

BILL ANALYSIS

C.S.H.B. 3391
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Culture, Recreation & Tourism
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Legislature created the Texas Parks and Wildlife Department in 1963 to operate state parks, and enforce fish and wildlife laws. The Texas Parks and Wildlife Department's goals include: improving access to the outdoors; helping landowners improve wildlife habitat; increasing participation and enhancing the quality of hunting, fishing, boating, and outdoor recreation; and maintaining or improving water quantity and quality for fish and wildlife. The Texas Parks and Wildlife Department is subject to the Sunset Act and will be abolished on September 1, 2009, unless continued by the Legislature. As a result of its review of the Texas Parks and Wildlife Department, the Sunset Advisory Commission recommended continuation of the agency and several statutory modifications that are contained in this legislation.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Parks and Wildlife Department in SECTION 10 and SECTION 12 of this bill.

ANALYSIS

Strengthens efforts to protect Texas' aquatic environment from exotic aquatic plants

C.S.H.B. 3391 requires the Department to create an approved list of exotic aquatic plants that may be imported and possessed within Texas without a permit, and removes authority for a list of prohibited exotic aquatic plants. A person may not import or possess an exotic aquatic plant that is not on the approved list without a permit. The bill requires the Department to develop a process to evaluate the potential harm that may be caused by importation of aquatic plants, and establishes the parameters of the evaluation process, including an expedited process under certain circumstances. The bill authorizes the Department to remove exotic aquatic plants from the approved list on an emergency basis for certain reasons.

The Department may issue exotic aquatic plant permits for medical or scientific research, for public aquariums and zoos in accordance with Commission rules, and for appropriate uses that will not result in potential environmental, economic, or health problems. C.S.H.B. 3391 also makes conforming changes to accommodate the new approved list and requires persons to remove harmful or potentially harmful aquatic plants that are not on the approved list from watercraft and transport. The bill instructs the agency to switch from the prohibited list to the initial list of approved exotic aquatic plants no later than December 31, 2010. The bill also provides that the current requirements remain in effect until the approved list is published.

Requires agencies to respond to TPWD comments on proposed projects or permits

C.S.H.B. 3391 requires state and local agencies and private organizations that receive comments on proposed projects or permits from TPWD to respond in writing to TPWD on the disposition of those comments. Responses must include a description of any modification made to the project as a result of the comments, information about the disposition of the comments, and, as applicable, any reason why the agency disagreed with or did not incorporate the comments. All responses are public information and must be submitted to the Department not later than the 90th day after the date the agency or organization makes a related decision.

Establishes TPWD's internal affairs function in statute with a stronger tie to the Parks and Wildlife Commission

C.S.H.B. 3391 establishes an internal affairs office in statute with original jurisdiction over crimes occurring on TPWD property, engaged in by on-duty department employees, or engaged in by officers commissioned by the department performing off-duty work related to their official duties. The bill provides that investigations must be authorized by either the Executive Director or Commission, and establishes that the head of the Internal Affairs Office report to the Executive Director for administrative purposes and that information regarding investigations may be provided either to the Executive Director or Commission as appropriate. C.S.H.B. 3391 also requires the Internal Affairs Office to report to the Parks and Wildlife Commission information on recently closed cases, analysis of trends, and recommendations to avoid future complaints.

Authorizes joining the Interstate Wildlife Violator Compact

C.S.H.B. 3391 authorizes the Parks and Wildlife Commission to join the Interstate Wildlife Violator Compact on behalf of the State. The bill also provides that the Commission may withdraw from the Compact if necessary to protect the interests of the State, and grants rulemaking and delegation authority necessary to implement the Compact.

Pursue transfer of the Parrie Haynes Ranch and Trust to TPWD

C.S.H.B. 3391 instructs TPWD and the Texas Youth Commission to jointly seek representation by the Attorney General to pursue a modification of the Trust terms and purposes of the Parrie Haynes Trust to designate TPWD as the state agency responsible for the Parrie Haynes Ranch and Trust. C.S.H.B. 3391 also establishes that this requirement expires on the date that the court orders a modification of the Trust or on September 1, 2021.

Expands the types and uses of funds deposited into TPWD's General Revenue-Dedicated accounts.

C.S.H.B. 3391 authorizes deposit of private contributions, grants, donations and federal funds into the State Parks Account, Texas Recreation and Parks Account, and the Large County and Municipality Recreation and Parks Account. The bill makes permissive the deposit of federal funds into the State Land and Water Conservation Account. C.S.H.B. 3391 specifies that money in the Texas Recreation and Parks Account may be used for planning, acquisition, operation, and development of outdoor recreation and conservation, and administrative expenses related to the management of federal programs. C.S.H.B. 3391 specifies that money in the Large County and Municipality Recreation and Parks Account may be used for administrative expenses related to the management of federal programs and clarifies that the existing statutory formula regarding the distribution of funds in the Large County and Municipality Recreation and Parks Account applies only to state funds in the account.

Applies standard Sunset across-the-board recommendations

C.S.H.B. 3391 adds modified Sunset language to require all members of the Parks and Wildlife Commission appointed after September 1, 2009 to be public members without financial ties to the agency or the regulated industry. C.S.H.B. 3391 updates standard Sunset language requiring the agency to maintain information on all complaints and notify the parties about policies for and status of complaints, and stipulates that the new requirement only applies to complaints filed after September 1, 2009. C.S.H.B. 3391 adds standard Sunset language requiring the Commission to make effective use of technology in its delivery of services and provision of information to the public, and adds standard Sunset language requiring the Commission to develop a policy that encourages the use of negotiated rulemaking and alternative dispute resolution.

Continues Texas Parks and Wildlife Department

C.S.H.B. 3391 updates the agency's Sunset review date to 2021 to provide for the standard 12-year review.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL TO SUBSTITUTE

CSHB 3391:

- Expands the types of funds that may be deposited into TPWD GR-Dedicated accounts to include federal funds and other sources, and the uses of those funds to include planning, acquisition, operation and development, and administrative expenses related to management of federal programs.
- Clarifies language specifying the types of cases for which Internal Affairs has original departmental jurisdiction.
- Includes private organizations in the requirement to respond to TPWD comments on projects that affect fish and wildlife resources, and establishes a 90-day deadline for responses by state and local agencies and private organizations.
- Clarifies that restrictions on exotic aquatic plants apply to possession as well as importation.
- Clarifies that the definition of exotic aquatic plants includes plants that are not normally found in aquatic and riparian areas, not just public waters.
- Provides that the Department may withdraw a species from the approved list of exotic aquatic plants on an emergency basis.
- Provides clear authority for the Department to issue permits to import or possess exotic aquatic plants not appearing on the approved list for any appropriate use that does not result in potential economic, environmental, or health problems.
- Provides rulemaking authority to the Department with regard to joining the Interstate Wildlife Violators Compact.
- Extends the deadline for the Department to create the list of approved exotic aquatic plants from 12 to 16 months.