

## **BILL ANALYSIS**

Senate Research Center

C.S.H.B. 1858  
By: Wise (Staples)  
Natural Resources  
5/18/2003  
Committee Report (Substituted)

### **DIGEST AND PURPOSE**

Currently, the Texas Department of Agriculture operates the Go Texan program to promote state agriculture products. C.S.H.B. 1858 expands the categories of products that may be included in the Go Texan program, allowing any industry, not just agriculture industries, that produces products in Texas to join said program. This bill also creates the Texas Oyster and Shrimp Program and the Texas Shrimp Marketing Assistance Program.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of agriculture in SECTION 6 (Section 47.052, Agriculture Code), to the shrimp advisory committee in SECTION 6 (Section 47.053, Agriculture Code), and to the Texas Department of Agriculture in SECTION 7 (Section 134.014, Agriculture Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 12.002, Agriculture Code, as follows:

Sec. 12.002. DEVELOPMENT OF AGRICULTURE. Requires the Texas Department of Agriculture (TDA) to encourage the proper development and promotion of agriculture, horticulture, and other industries that grow, process, or produce products in this state.

SECTION 2. Amends the heading of Section 12.0175, Agriculture Code, to read as follows:

Sec. 12.0175. GROWN OR PRODUCED IN TEXAS PROGRAM.

SECTION 3. Amends Sections 12.0175(a) and (b), Agriculture Code, as follows:

(a) Authorizes TDA by rule to establish programs to promote and market agricultural products and other products grown, processed, or produced in the state.

(b) Authorizes TDA to charge a membership fee, as provided by TDA rule, for each participant in a program.

SECTION 4. Amends the heading to Chapter 47, Agriculture Code, to read as follows:

CHAPTER 47. TEXAS OYSTER AND SHRIMP PROGRAM

SECTION 5. Redesignates Sections 47.001 and 47.002, Agriculture Code, as Subchapter A, Chapter 47, Agriculture Code, and adds a heading to read as follows:

SUBCHAPTER A. TEXAS OYSTER PROGRAM

SECTION 6. Amends Chapter 47, Agriculture Code, by adding Subchapter B, as follows:

SUBCHAPTER B. TEXAS SHRIMP MARKETING ASSISTANCE PROGRAM IN  
DEPARTMENT OF AGRICULTURE

Sec. 47.051. DEFINITIONS. Defines “advisory committee,” “coastal waters,”

“program,” “shrimp marketing account,” and “Texas-produced shrimp.”

Sec. 47.052. PROGRAM ESTABLISHED. (a) Provides that the Texas shrimp marketing assistance program (program) is established in TDA to assist the Texas shrimp industry in promoting and marketing Texas-produced shrimp and educating the public about the Texas shrimp industry and Texas-produced shrimp.

(b) Requires the commissioner of agriculture (commissioner), in consultation with the advisory committee established under Section 47.053, to adopt rules as necessary to implement the program.

(c) Authorizes TDA to accept grants, gifts, and gratuities from any source, including any governmental entity, any private or public corporation, and any other person, in furtherance of the program. Requires any funds received as a grant, gift, or gratuity to be deposited in the shrimp marketing account under Section 77.002 (License Fees), Parks and Wildlife Code.

(d) Requires the program to be funded at a minimum level of \$250,000 per fiscal year with funds deposited into the shrimp marketing account under Section 77.002, Parks and Wildlife Code. Prohibits TDA from expending more than two percent of the annual program budget on out-of-state travel.

Sec. 47.053. ADVISORY COMMITTEE. (a) Requires the commissioner to appoint a shrimp advisory committee to assist the commissioner in implementing the program established under this subchapter and in the expenditure of funds appropriated for the purpose of this subchapter.

(b) Requires the advisory committee to be composed of 10 certain members.

(c) Provides that the members of the advisory committee serve without compensation but may be reimbursed for expenses incurred in the direct performance of their duties on approval by the commissioner.

(d) Provides that a member of the advisory committee serves a three-year term, with the terms of three or four members expiring August 31 of each year. Authorizes the commissioner to reappoint a member to the advisory committee.

