

BILL ANALYSIS

Senate Research Center

C.S.S.B. 873
By: Brown
Natural Resources
3/18/1999
Committee Report (Substituted)

DIGEST

Currently, Texas is the largest producer of farm-raised shrimp in the country. In 1998, shrimp farm harvest was approximately 3.2 million pounds, with a total economic impact estimated at \$29.1 million. The volume and content of wastewater discharge from aquaculture facilities has sparked concern about state bays and estuaries: disease-contaminated wastewater discharge, water quality, and general location of coastal aquaculture facilities. C.S.S.B. 873 would regulate aquaculture.

PURPOSE

As proposed, S.B. 873 regulates aquaculture.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas Department of Agriculture in SECTION 1 (Section 134.005(a), Agriculture Code) and to the Texas Department of Parks and Wildlife and the Texas Parks and Wildlife Commission in SECTION 7 (Sections 66.007(g) and (h), Parks and Wildlife Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 134A, Agriculture Code, as follows:

Sec. 134.001. DEFINITIONS. Redefines “cultured species,” “exotic species,” “aquaculturist” and “fish farmer.” Defines “operator,” “commercial aquaculture facility,” “new aquaculture facility,” and “coastal zone.” Deletes the definition of “owner.”

Sec. 134.002. AQUACULTURE PROGRAM. Authorizes the Department of Agriculture (department) to promote aquaculture products, provide technical assistance, provide support through governmental entities, solicit financial support from the federal government for the aquaculture industry, and perform other functions. Makes conforming changes.

Sec. 134.003. PROGRAM ADMINISTRATOR; STAFF. Requires the department to designate a person to administer the department’s program. Makes a conforming change.

Sec. 134.004. CONTRACTS. Authorizes the department, the Texas Natural Resource Conservation Commission (TNRCC), the Texas Animal Health Commission (TAHC) and the Parks and Wildlife Department (TPWD) to contract with state, federal, or private entities for assistance in carrying out the purposes of this chapter.

Sec. 134.005. RULES. Requires the department and TPWD to adopt rules to carry out their respective duties under this chapter, rather than the aquaculture program. Requires the department, by rule, to establish record keeping requirements for a commercial aquaculture facility. Makes conforming changes.

Sec. 134.006. AQUACULTURE FUND. Makes no change.

SECTION 2. Amends Sections 134.011-134.014, Agriculture Code, as follows:

Sec. 134.011. New heading: LICENSING. Requires the department to take certain actions. Requires the department to provide a copy of each aquaculture license application to the TPWD and the TNRCC. Prohibits the department from issuing a license for a new aquaculture facility

unless the facility has been authorized by TNRCC to dispose of wastewater, or the facility will not dispose of wastewater into waters in the state.

Sec. 134.012. FISH FARM VEHICLE LICENSE REQUIRED. Requires a vehicle to have a fish farm vehicle license, if the vehicle is used to transport cultured species from a private facility, and the cultured species are sold from the vehicle. Requires a person who operates a vehicle that is owned by the holder of an aquaculture license to keep a copy of the license in the vehicle when transporting culture species from a private facility. Deletes text regarding transporting fish.

Sec. 134.013. New heading: ADDITIONAL REQUIREMENTS FOR SHRIMP PRODUCTION WITHIN THE COASTAL ZONE. Sets forth requirements for a commercial aquaculture facility located within the coastal zone engaged in the production of shrimp. Requires the department to require the applicant to provide a report describing the existing environmental conditions at the proposed site, including aquatic habitat and the conditions of the waters in the state into which a discharge is proposed. Requires the report to provide an assessment of any potential impact of the wastewater discharges on sensitive aquatic habitats in the areas of the proposed site, significant impacts related to the construction or operation of the facility, and any mitigation actions proposed by the applicant, before issuing a license to a new aquaculture facility. Requires the applicant to provide the report required under Subsection (b) to TNRCC and the TPWD. Prohibits TNRCC from issuing a wastewater discharge permit to a new aquaculture facility designed for the commercial production of shrimp located within the coastal zone without consideration of the report described by Subsection (b). Deletes existing section requiring a bill of lading.

Sec. 134.014. LICENSE FEES. Requires the department to issue an aquaculture license or a fish farm vehicle license on completion of applicable license requirements and the payment of a fee by the applicant, as provided by department rule.

SECTION 3. Amends Section 134.015(c), Agriculture Code, to authorize the department to suspend an aquaculture license if it is determined that the licensee has violated this chapter, a rule adopted under this chapter, or Section 66.007, Parks and Wildlife Code.

SECTION 4. Amends Section 134.016, Agriculture Code, as follows:

Sec. 134.016. RECORDS. Requires the holder of an aquaculture license to maintain a record of sale of cultured species for a period of time not less than one year. Provides that the record is open for inspection by designated employees of the Parks and Wildlife Department and the department during normal business hours. Requires a record of sale for commercially protected finfish to contain certain information.

SECTION 5. Amends Section 134.023(b), Agriculture Code, to make a conforming change.

