By:  Buckingham, et al. S.B. No. 700

(In the Senate - Filed February 9, 2021; March 11, 2021, read first time and referred to Committee on Natural Resources & Economic Development; April 12, 2021, reported adversely, with favorable Committee Substitute by the following vote: Yeas 9, Nays 0; April 12, 2021, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Birdwell        X

Zaffirini       X

Alvarado        X

Hancock         X

Hinojosa        X

Hughes          X

Kolkhorst       X

Lucio           X

Seliger         X

COMMITTEE SUBSTITUTE FOR S.B. No. 700 By:  Zaffirini

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas Parks and Wildlife Department.

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

SECTION 1.  Section 11.0111, Parks and Wildlife Code, is amended to read as follows:

Sec. 11.0111.  SUNSET PROVISION. The Parks and Wildlife Department is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished September 1, 2033 [~~2021~~].

SECTION 2.  Section 11.0126, Parks and Wildlife Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b)  The training program must provide the person with information regarding:

(1)  the law governing [~~legislation that created the~~] department operations [~~and the commission~~];

(2)  the programs, functions, rules, and budget of [~~operated by~~] the department;

(3)  the scope of and limitations of the rulemaking authority [~~the role and functions~~] of the commission [~~department~~];

(4)  [~~the rules of the commission, with an emphasis on the rules that relate to disciplinary and investigatory authority;~~

[~~(5)  the current budget for the department;~~

[~~(6)~~]  the results of the most recent formal audit of the department;

(5) [~~(7)~~]  the requirements of:

(A)  laws relating to [~~the~~] open meetings, public information, administrative procedure, and disclosing conflicts of interest [~~law, Chapter 551, Government Code~~]; and

(B)  [~~the public information law, Chapter 552, Government Code;~~

[~~(C)  the administrative procedure law, Chapter 2001, Government Code; and~~

[~~(D)~~]  other laws applicable to members of a state policy-making body in performing their duties [~~relating to public officials, including conflict-of-interest laws~~]; and

(6) [~~(8)~~]  any applicable ethics policies adopted by the department or the Texas Ethics Commission.

(d)  The director shall create a training manual that includes the information required by Subsection (b). The director shall distribute a copy of the training manual annually to each member of the commission. Each member of the commission shall sign and submit to the director a statement acknowledging that the member received and has reviewed the training manual.

SECTION 3.  The heading to Section 11.0161, Parks and Wildlife Code, is amended to read as follows:

Sec. 11.0161.  NOTIFICATION OF COMMISSION ACTIVITIES[~~; COMPLAINTS~~].

SECTION 4.  Subchapter B, Chapter 11, Parks and Wildlife Code, is amended by adding Section 11.0165 to read as follows:

Sec. 11.0165.  COMPLAINTS. (a) The department shall maintain a system to promptly and efficiently act on complaints filed with the department. The department shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b)  The department shall make information available describing its procedures for complaint investigation and resolution.

(c)  The department shall periodically notify the complaint parties of the status of the complaint until final disposition unless the notice would jeopardize an investigation.

SECTION 5.  Section 11.104, Parks and Wildlife Code, is amended by amending Subsection (c) and adding Subsections (f) and (g) to read as follows:

(c)  Based on the analysis made under Subsection (a), the department shall prepare a land and water resources conservation and recreation plan. [~~The plan must include criteria for determining how to meet the state's conservation and recreation needs.~~] The department shall revise the plan as necessary to reflect changes in the inventory developed under Section 11.103. The plan must include:

(1)  criteria for determining how to meet the state's conservation and recreation needs; and

(2)  measures of the effectiveness of the department in meeting the goals and objectives of the plan, including, where possible, quantifiable measures.

(f)  Every five years the department shall evaluate progress towards achieving the goals and objectives of the plan prepared under Subsection (c). The department's evaluation must:

(1)  include the effectiveness measures under Subsection (c)(2); and

(2)  identify:

(A)  the goals and objectives met by the department; and

(B)  reasons for any unmet goals or objectives.

(g)  On completion of an evaluation under Subsection (f), the department shall develop and implement practices designed to improve progress towards meeting the goals and objectives of the plan.

