

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 700
By: Buckingham et al.
Natural Resources & Economic Development
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Parks and Wildlife Department (TPWD) was created in 1963 to manage, conserve, and provide access to Texas' lands and natural resources. Overall, the Sunset Advisory Commission found the state continues to benefit from the agency's important functions and recommends continuing it for 12 years. The Sunset Advisory Commission adopted recommendations aimed to improve consistency and fairness for individuals and small business owners licensed by TPWD in occupations like commercial fishing, retail and wholesale fish dealing, and deer breeding. These provisions include requiring the agency to implement a risk-based approach to inspections.

The commission also found the agency's multiple strategic planning processes have become muddled over time. This has impeded the agency's ability to best plan its operations, and to identify and address its future needs. Accordingly, the commission recommends requiring the agency to refine the scope, and measure the effectiveness, of its Land and Water Resources Conservation and Recreation Plan. Other recommendations included in the bill aim to ensure the agency is up-to-date with best practices for open and effective government.

C.S.S.B 700 makes minor changes to the bill by requiring the agency to evaluate its progress on the Land and Water Plan every five years rather than every other year and expands the requirement for risk-based inspections to include all nonrecreational permits, rather than only income-producing permits and licenses. Additionally, it changes its risk-based inspections of boating licenses to be based on risk to water safety rather than risk to natural resources since it is the only license that TPWD issues that does not directly impact the state's natural resources. Finally, it adds an instructional provision necessary for across-the-board recommendation on commission member training.

C.S.S.B. 700 amends current law relating to the continuation and functions of the Texas Parks and Wildlife Department.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Parks and Wildlife Commission in SECTION 6 (Section 12.1025, Parks and Wildlife Code), SECTION 9 (Section 31.044, Parks and Wildlife Code), and SECTION 13 (Section 86.0215, Parks and Wildlife Code) of this bill.

Rulemaking authority previously granted to the Texas Parks and Wildlife Commission is rescinded in SECTION 14 (Section 11.0161, Parks and Wildlife Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 11.0111, Parks and Wildlife Code, as follows:

Sec. 11.0111. SUNSET PROVISION. Provides that the Texas Parks and Wildlife Department (TPWD) is subject to Chapter 325, Government Code (Texas Sunset Act). Provides that TPWD, unless continued in existence as provided by that chapter, is abolished September 1, 2033, rather than September 1, 2021.

SECTION 2. Amends Section 11.0126, Parks and Wildlife Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Requires that the training program for Texas Parks and Wildlife Commission (TPWC) members provide the person with information regarding:

(1) the law governing TPWD operations, rather than the legislation that created TPWD and TPWC;

(2) the programs, functions, rules, and budget of TPWD, rather than the programs operated by TPWD;

(3) the scope of and limitations of the rulemaking authority of TPWC, rather than the role and functions of TPWD;

(4) creates this subdivision from existing text;

(5) the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest, rather than laws relating to the open meetings law, Chapter 551 (Open Meetings), Government Code; and

(B) other laws applicable to members of a state policy-making body in performing their duties, rather than other laws relating to public officials, including conflict of interest laws; and

(6) redesignates existing Subdivision (8) as Subdivision (6).

Deletes existing text requiring that the training program provide the person with information regarding the rules of TPWC, with an emphasis on the rules that relate to disciplinary and investigatory authority, the current budget for TPWD, and the requirements of the public information law, Chapter 552 (Public Information), Government Code, and the administrative procedure law, Chapter 2001 (Administrative Procedure), Government Code. Makes nonsubstantive changes.

(d) Requires the executive director of TPWD (executive director) to create a training manual that includes the information required by Subsection (b). Requires the executive director to distribute a copy of the training manual annually to each member of TPWC. Requires each member of TPWC to sign and submit to the executive director a statement acknowledging that the member received and has reviewed the training manual.

SECTION 3. Amends the heading to Section 11.0161, Parks and Wildlife Code, to read as follows:

Sec. 11.0161. NOTIFICATION OF COMMISSION ACTIVITIES.

SECTION 4. Amends Subchapter B, Chapter 11, Parks and Wildlife Code, by adding Section 11.0165, as follows:

Sec. 11.0165. COMPLAINTS. (a) Requires TPWD to maintain a system to promptly and efficiently act on complaints filed with TPWD. Requires TPWD to maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) Requires TPWD to make information available describing its procedures for complaint investigation and resolution.

(c) Requires TPWD to periodically notify the complaint parties of the status of the complaint until final disposition unless the notice would jeopardize an investigation.

SECTION 5. Amends Section 11.104, Parks and Wildlife Code, by amending Subsection (c) and adding Subsections (f) and (g), as follows:

(c) Requires that the land and water resources conservation and recreation plan created by TPWD include:

(1) criteria for determining how to meet the state's conservation and recreation needs; and

(2) measures of the effectiveness of TPWD in meeting the goals and objectives of the plan, including, where possible, quantifiable measures.

(f) Requires TPWD every five years to evaluate progress towards achieving the goals and objectives of the plan prepared under Subsection (c). Requires that TPWD's evaluation include the effectiveness measures under Subsection (c)(2) and identify the goals and objectives met by TPWD, and reasons for any unmet goals or objectives.

