

BILL ANALYSIS

Senate Research Center

S.B. 1032
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Water, Agriculture & Rural Affairs
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Background

In recent decades the protection of oyster beds have raised great concern and increased need for change. This bill aims to preserve oyster beds under the direction of the Texas Parks and Wildlife Department (TPWD). This expands and creates common sense guidelines within the program for restoration purposes. S.B. 1032 redefines a "natural oyster bed" to include the area for leases, especially in areas considered degraded. That ensures that there will be more areas of oyster reefs to harvest along the Texas coast.

Key Provisions

- The bill as drafted is designed to do several things in terms of the oyster fishery.
- First, the bill as written allows for the expansion of the private lease (certificate of location) program in the oyster fishery. Currently, leases are limited to Galveston Bay but this bill allows TPWD to expand and create guidelines for the program to be used for restoration purposes for groups that want to help support oyster restoration.
- Statute can already allow expansion from a commercial harvesting perspective if it meets all the requirements and is allowed by TPWD and the General Land Office (GLO).
- It calls for the agency to work with the Department of State Health Services and GLO in considering these expansions.
- Critical changes in criteria to allow this are:
 - Redefining what a "natural oyster bed" is to allow for more area where leases could be sited and will aid in restoration and oyster resource recovery by allowing leases in areas that will be considered as degraded; and
 - It also removes the need to transplant to have an oyster lease which reflects the reality of how leases are used in most recent times.

Committee Substitute Changes

- The committee substitute will remove the changes to notice requirements.

S.B. 1032 amends current law relating to oyster certificates of location and authorizes a fee.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Parks and Wildlife Commission in SECTION 4 (Section 76.022, Parks and Wildlife Code) of this bill.

Rulemaking authority is expressly granted to the Texas Parks and Wildlife Department in SECTION 4 (Section 76.022, Parks and Wildlife Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 76.001(2), Parks and Wildlife Code, to redefine "natural oyster bed."

SECTION 2. Amends Section 76.003, Parks and Wildlife Code, as follows:

Sec. 76.003. BEDS SUBJECT TO LOCATION. (a) Creates this subsection from existing text. Creates an exception under Subsection (b). Deletes existing text providing that this section does not apply to a bed or reef that has been exhausted within an eight-year period. Makes nonsubstantive changes.

(b) Authorizes the Texas Parks and Wildlife Department (TPWD) to subject a natural oyster bed to location if TPWD determines that the bed is degraded. Authorizes TPWD, in determining whether a natural oyster bed is degraded, to consider:

- (1) the relative abundance of oysters in the area;
- (2) the availability of natural cultch material in the area;
- (3) sediment overburden in the area;
- (4) the amount of time that the area has been exhausted, if the area is exhausted; and
- (5) any other criteria TPWD considers indicative of a degraded oyster bed.

SECTION 3. Amends Section 76.018(b), Parks and Wildlife Code, as follows:

(b) Requires that the renewal procedures include:

- (1) a determination that the lease renewal will be based on considerations specified in the oyster management plan, rather than on the need for depuration of polluted oysters and other considerations specified in the oyster management plan;
- (2) makes no changes to this subdivision;
- (3) a condition that the current leaseholder has the right to renew, rather than that the current leaseholder will be offered a first right of refusal, if the lease is renewed under Chapter 76 (Oysters); and
- (4) makes no changes to this subdivision.

SECTION 4. Amends Subchapter A, Chapter 76, Parks and Wildlife Code, by adding Section 76.022, as follows:

Sec. 76.022. CERTIFICATES OF LOCATION FOR RESTORATION PURPOSES. (a) Requires the Texas Parks and Wildlife Commission (TPWC) by rule to establish a program to issue certificates of location for the restoration of natural oyster beds.

(b) Provides that Sections 76.006 (Application for Location; Fee), 76.007 (Maximum Acreage Under Location), 76.017 (Location Rental Fees), 76.018 (Location Rental Term; Renewal; Auction), and 76.019 (Procedures for Sale or Transfer of Location Rental) do not apply to a program established under this section.

(c) Authorizes rules adopted under this section to establish:

- (1) fees, application approval requirements, lease terms, and renewal procedures for leases under this section;
- (2) the total area in each bay system for which leases are authorized to be issued under this section;
- (3) siting and marking requirements for leases under this section; and

(4) any other requirement necessary to administer this section.

(d) Requires TPWD, in adopting rules under this section, to coordinate with the Department of State Health Services and the General Land Office.

SECTION 5. Makes application of Section 76.018(b), Parks and Wildlife Code, as amended by this Act, prospective.

SECTION 6. Effective date: September 1, 2023.