

- SUBJECT:** Establishing an oyster license buyback program
- COMMITTEE:** Culture, Recreation and Tourism — favorable, without amendment
- VOTE:** 7 ayes — Frullo, Faircloth, D. Bonnen, Fallon, Gervin-Hawkins, Krause, Martinez
- 0 nays
- WITNESSES:** For — Shane Bonnot, Coastal Conservation Association Texas; Michael Ivic, Misho's Oysters; Johnny Halili, Oyster Advisory Workshop; Clifford Hillman, Oyster Industry; Raz Halili, Prestige Oyster; W. Brad Boney, Texas Outdoor Coastal Council; Lisa Halili; Buddy Treybig; Tracy Woody; (*Registered, but did not testify:* David Sinclair, Game Warden Peace Officers Association; Cyrus Reed, Lone Star Chapter Sierra Club; Marissa Patton, Texas Farm Bureau; John Shepperd, Texas Foundation for Conservation; Elizabeth Doyel, Texas League of Conservation Voters; Chloe Lieberknecht, the Nature Conservancy; John Burleson, Travis County Resistance)
- Against — None
- On — Brandi Reeder and Lance Robinson, Texas Parks and Wildlife Department; (*Registered, but did not testify:* Robin Riechers, Texas Parks and Wildlife Department)
- BACKGROUND:** SB 272 by Williams, enacted in 2005 by the 79th Legislature, created the oyster license moratorium under Parks and Wildlife Code, ch. 76, subch. F. It directed the Texas Parks and Wildlife Department (TPWD) to:
- implement an oyster license moratorium program that established criteria for issuing and renewing commercial oyster boat licenses;
  - create an oyster license moratorium review board; and
  - establish administrative procedures for the oyster license moratorium program and adopt rules for the program's administration.

Parks and Wildlife Code, sec. 76.119(a) establishes responsibility for code violations for captains and crew members of commercial oyster boats.

**DIGEST:**

HB 51 would require the Texas Parks and Wildlife Department (TPWD) to establish a license buyback program as part of its oyster license moratorium program. The Texas Parks and Wildlife Commission (TPWC) would have to establish criteria for the department to use for buying back the licenses. TPWD would have to consult with the oyster license moratorium review board on the criteria.

The bill would direct TPWD to retire each license purchased under the license buyback program until TPWC determined that management of the oyster fishery would allow reissue of those licenses through a lottery or auction. In making such a determination, TPWC would have to consider the social and economic viability of the oyster industry and receive input from the oyster license moratorium review board.

The TPWC would set aside an amount that was at least 20 percent of fees collected from the issuance of commercial oyster boat licenses that TPWD would have to set aside to buy back oyster boat licenses from willing sellers. The funds would be deposited in the game, fish, and water safety account. Money used for buying back licenses would not be subject to Government Code provisions on dedicated revenue. TPWD also could solicit and accept grants and donations of money or materials from public or private sources to fund the buyback program.

TPWD would have to report to the governor and the Legislature by November 1, 2020, on the administration and status of the license buyback program, including the biological, sociological, and economic effects of the program.

A proclamation by the TPWC on provisions related to the oyster license moratorium would prevail over any conflicting provisions contained within Parks and Wildlife Code, ch. 76 on oysters.

HB 51 also would allow the TPWC by proclamation to establish a vessel monitoring system for commercial oyster boats and would direct TPWD to consult with commercial oyster boat license holders on its creation before the commission issued the proclamation.

The bill would make each individual on a commercial oyster boat, including the captain and crew, responsible for violating a law restricting the capture of undersized oysters.

The bill would take effect September 1, 2017, except that the provisions related to the license buyback program would take effect June 1, 2018.

**SUPPORTERS  
SAY:**

HB 51 would add the commercial oyster industry to the list of state commercial fishing license buyback programs, which are designed to stabilize a particular fishing industry and protect fisheries stocks.

In the past decade, the oyster industry has been devastated by disasters such as the Deep Water Horizon oil spill and Hurricane Ike, which destroyed half of the oyster reef in Galveston Bay. These disasters, along with a long drought and recent flooding, have led to an over-saturated oyster industry and overharvesting. The bill significantly would reduce the number of vessels fishing for oysters, which would help to prevent overharvesting and stabilize the industry. Preventing oyster overharvesting would help protect wild public reefs that provide nursery and predation refuge habitats for marine life, stabilize shorelines, enhance water quality, and reduce coastal erosion.

The bill would be modeled on successful license buyback programs in other fishing industries such as shrimp, crab, and finfish. For these industries, the programs were effective in allowing the fishery and their communities to voluntarily prevent overfishing and did not negatively impact harvest levels. Implementing a voluntary buyback program for oysters similarly would not impact harvest levels and would be a beneficial alternative to increased regulations.

HB 51 also would establish that each person on a vessel was responsible

for the violation of harvesting undersized oysters. This would help to stabilize oyster populations and protect the reef by ensuring broken oyster shells and other debris, necessary for reef's growth, were less likely to be removed during fishing.

Because the preservation of oysters is a paramount concern of the oyster fishing industry, the bill would allow the Texas Parks and Wildlife Commission to establish a vessel monitoring system with tracking devices for boats to prevent fishing in closed waters. This essential management tool would benefit an oyster industry that is oversaturated and lacks accountability. Similar monitoring systems have been effective in other fishing industries, including the shrimp industry, and the monitoring program allowed by HB 51 would be needed to ensure oysters were not overharvested.

The buyback program under the bill would be completely voluntary, allowing license holders who no longer wanted their licenses to sell them back to the state at their discretion. Licenses would be sold through a fair market open bidding process initiated by the license holder, so the market would determine the price of the sale.

While other options to manage oyster resources have been proposed, HB 51 would implement recommendations that were developed and agreed upon during a long process involving varied stakeholders. Regulations on harvest limits and seasons already fall within the Texas Parks and Wildlife Department's (TPWD's) authority and have proven insufficient, creating a need for the measures included in the bill.

**OPPONENTS  
SAY:**

The license buyback program proposed by HB 51 could further limit the availability of oyster boat licenses. By creating this scarcity, the state could be increasing the value of existing licenses and inappropriately picking winners and losers in the marketplace, which could result in a monopoly of large fishing companies dominating the Texas oyster industry. There also would be no requirement that the Texas Parks and Wildlife Department (TPWD) pay fair market value for the licenses it buys back.

While government intervention in the oyster industry should be avoided, more appropriate methods for managing oyster populations are available if needed, including implementing regulations on harvest limits and seasons.

HB 51 also would create a vessel monitoring system that would micromanage private industry and could infringe on the privacy of oyster boats and their captains and crew and affect the efficiency of their fishing operations.

OTHER  
OPPONENTS  
SAY:

While the proposed oyster license buyback program itself is commendable, in requiring TPWD to establish the program, consideration should be given to ensuring that the state does not buy back licenses at a premium from individuals who may have purchased them speculatively without a vested interest in the oyster industry.

NOTES:

A companion bill, SB 1556 by Kolkhorst, was referred to the Senate Committee on Agriculture, Water, and Rural Affairs on March 21.