

SUBJECT: Establishing a cultivated oyster mariculture program

COMMITTEE: Culture, Recreation, and Tourism — committee substitute recommended

VOTE: 9 ayes — Cyrier, Martinez, Bucy, Gervin-Hawkins, Holland, Jarvis
Johnson, Kacal, Morrison, Toth

0 nays

WITNESSES: For — Joe McComb, City of Corpus Christi; Shane Bonnot, Coastal Conservation Association; Lee Knezek, Commercial Fishermen; John Brock, Pappas Restaurants; Sajjad Khan and Nasir Kureshy, Turtle Creek Aquaculture LLC; William Balboa; Brad Lomax; (*Registered, but did not testify*: Elizabeth McCampbell, American Bank Center; Roshan Bhakta, Candlewood Suites NAS; Jake Posey, Centerpoint Energy, Inc.; Hugo Berlanga, City of Port Aransas; Paulette Kluge, Corpus Christi Convention and Visitor Bureau; Melody Nixon-Bice, Embassy Suites by Hilton Corpus Christi; Ryland Ramos, Entergy Texas, Inc.; David Sinclair, Game Warden Peace Officers Association; James Mathis, Landrys, Inc; Annie Spilman, National Federation of Independent Business; Patricia Shipton, Nueces County Commissioners Court; Nelda Olivo, Port of Corpus Christi; Lisa Halili, Prestige Oysters; John Shepperd, Texas Foundation for Conservation and Texas Coalition for Conservation; Justin Bragiel, Texas Hotel Association; Rebecca Robinson, Texas Restaurant Association; Ron Hinkle and Cheri Huddleston, Texas Travel Industry Association; Laura Huffman, The Nature Conservancy; Trace Finley, United Corpus Christi Chamber of Commerce; Elvia Aguilar and Erica Lozano, Visit Corpus Christi; Garrett Dorsey; Carolyn Dorsey; Justin Hudman; Deanna L. Kuykendall; Darryl Meadows)

Against — (*Registered, but did not testify*: Jay Gopal)

On — Robin Riechers and Bob Sweeney, Texas Parks and Wildlife Department; (*Registered, but did not testify*: Jarret Barker and Lance Robinson, Texas Parks and Wildlife Department; Joe Fox, Texas A&M

University Corpus Christi)

BACKGROUND: Parks and Wildlife Code sec. 11.032 requires the Texas Parks and Wildlife Department to deposit revenue from certain licensing and permit fees into the game, fish, and water safety account in the general revenue fund.

Sec. 47.0091 requires wholesale fish dealers to purchase aquatic products for resale only from holders of certain licenses.

DIGEST: CSHB 1300 would establish and set requirements for a cultivated oyster mariculture program in Texas.

Cultivated oyster mariculture program. The Parks and Wildlife Commission would be required to adopt rules to establish a program governing cultivated oyster mariculture, or the process of growing cultivated oysters. The bill would define a cultivated oyster as an oyster grown at any point in the life cycle of the oyster in or on an artificial structure suspended in water or resting on the bottom of a body of water.

The rules adopted by the commission could establish requirements for:

- the location and size of a cultivated oyster mariculture operation;
- the taking, possession, transport, movement, and sale of cultivated and broodstock oysters;
- marking structures for the cultivation of oysters in a mariculture operation; and
- fees and conditions for use of public resources, including broodstock oysters and public water.

The Texas Parks and Wildlife Department (TPWD) would have to coordinate with the departments of Agriculture and State Health Services, the General Land Office, and the Texas Commission on Environmental Quality in the adoption of rules. The Parks and Wildlife Commission would have to adopt rules to implement the bill by August 31, 2020.

Permit. A person could not engage in cultivated oyster mariculture without having a cultivated oyster mariculture permit. Rules adopted by the Parks and Wildlife Commission could establish requirements for permit applications and fees, criteria for the approval and revocation of permits, and procedures for related hearings.

A wholesale fish dealer would not be able to purchase cultivated oysters from any person or entity in the state unless the oysters were purchased from a permit holder.