SECTION 6.  Subchapter B, Chapter 12, Parks and Wildlife Code, is amended by adding Section 12.1025 to read as follows:

Sec. 12.1025.  RISK-BASED INSPECTIONS OF NONRECREATIONAL AUTHORIZATION HOLDERS. (a) In this section, "nonrecreational authorization holder" means a holder of a license, permit, or other authorization required by this code or rules adopted under this code. The term does not include a holder of:

(1)  a hunting license issued under Chapter 42;

(2)  a hunting or fishing stamp issued under Chapter 43;

(3)  a fishing license issued under Chapter 46; or

(4)  a combination hunting and fishing license issued under Chapter 50.

(b)  The commission by rule shall adopt a policy to guide the prioritization of inspections of nonrecreational authorization holders based on risk to the state's natural resources.

(c)  The policy adopted under this section must require that the department:

(1)  identify the nonrecreational authorization holders that require on-site inspections;

(2)  develop an assessment tool for determining the appropriate frequency and intensity of department inspections of nonrecreational authorization holders, based on key risk factors and indications of increased or decreased risk, such as repeated or remedied violations and failed or passed inspections; and

(3)  document all inspections of nonrecreational authorization holders and the results of those inspections and make the documentation available to all employees whose job descriptions include the regulation of nonrecreational authorization holders.

SECTION 7.  Section 24.001(12), Parks and Wildlife Code, is amended to read as follows:

(12)  "Underserved population" means any group of people that is:

(A)  low income, inner city, or rural as determined by the last census;

(B)  [~~, or~~] minority;

(C)  youth, including youth at risk and youth with a physical, developmental, or intellectual disability or mental illness;[~~, physically or mentally challenged youth at risk, youth,~~] or

(D)  female.

SECTION 8.  Section 24.051(11), Parks and Wildlife Code, is amended to read as follows:

(11)  "Underserved population" means any group of people that is:

(A)  low income or inner city, as determined by the last census;

(B)  [~~, or~~] minority;

(C)  youth, including youth at risk and youth with a physical, developmental, or intellectual disability or mental illness;[~~, physically or mentally challenged youth at risk, youth,~~] or

(D)  female.

SECTION 9.  Section 31.044, Parks and Wildlife Code, is amended to read as follows:

Sec. 31.044.  INSPECTIONS. (a) A dealer, distributor, or manufacturer may not refuse to allow the department or a peace officer to inspect a vessel, outboard motor, or records relating to the possession, origination, ownership, or transfer of a vessel or outboard motor at a dealership or distributor's or manufacturer's place of business during normal business hours.

(b)  The commission by rule shall adopt a policy to guide the prioritization of inspections of license holders holding a license issued under Section 31.041 based on risk to water safety.

(c)  The policy adopted under this section must require that the department:

(1)  determine the conditions under which an on-site inspection of a license holder by the department is appropriate;

(2)  develop an assessment tool for determining the appropriate frequency and intensity of department inspections of license holders, based on key risk factors and indications of increased or decreased risk, such as repeated or remedied violations and failed or passed inspections; and

(3)  document all license holder inspections and the results of those inspections and make the documentation available to all employees whose job descriptions include the regulation of license holders.

(d)  The policy adopted under this section may be combined with a policy adopted under Section 12.1025.

SECTION 10.  Sections 42.012(b) and (c), Parks and Wildlife Code, are amended to read as follows:

(b)  The commission may set a lower fee or waive the fee or license requirement for a resident who is under 17 years old, 65 years old or older, or participating in an event that is sponsored or co-sponsored by the department [~~Texas Parks and Wildlife Department~~] with the approval of the [~~executive~~] director. The commission shall waive the fee for a qualified [~~disabled~~] veteran with a disability and for a resident on active duty as a member of the United States military forces, the Texas Army National Guard, the Texas Air National Guard, or the Texas State Guard.

(c)  "Qualified [~~disabled~~] veteran with a disability" means a veteran with a service connected disability, as defined by the United States Department of Veterans Affairs, consisting of the loss of the use of a lower extremity or of a disability rating of 50 percent or more and who is receiving compensation from the United States for the disability.

