88R11017 MP-F

By:  Middleton S.B. No. 1392

A BILL TO BE ENTITLED

AN ACT

relating to establishing the oyster council of the Parks and Wildlife Department.

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

SECTION 1.  Chapter 76, Parks and Wildlife Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. OYSTER COUNCIL

Sec. 76.201.  DEFINITION. In this subchapter, "council" means the oyster council established under this subchapter.

Sec. 76.202.  ESTABLISHMENT AND PURPOSE. (a) The oyster council is established to advise the commission, director, and department on the taking of oysters in this state.

(b)  Chapter 2110, Government Code, does not apply to the council.

Sec. 76.203.  COMPOSITION. The council is composed of 13 members appointed by the commission, each of whom must:

(1)  hold a commercial oyster fisherman's license; or

(2)  be nominated by the holder of a commercial oyster fisherman's license.

Sec. 76.204.  TERMS; VACANCY. (a) Council members serve staggered six-year terms, with the terms of four or five members expiring on January 1 of each even-numbered year.

(b)  A vacancy on the council shall be filled in the same manner as the original appointment.

Sec. 76.205.  REMOVAL FROM COUNCIL. The commission may remove a council member if the member has been absent from three or more council meetings scheduled within the preceding 12 months, unless the absences are excused. The commission shall post notice of the removal on the commission's Internet website.

Sec. 76.206.  OFFICERS. The council shall elect from the council's membership a presiding officer and assistant presiding officer.

Sec. 76.207.  MEETINGS. (a) The council on its own initiative may meet at any time to discuss any council business, including restrictions on the taking of oysters.

(b)  The council shall:

(1)  notify the commission not later than the 11th day before the date of a council meeting; and

(2)  not later than the seventh day before the date of a council meeting, post notice of the meeting on the department's Internet website.

(c)  Except for a closed meeting authorized by Subchapter D, Chapter 551, Government Code, a council meeting is open to the public.

(d)  Notice of a council meeting must be given as provided by Chapter 551, Government Code.

(e)  A council meeting shall be held at a location determined by the council.

(f)  The council shall:

(1)  broadcast live on the department's Internet website all council meetings, other than closed meetings; and

(2)  maintain on the department's Internet website an archive of council meetings.

(g)  A recording of a council meeting must be maintained in the archive required under Subsection (f) through and including the second anniversary of the meeting.

Sec. 76.208.  OPEN MEETINGS AND OPEN RECORDS. Except as specifically provided by this chapter or another law, the council is subject to Chapters 551 and 552, Government Code.

Sec. 76.209.  RESTRICTIONS ON TAKING OF OYSTERS. (a) The council must meet if the commission, director, or department requests a meeting to discuss imposing a restriction described by Section 76.305.

(b)  The council members may make recommendations regarding a restriction on the taking of oysters requested under Subsection (a).

Sec. 76.210.  RECOMMENDATIONS FOR OYSTER MANAGEMENT; REPORT. (a) The council shall advise the commission and department and make recommendations concerning the administrative aspects of the taking of oysters.

(b)  Annually, on or before a date established by the department before the opening of oyster season, the council shall submit to the commission and department a report evaluating the taking of oysters in this state.

Sec. 76.211.  ADMINISTRATIVE PROCEDURES; RULES. (a) The director shall establish administrative procedures to carry out the requirements of this subchapter.

(b)  The commission shall adopt any rules necessary for the administration of the council established under this subchapter.

SECTION 2.  Subchapter E, Chapter 76, Parks and Wildlife Code, is amended by adding Section 76.305 to read as follows:

Sec. 76.305.  RESTRICTIONS ON TAKING OF OYSTERS. Notwithstanding any other provision of this code, the commission, director, and department shall consult with the oyster council in accordance with Section 76.209 before:

(1)  closing an area to the taking of oysters;

(2)  closing an open season for the taking of oysters on a date earlier than the department's previously published closing date for the season; or

(3)  during an open season for the taking of oysters, adopting or amending commission rules or department guidelines regarding the taking of oysters, including:

(A)  size limits;

(B)  bag limits; and

(C)  limits on the time of day during which the taking of oysters is authorized.

SECTION 3.  Sections 76.118(c) and (g), Parks and Wildlife Code, are amended to read as follows:

(c)  A person who violates Sections 76.109 and [~~either Section 76.115 or~~] 76.116 in the same criminal episode commits an offense that is a Class A Parks and Wildlife Code misdemeanor.

(g)  If it is shown on the trial of a defendant for a violation of Sections [~~Section~~] 76.109 and [~~either Section 76.115 or~~] 76.116 occurring in the same criminal episode that the defendant has been convicted once before within five years before the trial date of a violation of Sections [~~Section~~] 76.109 and [~~either Section 76.115 or~~] 76.116 occurring in the same criminal episode, the defendant is guilty of a Parks and Wildlife Code felony.

SECTION 4.  Section 76.115, Parks and Wildlife Code, is repealed.

SECTION 5.  (a) Not later than December 1, 2023, the Parks and Wildlife Commission shall adopt rules and procedures necessary to administer the oyster council established under Subchapter D, Chapter 76, Parks and Wildlife Code, as added by this Act.

(b)  As soon as practicable after the adoption of rules and procedures under Subsection (a) of this section but not later than January 1, 2024, the Parks and Wildlife Commission shall appoint the initial members of the oyster council established under Subchapter D, Chapter 76, Parks and Wildlife Code, as added by this Act.

(c)  At the first meeting of the oyster council that follows the appointment of the initial council members, the council members shall draw lots to determine which four council members will serve terms that expire on January 1, 2026, which four council members will serve terms that expire on January 1, 2028, and which five council members will serve terms that expire on January 1, 2030.

SECTION 6.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2023.