

SUBJECT: Continuing the Texas Parks and Wildlife Department

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

VOTE: 6 ayes — Homer, D. Howard, T. King, Kleinschmidt, Phillips, Thibaut
0 nays
3 absent — Dukes, Kuempel, McCall

WITNESSES: For — Evelyn Merz, Lone Star Chapter, Sierra Club; (*Registered, but did not testify:* Janice Bezanson, Texas Conservation Alliance, George Bristol, Texas Coalition for Conservations; Joey Park, Texas Wildlife Association, Coastal Conservation Association Texas)

Against — None

On — Earl Chilton, Robert Goodrich, Carter Smith, Texas Parks and Wildlife Department; Steve Hopson, Texas Sunset Commission

BACKGROUND: The Texas Parks and Wildlife Department (TPWD) resulted from a merger of the Game and Fish Commission and the State Parks Board in 1963. The department is charged with protecting and conserving Texas' fish and wildlife resources, managing and operating the state park system, and educating the public on laws pertaining to fish and game, boating and firearm safety, and habitat and wildlife conservation. The agency's mission is to manage and conserve the natural and cultural resources of Texas and to provide hunting, fishing, and outdoor recreation opportunities for the use and enjoyment of present and future generations.

TPWD has nine active commission members appointed by the governor with the advice and consent of the Senate. Commission members serve staggered terms of six years, with the terms of three members expiring every two years. The terms expire on January 31 of odd-numbered years.

TPWD's executive director oversees agency operations. TPWD is organized into 11 divisions. All divisions of the agency have staff in Austin and in regional and field site offices, except for administrative divisions. About 76 percent of TPWD employees are stationed away from

the headquarters office in Austin. There are a total of 3,100 full-time equivalent positions.

For fiscal 2008-09, the Legislature appropriated \$664.8 million to TPWD. About half of the funds are dedicated general revenue, mostly derived from fees collected from hunters, anglers, boaters, and visitors to state parks.

TPWD last underwent Sunset review in 2001 and was continued by the 77th Legislature. The agency is subject to the Texas Sunset Act and is scheduled to expire September 1, 2009, unless continued by the Legislature.

DIGEST:

CSHB 3391 would continue the TPWD until September 1, 2021. It would require the TPWD to establish an internal affairs office, adjust current regulation of exotic aquatic plants, allow the commission to join the Interstate Wildlife Violator Compact for a multi-state approach to handling violations of fish and game laws, and pursue the transfer of the Parrie Haynes Ranch Trust from the Texas Youth Commission to TPWD.

The bill would add and modify standard sunset provisions governing membership of the commission, maintenance of information on complaints, use of technology, and rulemaking and dispute resolution.

Establishment of an internal affairs office. The executive director would be required to establish the office of internal affairs, which would have jurisdiction over investigations of cases alleging criminal conduct on department property by on-duty employees or by officers performing off-duty work related to their official duties. An investigation could be initiated only by the executive director or the Texas Parks and Wildlife Commission.

The office of internal affairs would oversee and review, but need not conduct, all investigation.

The executive director would appoint the head of the office, who would serve until removed by the executive director. The head of the office would be required to:

- report directly to the executive director on investigations;
- report to the executive director for administrative purposes;

- provide the executive director or commission with information on investigations as appropriate; and
- present at each commission meeting a summary of information on investigations, including the number, type, and outcome of investigations, trends, and recommendations.

Regulation of exotic aquatic plants. The TPWD would be required, by rule, to publish a list of exotic plants that were approved for importation or possession in this state without a permit. An exotic aquatic plant would be a non-indigenous aquatic plant that was not normally found in aquatic or riparian areas of this state.

The agency would have to ensure that the rules were as permissive as possible without allowing the importation or possession of plants that posed environmental, economic, or health problems. A person could not import into or possess in this state an exotic aquatic plant unless the plant was on the approved list or the person had an exotic species permit.