SECTION 11.  Section 46.002, Parks and Wildlife Code, is amended to read as follows:

Sec. 46.002.  EXEMPTIONS. (a) A license issued under this chapter is not required of a person:

(1)  who is a resident and whose birth date is before January 1, 1931;

(2)  who is a nonresident, if the person's birth date is before September 1, 1930, and the person's state of residence grants a similar age exemption to Texas residents;

(3)  with a mental illness or developmental or intellectual disability who is engaged [~~mentally disabled and who is engaging~~] in recreational fishing as part of medically approved therapy[~~, and who is fishing~~] under the immediate supervision of personnel approved or employed by a hospital, residence, or school for [~~mentally disabled~~] persons with mental illnesses or developmental or intellectual disabilities;

(4)  with a mental illness or developmental or intellectual disability who is [~~mentally retarded and is~~] engaged in recreational fishing under the immediate supervision of a person who:

(A)  holds a license issued under this chapter; and

(B)  if not a member of the family of the person with a mental illness or developmental or intellectual disability, has the permission of the [~~mentally retarded person's~~] family head or legal guardian of the person with a mental illness or developmental or intellectual disability to take the [~~mentally retarded~~] person with a mental illness or developmental or intellectual disability fishing [~~if the person is not a member of the family of the mentally retarded person~~]; or

(5)  who is participating in an event that is sponsored or co-sponsored by the department [~~Texas Parks and Wildlife Department~~] with the approval of the director [~~Executive Director~~].

(b)  The [~~mentally disabled~~] person with a mental illness or developmental or intellectual disability who is recreationally fishing under Subsection (a)(3) shall carry an authorization identifying the entity supplying the service. This authorization may be in the form of a tag that contains the name of the sponsoring entity.

(c)  A [~~mentally retarded~~] person with a mental illness or developmental or intellectual disability who is engaged in recreational fishing under Subsection (a)(4) must carry a note from a doctor stating that the person has been diagnosed with a mental illness or developmental or intellectual disability [~~as mentally retarded~~].

SECTION 12.  Section 46.004(c), Parks and Wildlife Code, is amended to read as follows:

(c)  The commission shall waive the fee for a qualified [~~disabled~~] veteran with a disability as defined by Section 42.012 and for a resident on active duty as a member of the United States military forces, the Texas Army National Guard, the Texas Air National Guard, or the Texas State Guard.

SECTION 13.  Chapter 86, Parks and Wildlife Code, is amended by adding Section 86.0215 to read as follows:

Sec. 86.0215.  INSPECTIONS. (a) In this section, "permit holder" means a person holding a permit under Section 86.006.

(b)  The commission by rule shall adopt a policy to guide the prioritization of inspections of permit holders based on risk to the state's natural resources.

(c)  The policy adopted under this section must require that the department:

(1)  determine the conditions under which an on-site inspection of a permit holder by the department is appropriate;

(2)  develop an assessment tool for determining the appropriate frequency and intensity of department inspections of permit holders, based on key risk factors and indications of increased or decreased risk, such as repeated or remedied violations and failed or passed inspections; and

(3)  document all inspections of permit holders and the results of those inspections and make the documentation available to all employees whose job descriptions include the regulation of permit holders.

(d)  The policy adopted under this section may be combined with a policy adopted under Section 12.1025.

SECTION 14.  Sections 11.0161(b), (c), (d), and (e), Parks and Wildlife Code, are repealed.

SECTION 15.  (a)  Except as provided by Subsection (b) of this section, Section 11.0126, Parks and Wildlife Code, as amended by this Act, applies to a member of the Parks and Wildlife Commission appointed before, on, or after the effective date of this Act.

(b)  A member of the Parks and Wildlife Commission who, before the effective date of this Act, completed the training program required by Section 11.0126, Parks and Wildlife Code, as that law existed before the effective date of this Act, is only required to complete additional training on the subjects added by this Act to the training program required by Section 11.0126, Parks and Wildlife Code. A board member described by this subsection may not vote, deliberate, or be counted as a member in attendance at a meeting of the board held on or after December 1, 2021, until the member completes the additional training.

SECTION 16.  This Act takes effect September 1, 2021.

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