(g) Requires TPWD, on completion of an evaluation under Subsection (f), to develop and implement practices designed to improve progress towards meeting the goals and objectives of the plan.

SECTION 6. Amends Subchapter B, Chapter 12, Parks and Wildlife Code, by adding Section 12.1025, as follows:

Sec. 12.1025. RISK-BASED INSPECTIONS OF NONRECREATIONAL AUTHORIZATION HOLDERS. (a) Defines "nonrecreational authorization holder."

(b) Requires TPWC by rule to adopt a policy to guide the prioritization of inspections of nonrecreational authorization holders based on risk to the state's natural resources.

(c) Requires that the policy adopted under this section require that TPWD:

(1) identify the nonrecreational authorization holders that require on-site inspections;

(2) develop an assessment tool for determining the appropriate frequency and intensity of TPWD inspections of nonrecreational authorization holders, based on key risk factors and indications of increased or decreased risk, such as repeated or remedied violations and failed or passed inspections; and

(3) document all inspections of nonrecreational authorization holders and the results of those inspections and make the documentation available to all employees whose job descriptions include the regulation of nonrecreational authorization holders.

SECTION 7. Amends Section 24.001(12), Parks and Wildlife Code, to redefine "underserved population," for purposes of Subchapter A (Local Parks for Smaller Counties and Municipalities and Other Political Subdivisions), to include youth at risk and youth with a physical, developmental, or intellectual disability or mental illness, rather than physically or mentally challenged youth at risk . Makes nonsubstantive changes.

SECTION 8. Amends Section 24.051(11), Parks and Wildlife Code, to redefine "underserved population," for purposes of Subchapter B (Parks for Large Counties and Municipalities), to include youth at risk and youth with a physical, developmental, or intellectual disability or

mental illness, rather than physically or mentally challenged youth at risk. Makes nonsubstantive changes.

SECTION 9. Amends Section 31.044, Parks and Wildlife Code, as follows:

Sec. 31.044. INSPECTIONS. (a) Creates this subsection from existing text and makes no further changes.

(b) Requires TPWC by rule to adopt a policy to guide the prioritization of inspections of license holders holding a license issued under Section 31.041 based on risk to water safety.

(c) Requires that the policy adopted under this section require that TPWD:

(1) determine the conditions under which an on-site inspection of a license holder by TPWD is appropriate;

(2) develop an assessment tool for determining the appropriate frequency and intensity of TPWD inspections of license holders, based on key risk factors and indications of increased or decreased risk, such as repeated or remedied violations and failed or passed inspections; and

(3) document all license holder inspections and the results of those inspections and make the documentation available to all employees whose job descriptions include the regulation of license holders.

(d) Authorizes the policy adopted under this section to be combined with a policy adopted under Section 12.1025.

SECTION 10. Amends Sections 42.012(b) and (c), Parks and Wildlife Code, to make nonsubstantive changes.

SECTION 11. Amends Section 46.002, Parks and Wildlife Code, to make nonsubstantive changes.

SECTION 12. Amends Section 46.004(c), Parks and Wildlife Code, to make a nonsubstantive change.

SECTION 13. Amends Chapter 86, Parks and Wildlife Code, by adding Section 86.0215, as follows:

Sec. 86.0215. INSPECTIONS. (a) Defines "permit holder" as meaning a person holding a permit under Section 86.006 (Permit).

(b) Requires TPWC by rule to adopt a policy to guide the prioritization of inspections of permit holders authorized to disturb, take, or carry away marl, sand, gravel, shell, or mudshell based on risk to the state's natural resources.

(c) Requires that the policy adopted under this section require that TPWD:

(1) determine the conditions under which an on-site inspection of a permit holder by TPWD is appropriate;

(2) develop an assessment tool for determining the appropriate frequency and intensity of TPWD inspections of permit holders, based on key risk factors and indications of increased or decreased risk, such as repeated or remedied violations and failed or passed inspections; and

(3) document all inspections of permit holders and the results of those inspections and make the documentation available to all employees whose job descriptions include the regulation of permit holders.

(d) Authorizes the policy adopted under this section to be combined with a policy adopted under Section 12.1025.

SECTION 14. Repealers: Sections 11.0161(b), (c), (d), and (e) (relating to TPWD procedures for recording and handling complaints), Parks and Wildlife Code.

SECTION 15. (a) Provides that, except as provided by Subsection (b) of this section, Section 11.0126, Parks and Wildlife Code, as amended by this Act, applies to a member of TPWC appointed before, on, or after the effective date of this Act.

(b) Provides that a member of TPWC who, before the effective date of this Act, completed the training program required by Section 11.0126, Parks and Wildlife Code, as that law existed before the effective date of this Act, is only required to complete additional training on the subjects added by this Act to the training program required by Section 11.0126, Parks and Wildlife Code. Prohibits a board member described by this subsection from voting, deliberating, or being counted as a member in attendance at a meeting of the board held on or after December 1, 2021, until the member completes the additional training.

SECTION 16. Effective date: September 1, 2021.