012 and general operating expenses such as rent, phone, travel and training. Total costs estimated in this portion of the analysis are \$299,870 in fiscal year 2012, \$234,035 in fiscal year 2013, \$234,618 in fiscal years 2014 and 2015, and \$235,201 in fiscal year 2015.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 802 Parks and Wildlife Department

LBB Staff: JOB, KM, ZS, TB, SZ