(e) Requires the members of the advisory committee to elect a presiding officer from among the members and to adopt rules governing the operation of the advisory committee. Requires the rules to specify that five members of the advisory committee constitute a quorum sufficient to conduct the meetings and business of the advisory committee.

(f) Requires the advisory committee to meet as necessary, but not less frequently than once each calendar year, to provide guidance to the commissioner in establishing and implementing the program.

Sec. 47.054. PROGRAM STAFF. (a) Requires the commissioner to employ one or more persons as employees of TDA to staff the program.

(b) Requires the source of funding for the payment of employee salaries, unless otherwise expressly provided by the legislature, to be funds generated from the program, including the 10 percent license fee increase authorized by Section 77.002, Parks and Wildlife Code, and the surcharge on license fees authorized by Section 134.014.

Sec. 47.055. PROMOTION, MARKETING, AND EDUCATION. Requires the program to promote and advertise the Texas shrimp industry by taking certain actions.

SECTION 7. Amends Section 134.014, Agriculture Code, as follows:

(a) Created from existing text.

(b) Requires TDA, in addition to the fees under Subsection (a), to assess and collect a surcharge on the annual license fee for aquaculture facilities producing shrimp for the purpose of funding the program created under Subchapter B, Chapter 47. Requires the amount of the surcharge to be set each year, as provided by TDA rule, in an amount equal to 10 percent of the fees generated by the Texas Parks and Wildlife Department (TPWD) under Section 77.002(c), Parks and Wildlife Code.

(c) Requires TDA to deposit at the end of each quarter, to the credit of the shrimp marketing account, the fees received under Subsection (b) for use by TDA to conduct and operate the program under Subchapter B, Chapter 47.

SECTION 8. Amends Section 77.002, Parks and Wildlife Code, as follows:

(a) Created from existing text.

(b) Provides that the shrimp marketing account is an account in the general revenue fund to be used by TDA solely for the purpose of the program established under Subchapter B, Chapter 47, Agriculture Code. Provides that the account consists of funds deposited to the account under this section and Section 134.014(b), Agriculture Code. Provides that the account is exempt from the application of Section 11.032 of this code and Section 403.095 (Use of Dedicated Revenue), Government Code.

(c) Requires TPWD, except as provided by Sections 47.021 and 77.049, in addition to fee increases TPWD is authorized to make under this code, to increase by 10 percent the fee, as of September 1, 2003, for certain licenses and to deposit the amount of the increase to the credit of the shrimp marketing account.

(d) Authorizes money in the shrimp marketing account to be used only for implementing, maintaining, and conducting, including hiring program staff employees for, the program created under Subchapter B, Chapter 47, Agriculture Code. Authorizes TDA to allocate not more than \$100,000 per fiscal year of the money in the account to cover administrative and personnel costs of TDA associated with the program.

(e) Requires TPWD to deposit at the end of each quarter to the credit of the shrimp marketing account, fees received under Subsection (c) for use by TDA to conduct and operate the Texas shrimp marketing assistance program created under Subchapter B, Chapter 47, Agriculture Code.

SECTION 9. Amends Subchapter A, Chapter 47, Parks and Wildlife Code, by adding Section 47.021, as follows:

Sec. 47.021. LICENSE FEES. (a) Prohibits fees issued under Sections 47.009, 47.011, and 47.013 from being increased by more than 10 percent of the amount of the fee set by the Texas Parks and Wildlife Commission and effective on September 1, 2002.

(b) Provides that this section expires September 1, 2005.

SECTION 10. Amends Subchapter C, Chapter 77, Parks and Wildlife Code, by adding Section 77.049, as follows:

Sec. 77.049. LICENSE FEES. (a) Prohibits fees issued under Sections 77.031 and 77.035 from being increased by more than 10 percent of the amount of the fee set by the Texas Parks and Wildlife Commission and effective on September 1, 2002.

(b) Provides that this section expires September 1, 2005.

SECTION 11. Requires TPWD to transfer a minimum amount of \$250,000 each year of the biennium to the shrimp marketing account for use by TDA to conduct and operate the program created under Subchapter B, Chapter 47, Agriculture Code, as added by this Act. Authorizes all unexpected balances remaining from appropriations for fiscal year 2004 to be carried forward to fiscal year 2005.

SECTION 12. Effective date: upon passage or September 1, 2003.