

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.

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

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

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

12 (b) The council shall:

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

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

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

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

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

25 (f) The council shall:

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

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

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

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

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

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

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

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

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

27 (b) The commission shall adopt any rules necessary for the

1 administration of the council established under this subchapter.

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

4 Sec. 76.305. RESTRICTIONS ON TAKING OF OYSTERS.

5 Notwithstanding any other provision of this code, the commission,
6 director, and department shall consult with the oyster council in
7 accordance with Section 76.209 before:

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

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

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

15 (A) size limits;

16 (B) bag limits; and

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

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

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

24 (g) If it is shown on the trial of a defendant for a
25 violation of Sections ~~[Section]~~ 76.109 and ~~[either Section 76.115~~
26 ~~or]~~ 76.116 occurring in the same criminal episode that the
27 defendant has been convicted once before within five years before

1 the trial date of a violation of Sections [~~Section~~] 76.109 and
2 [~~either Section 76.115 or~~] 76.116 occurring in the same criminal
3 episode, the defendant is guilty of a Parks and Wildlife Code
4 felony.

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

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

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

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

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