SECTION 6. Amends Section 134, Agriculture Code, by adding Subchapter C, as follows:

SUBCHAPTER C. INTERAGENCY COOPERATION

Sec. 134.031. MEMORANDUM OF UNDERSTANDING. Requires the department, TNRCC, and TPWD to enter into a memorandum of understanding for the regulation of matters related to aquaculture. Requires TNRCC, after receiving an application for a wastewater discharge authorization from an aquaculture facility, to provide a copy of the application to the department and the TPWD. Requires the department, TNRCC, and TPWD, to each appoint one member of a three-member application review committee to review the wastewater discharge authorization application to ensure that the proposed discharge will not adversely affect a bay, an estuary, or other waters in the state. Authorizes TPWD, in consultation with TNRCC, to establish general guidelines that identify sensitive aquatic habitat within the coastal zone. Requires the general guidelines to include factors such as presence of sea grass beds, depth of receiving waters and amount of tidal exchange. Requires TPWD to provide the guidelines to the TNRCC and the department, if TPWD establishes the guidelines in Subsection (d). Requires TNRCC to consider the guidelines when reviewing wastewater facilities located within the coastal zone, or expansion or existing facilities located within the coastal zone if the expansion will increase the amount of discharge, or change the nature of the discharge, above levels allowed by the wastewater discharge permit.

SECTION 7. Amends Section 66.007, Parks and Wildlife Code, adding Subsections (g)-(l), to authorize the Texas Parks and Wildlife Commission (commission) to adopt rules to control a disease or agent of disease transmission that may affect penaeid shrimp species and has the potential to affect cultured species or other aquatic species. Requires the department to immediately place the aquaculture facility under quarantine condition, if one or more manifestations of disease is observed in any cultured marine penaeid shrimp species. Requires the TDPW to determine, by rule, the meaning of “manifestation of disease” and “quarantine condition.” Authorizes TPDW to coordinate with TAHC regarding testing for diseases. Authorizes an operator to discharge wastewater or another substance from the facility in accordance with an emergency plan that has been submitted to and approved by the TPWD and incorporated into a wastewater discharge authorization issued by TNRCC. Authorizes an operator to discharge wastewater or another substance from an aquaculture facility under quarantine conditions in accordance with an emergency plan that has been submitted to and approved by the TPWD and incorporated into a wastewater discharge authorization issued by TNRCC. Requires the TPWD to perform certain immediate actions, on receiving notice from an owner of the observance of manifestations of disease.

SECTION 8. Amends Section 66.020(f), Parks and Wildlife Code, to authorize the TPWD, rather than the commission, to provide a prenumbered invoice to a person importing any of the fish described in by Subsection (a).

SECTION 9. Amends Chapter 26B, Water Code, by adding Section 26.0345, as follows:

Sec. 26.0345. DISCHARGE FROM AQUACULTURE FACILITIES. Requires TNRCC, in consultation with the Department of Agriculture, and TPWD, to establish permit conditions relating to suspended solids in a discharge permit for an aquaculture facility located within the coastal zone and engaged in shrimp production that are based on levels and measures adequate to prevent certain actions, in addition to wastewater permit conditions established under the authority of Sections 5.102, 5.103, 5.120, and 26.040, Water Code. Defines “coastal zone.”

SECTION 10. Repealer: the effective date of September 1, 1999, Chapter 1D, Parks and Wildlife Code. Abolishes the aquaculture executive committee on that date.

SECTION 11. Effective date: September 1, 1999.

SECTION 12. Requires the Department of Agriculture, TNRCC, and TPWD as soon as practicable on or after the effective date of this Act, enter into a memorandum of understanding required by Section 134.031, Agriculture Code, as added by this Act.

SECTION 13. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 2.

Amends Section 134.013, Agriculture Code, to make a nonsubstantive change.

SECTION 4.

Amends Section 134.016, Agriculture Code, to require the holder of an aquaculture license to maintain a record of sale of cultured species for a period of time not less than one year. Provides that the record is open for inspection by designated employees of TPWD and the department during normal business hours. Requires a record of sale for commercially protected finfish to contain certain information. Deletes text regarding an invoice for each shipment of an aquatic product shipped from a private facility for commercial purposes as provided by Chapters 47 and 66, Parks and Wildlife Code, and rules adopted by the Parks and Wildlife Commission.

SECTION 7.

Amends Sections 66.007(j) and (k), Parks and Wildlife Code, to authorize an operator to discharge waster or another substance from the facility in accordance with an emergency plan that has been submitted to and approved by TPWD and incorporated into a wastewater discharge authorization issued by TNRCC. Authorizes an operator to discharge wastewater or another

substance from an aquaculture facility under quarantine conditions in accordance with an emergency plan that has been submitted to and approved by the TPWD and incorporated into a wastewater discharge authorization issued by TNRCC. Deletes text requiring commission rule incorporated in consultation with TNRCC and TAHC.

SECTION 9.

Amends Section 26.0345, Water Code, to make a nonsubstantive change.