

SUBJECT: Changes to permit system to control crop depredation by protected wildlife

COMMITTEE: Culture, Recreation and Tourism — committee substitute recommended

VOTE: 7 ayes — Homer, T. King, Kleinschmidt, Kuempel, McCall, Phillips,
Thibaut

0 nays

2 absent — D. Howard, Dukes

WITNESSES: For — Warren Bluntzer; Kirby Brown, Texas Wildlife Association;
(*Registered, but did not testify*: Marida Favia del Core Borromeo, Exotic
Wildlife Association; Billy Howe, Texas Farm Bureau; Jason Skaggs,
Texas and Southwestern Cattle Raisers Association)

Against — None

On — Clayton Wolf, Texas Parks and Wildlife Department

BACKGROUND: The Parks and Wildlife Code allows permits to be issued to control
wildlife that is causing serious harm to agricultural, horticultural,
aquicultural interests or other property or is a threat to public safety.

Under the current permitting system, a landowner must provide written
notice to the county judge or the mayor of the municipality where the
damage or threat occurs. The judge or mayor then must post notice and
notify the Texas Parks and Wildlife Department (TPWD). TPWD must
inspect the site in question and make recommendations for preventative
measures to control damage, such as building a fence. If the permit
applicant meets the necessary criteria, including implementing
recommended preventive measures, a permit may be issued to control
protected wildlife without regard to the closed season or bag limit. This is
commonly known as a depredation permit.

Once the permit is issued, the TPWD delivers the permit to the judge, but
it cannot be delivered any earlier than 24 hours after the notice from the
judge or the mayor was received by TPWD.

The permit holder who kills depredating wildlife is required to notify the game warden who will then donate the carcass to charity. Failure to comply is a class B Parks and Wildlife Code misdemeanor (up to 180 days in jail and/or a fine of \$200 to \$2,000).

The TPWD may cancel a permit if the permit does not accomplish its intended purpose.

DIGEST:

CSHB 1965 would amend the Parks and Wildlife Code to allow the Texas Parks and Wildlife Commission to adopt rules governing qualifications for a depredation permit, reporting requirements for permit holders, reinstatement of a cancelled permit, and the possession of wildlife resources taken or held to prevent depredation.

CSHB 1965 would specify that the permitting process to control wildlife would apply to damage or threats to commercial agricultural, horticultural, or aquicultural interests or to public safety.

A person who desired to kill protected wildlife causing harm to commercial agricultural, horticultural, or aquicultural interests would have to give written notice of the facts to TPWD. A permit applicant no longer would have to provide notice of damage to a county judge or mayor, and a county judge or mayor no longer would have to certify that the information in the permit application was true. The TPWD would not have to deliver the issued permit to the county judge or mayor but would deliver the permit directly to the applicant.

Upon receiving notice of damage or threat to agricultural, horticultural, or aquicultural interests from protected wildlife, TPWD would be allowed, rather than required, to inspect the site in question and make recommendations for preventative measures.

Permits. A permit application fee of \$50 would be required, and proceeds would be deposited in the special game, fish, and water safety account. The number of wildlife that could be killed would be included in the list of specifications in the permit.

Under CSHB 1965, a permit application no longer would have to be accompanied by:

- a statement signed by TPWD that damage was being done or that a threat existed and control measures had been recommended;

- a statement by the applicant that all preventative measures recommended by TPWD had been taken for the prevention of the damage or threat; and
- a certification of the county judge that the application was true.

The TPWD could cancel a permit if the permit holder made false claims on the permit application or failed to submit a report.

Disposing of carcasses. The permit holder or designated person would be required to dispose of the carcass by donating it to charity. No part of the wildlife killed under this permit could be kept or sold, including the antlers.

Penalties. It would be a class C Parks and Wildlife Code misdemeanor (fine of \$25 to \$500) to violate a reporting requirement.

It no longer would be a class B Parks and Wildlife Code misdemeanor (up to 180 days in jail and/or a fine of \$200 to \$2,000) if a permittee failed to notify a game warden of the killing of wildlife.

Effective date. The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009, and would apply only to a permit to control wildlife issued on or after that date.

SUPPORTERS
SAY:

CSHB 1965 would remove some of the more cumbersome and unnecessary aspects of the current permitting process for controlling wildlife and would authorize the Texas Parks and Wildlife Commission to develop new criteria for the program. The bill is a consensus agreement among landowners, hunters, associations, and the TPWD.

Farmers have estimated a reduction in cotton yield of 33 percent due to deer or other wildlife eating crops during the first few months of the growing season. The production of alfalfa, corn, sorghum or wheat has been affected as well. Farmers need timely assistance in preventing the depredation of valuable cash crops.

The current process for obtaining a depredation permit to protect crops is cumbersome and time-consuming. A landowner must have a county judge or a mayor sign the application for the permit and must implement the TPWD-recommended preventative measures before being able to obtain a

permit. Constructing a fence is often the recommended preventative measure, but this can be prohibitively expensive, resulting in few permits actually being issued.

The rulemaking process would address concerns about abuses during hunting season. The intent would be for the depredation permit to cover only the early months of growing season and not overlap with hunting season. Also, rulemaking would protect wildlife that would be most desirable during hunting season.

OPPONENTS
SAY:

CSHB 1965 would be too permissive an approach to controlling crop depredation and would not provide a long-term solution. Fencing is the best preventative measure to protect crops.

Although the Texas Parks and Wildlife Commission would have authority to develop criteria and regulate these permits, this could lead to problems with poaching and the abuse of permits. During hunting season it would be possible to work the system by shooting an animal outside of the legal hunting hours and tagging them later to be kept or sold.

A farmer killing deer and other wildlife to protect crops could place a financial burden on an adjacent property owner who leased his land for deer hunting. What are considered pests to the farmer in the summer are a commodity to the rancher during hunting season.

NOTES:

The substitute differs from the bill as filed by:

- adding possession of wildlife resources taken or held and qualifications for a depredation permit to the Texas Parks and Wildlife Commission's rule-making authority;
- striking the requirement for TPWD recommendations for preventative measures;
- repealing the entire Parks and Wildlife Code Section 43.153(c), while the original only struck the certification of the county judge;
- adding the number of the wildlife that may be killed to the list of specifications in the permit; and
- and striking the language prohibiting the permit from being delivered earlier than 24 hours after the notice from the county judge or mayor was received by the department; the original struck only the language that included the county judge or mayor.

The TPWD estimates about 750 additional permits would be issued annually under the bill. This would represent an additional \$37,500 to the general revenue-dedicated Game, Fish and Water Safety Account No. 9 in fiscal 2010 and each year thereafter.