Penalties. It would be a class B Parks and Wildlife misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) for a person to:

- engage in cultivated oyster mariculture without a permit;
- sell, barter, or offer to sell or barter a cultivated oyster except as authorized under the bill;
- place a cultivated oyster in a natural or private oyster bed;
- place a structure related to cultivated oyster mariculture on coastal public land unless the person obtained a lease or easement under other state law; or
- violate a rule adopted under the bill.

If conduct constituted an offense under the bill and an offense for the failure to obtain an easement under Natural Resources Code sec. 33.112, a person could be prosecuted for either or both offenses.

Deposit and use of fees. TPWD would be required to deposit fees related to cultivated oyster mariculture into the game, fish, and water safety account. TPWD would have to deposit 20 percent of those fees into the cultivated oyster mariculture cleanup subaccount to be used only for the cleanup of illegal or abandoned cultivated oyster mariculture equipment and related debris in public water.

Applicability. A structure used to grow oysters that was part of a cultivated oyster mariculture operation would not be subject to location requirements under state law regulating public and private oyster beds.

State laws on oyster licensing and permitting requirements and regulations adopted by the Parks and Wildlife Commission on the taking, possession, purchase, and sale of oysters would not apply to activity under a cultivated oyster mariculture permit.

In the event of conflict, a rule adopted under the bill would prevail over a rule issued under the Uniform Wildlife Regulatory Act or state law regulating oysters.

State law regarding requirements for state agency rules increasing costs to regulated persons would not apply to rules adopted under the bill.

The bill would take effect September 1, 2019.

**SUPPORTERS
SAY:**

CSHB 1300 would create new economic opportunities by developing the state's coastal resources and providing an alternative, sustainable source for Texas oysters. In recent years, droughts, hurricanes, and industrial-scale harvesting pressure have changed the Texas coastline and caused damage to the oysters that grow in its estuaries, resulting in a decline in oyster yields. Even though Texas has one of the largest coastal shorelines in the nation, it is the only coastal state that does not engage in cultivated oyster mariculture. By creating such an industry, this bill would benefit coastal economies, better the environment, and meet an increasing demand for oysters.

The bill would positively impact Texas' coastal economies by boosting tourism, helping restaurants, and creating jobs. The value of oysters continues to increase, especially those destined for the half-shell market. As a result, interest in off-bottom oysters has increased. Currently, restaurants have to import boutique, farm-grown half-shell oysters from other states. By allowing for cultivated oyster mariculture in Texas, restaurants and distributors would have additional, local sourcing options for oysters to fit this niche need and growing demand. Distributors could sell Texas products not only in state but also to other states. Further, cultivated oyster mariculture operations would create job opportunities along the coast and give current oyster harvesters, both small and large

producers, and commercial and recreational fishermen an additional revenue stream. This bill would ensure producers had a more stable year-round supply of high-quality Texas oysters.

Cultivated oyster mariculture would benefit the environment by cleaning the water and helping the wild oyster reefs, which are habitats for important game fish. Oyster fishing can have negative effects on the environment, and current harvesting methods are unsustainable for the oyster industry. This bill would help take pressure off of the reefs to allow wild oysters to grow more prolifically.

This bill would balance the interests of commercial oyster producers, recreational fishermen, tourists, and conservation groups. The Texas Parks and Wildlife Department already has conducted a marine spatial planning analysis and identified coastal areas that could support oyster production with minimal conflict, including with oil and gas leases, pipeline rights-of-way, navigation channels and ports, commercial and recreational fishing grounds, recreational swimming and boating, and sensitive natural resources. Further, the bill would provide the Parks and Wildlife Commission with flexibility in adopting rules, ensuring the appropriate balance between mariculture operations and all other interests was considered during the process of establishing the cultivated oyster mariculture program.

OPPONENTS
SAY:

Other states have experienced complications with siting the cultivated oyster mariculture operations proposed by CSHB 1300, and the Legislature and the Parks and Wildlife Department should be careful to weigh all the interests of coastal communities. Residents of other states have voiced concerns that the location of oyster farms can result in the loss of areas for recreational activities, such as swimming and boating. Coastal waterfront property owners have also raised concerns about the presence of floating cages used in these commercial operations. Cultivated oyster mariculture operations also could reduce economic opportunity for some workers, including ecotourism operators, some recreational and commercial fishermen, and other coastal industry professionals.