

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 23, 2017

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB51 by Guillen (Relating to regulation of the commercial oyster industry in this state; increasing criminal penalties; authorizing a fee.), **As Passed 2nd House**

There would be a positive, but indeterminate, revenue gain to the General Revenue-Dedicated Game, Fish, and Water Safety Account No. 9 due to unknown collections from a new fee and new commercial fishing license requirements.

The bill would amend the Parks and Wildlife Code to require those who purchase oysters and hold a shellfish certificate to distribute oyster shells or other approved material in an amount equal to 30 percent or more of the total volume of oysters purchased, or pay a fee determined by the Parks and Wildlife Department (TPWD).

The bill would also amend the Parks and Wildlife Code pertaining to certain criminal and administrative penalties related to oyster size limits. The bill would require each member of the crew of a licensed oyster boat to possess a valid commercial fishing license, and the bill would also prohibit the taking of oysters without the use of a boat for commercial purposes. The bill would prohibit those who purchase oysters from possessing oysters that were illegally harvested and make those purchasers subject to penalties.

The bill would also amend the Parks and Wildlife Code to allow the TPWD to establish a vessel monitoring system for commercial oyster boats. Before establishing such a system, TPWD would be required to consult with oyster boat license holders concerning its implementation.

The bill would further amend the Parks and Wildlife Code to implement a commercial oyster boat license buyback program. The bill would require the TPWD retain at least 20 percent of the fees from resident and non-resident commercial oyster boat licenses within the General Revenue-Dedicated Game, Fish, and Water Safety Account No. 9 to be used for the buying back of commercial oyster boat licenses from willing holders. The bill would allow TPWD to reissue retired licenses through auction or lottery.

Based upon information provided by the Comptroller of Public Accounts, the bill could increase revenue to the Game, Fish, and Water Safety Account No. 9 (Fund 9) by an indeterminate amount, as the portion of oyster purchasers who would choose to pay a fee rather than distribute shell or cultch material cannot be determined. According to information provided by TPWD, 2,494,446 pounds, or 388,543 sacks, of oysters were harvested in 2016, and the average cost of oyster bed restoration totaled \$1.32 per sack of oysters, resulting in maximum revenue of \$512,877 under the provisions of the bill. The bill would also result in additional cost to the agency in an amount equivalent to the additional revenue for oyster bed restoration. Based upon information provided

by TPWD, the bill would also result in minimal revenue increase to Fund 9 as a result of the requirement that all crew members of oyster boats possess commercial fishing licenses. The Comptroller's 2018-19 Biennial Revenue Estimate anticipates revenue to Fund 9 for 2018 of \$142,643,000 and \$144,499,000 for 2019.

Based on information provided by the TPWD, duties and responsibilities associated with implementing the provisions of the bill related to the vessel monitoring system and license buyback program could be accomplished by utilizing existing resources.

The bill would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.094, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Provisions of the bill relating to oyster shell restoration, the vessel monitoring system, and criminal penalties would take effect on September 1, 2017. Provisions of the bill relating to the oyster boat license buyback program would take effect June 1, 2018.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 802 Parks and Wildlife Department, 304 Comptroller of Public Accounts

LBB Staff: UP, MWI, SZ