

## **BILL ANALYSIS**

Senate Research Center  
82R18679 SLB-F

C.S.S.B. 932  
By: Williams  
Agriculture & Rural Affairs  
4/6/2011  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Texas is second only to Louisiana in eastern oyster production in the United States, historically producing about 20 percent of the nation's annual eastern oyster harvest. From 2003 to 2009, the number of pounds of oysters harvested and delivered to a dealer fell by 50 percent from the 10-year average.

C.S.S.B. 932 amends Section 76.020 (Oyster Shell Recovery and Replacement Program), Parks and Wildlife Code, to allow any suitable cultch material to be used in the coastal waters to maintain public oyster reefs. It also requires the Texas Parks and Wildlife Department (TPWD) to sell harvester/shellfish restoration tags, with a fee of 20 cents or an amount set by the Texas Parks and Wildlife Commission (commission). The tag must be affixed to each sack of oysters at the time of harvest and must remain on the sack until delivered to a certified shellfish dealer. Funds generated from the tag will be used to replace suitable cultch material onto public reefs within bay systems along the Texas coast. The bill would also provide the ability for the commission to close and open areas with at least three days of published notice. This would allow for oyster reefs with a low amount of legal market oysters to be closed within a season.

C.S.S.B. 932 amends current law relating to oyster beds and shells and an oyster shell recovery and replacement program.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Parks and Wildlife Commission in SECTION 2 (Section 76.021, Parks and Wildlife Code) and SECTION 3 (Section 76.115, Parks and Wildlife Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 76.020, Parks and Wildlife Code, as follows:

Sec. 76.020. OYSTER SHELL RECOVERY AND REPLACEMENT PROGRAM. (a) Creates this subsection from existing text. Authorizes the Texas Parks and Wildlife Commission (commission) by proclamation, to establish and conduct a program to require the recovery of oyster shell or other suitable cultch material from, and replacement of oyster shell in, the coastal waters of the state to maintain or enhance public oyster reefs. Makes nonsubstantive changes.

(b) Authorizes the Texas Parks and Wildlife Department (TPWD) to accept grants and donations of money or materials from private or public sources to be applied to the oyster shell recovery and replacement program.

SECTION 2. Amends Subchapter A, Chapter 76, Parks and Wildlife Code, by adding Section 76.021, as follows:

Sec. 76.021. OYSTER SHELL RECOVERY AND REPLACEMENT PROGRAM ACCOUNT; FEE. (a) Provides that the oyster shell recovery and replacement program account is a separate account in the game, fish, and water safety account. Provides that the account consists of money deposited to the account under this section. Provides that

the account is exempt from the application of Section 403.095 (Use of Dedicated Revenue), Government Code.

(b) Requires TPWD to collect a fee of 20 cents or an amount set by the commission, whichever is greater, from a licensed commercial oyster fisherman for each box of oysters harvested by the fisherman from the water of this state.

(c) Requires the commission by rule to adopt policies and procedures for the issuance of oyster shell recovery tags or other means to collect the fee imposed by this section. Requires that a tag required by this section:

(1) be affixed to the outside of each box of oysters at the time of harvest, in the location of harvest;

(2) contain information required by the Department of State Health Services under the National Shellfish Sanitation Program; and

(3) remain affixed during transportation of the oysters to a dealer.

(d) Requires TPWD to deposit to the credit of the oyster shell recovery and replacement program account all revenue, less allowable costs, from all fees collected under Subsection (b), and grants and donations received under Section 76.020 (Oyster Shell Recovery and Replacement Program).

(e) Authorizes money in the oyster shell recovery and replacement program account to be appropriated only for the recovery and enhancement of public oyster reefs under Section 76.020.

(f) Requires TPWD to consult with members of the oyster industry regarding the management of oyster beds in this state.

SECTION 3. Amends Section 76.115, Parks and Wildlife Code, by amending Subsection (c) and adding Subsections (d), (e), and (f), as follows:

(c) Requires the commission, rather than the Texas Parks and Wildlife commissioner, before closing any area, to publish notice in a daily newspaper of general circulation in the area to be closed. Requires the notice, rather than notices, to be published, rather than posted and published, at least three days before the effective date of the closing. Deletes existing text requiring the commission to post notices of the closing in fish and oyster houses in two towns nearest the area to be closed and to publish notice in a daily newspaper of general circulation in the area to be closed.

(d) Requires that areas closed under this section reopen by the beginning of the next public oyster season unless sound biological data indicated that the need for closure still exists.

(e) Authorizes the commission by rule to establish procedures and criteria for closing areas under Subsection (a).

(f) Authorizes the commission to delegate to the executive director of TPWD the duties and responsibilities under this section.

SECTION 4. Requires the commission, not later than January 1, 2012, to adopt rules for the recovery of oyster shells in accordance with Act, and necessary for the implementation of this Act.

SECTION 5. Effective date: September 1, 2011.