In compiling the approved list, TPWD would be required to evaluate the potential harm that could be caused by having the plant in this state. The process would have to include:

- a risk assessment model to help determine the potential harm;
- published scientific research findings;
- findings from regulatory agencies; or
- scientific analyses from third-party laboratories

The approved list would include an exotic aquatic plant that was widespread in this state and was not a cause of environmental, economic, or health problems.

The commission would be required to exercise final approval for the inclusion of each plant on the approved list.

The TPWD would have to continue to maintain and publish the list of harmful exotic aquatic plants only until the list of approved plants was published. The initial approved list would be required to be published no later than December 31, 2010, and the TPWD could not enforce the permit requirements until the list was published.

TPWD would be required to develop an expedited process for a previously unknown exotic aquatic plant to be included on the approved list. A plant could be removed from the list if further analysis indicated it should not be on the list, and the TPWD could enact an emergency rule if the plant were determined to cause environmental, economic, or health problems.

The TPWD would be allowed to issue an exotic species permit for an exotic species plant *not* on the approved list if the plant was used:

- as an experimental organism in a medical or scientific research program;
- as part of an TPWD approved exhibit in a public aquarium or zoo; or
- for an appropriate use that would not result in potential environmental, economic, or health problems.

When leaving a body of water in this state, a person would be required to remove and dispose of any plant not on the list that could be clinging to their watercraft or trailer.

Joining the Interstate Wildlife Violator Compact (IWVC). CSHB 3391 would allow the commission to adopt rules and delegate authority to the TPWD executive director in order to enter into the IWVC. The commission could withdraw from the compact if necessary to protect the interests of the state.

Transfer of Parrie Haynes Ranch Trust. The TPWD and Texas Youth Commission (TYC) would be required to seek representation by the attorney general to pursue a modification of the terms and purposes of the Parrie Haynes Trust so that control of the trust was transferred to TPWD. TPWD would be designated as the state agency responsible for the trust, including all trust property and investments, and rights associated with the trust so that the purposes of the trust could be expanded to include benefitting disadvantaged and other youths of the state.

This provision would expire when a court ordered the modifications to the trust or September 1, 2021, whichever came first.

Comments on proposed projects and permits for resource protection. CSHB 3391 would require a local or state agency or private organization that received a TPWD recommendation or informational comments to

respond, in writing, about the disposition of the comments, a description of any modification made to the proposed project, and any reason for disagreement. The response would be required within 90 days of making a decision or taking action on the recommendation.

Expansion of types and uses of funds deposited into general revenue-dedicated account. The bill would allow private contributions, grants, donations, and federal funds received for state park-related purposes to be deposited into the state parks account, Texas recreation and parks account, and the large county municipality recreation and parks account. The bill would allow, rather than require, the deposit of federal funds into the state land and water conservation account. The bill would specify that money in the Texas recreation and parks account could be used for planning, acquisition, operation, development, and administrative expenses for outdoor recreation and conservation resources. Money in the large county and municipality recreation and parks account could be used for administrative expenses related to the management of federal programs, and the distribution of funds in that account would only apply to state revenue in the account.

The bill would take effect September 1, 2009.

**SUPPORTERS
SAY:**

Establishment of an internal affairs office. Although TPWD has a well structured internal affairs process, it exists only in the agency's internal policies and is not established in law or commission rule and could be abolished or weakened by future directors. Currently, the commission does not have a direct connection to Internal Affairs, limiting its awareness of problems within the agency. Other state agencies have internal affairs functions that are established in statute.

Internal affairs offices serve to protect the public and the reputation of state agencies by investigating possible wrongdoings by personnel. The ability to conduct internal affairs investigations that are independent of the agency's supervisory chain of command is necessary to fully address potential wrongdoing within the agency. Equally important is the ability of an agency's policymaking body to be aware of investigations and to take action to ensure that problem areas receive adequate attention.

Regulation of exotic aquatic plants. CSHB 3391 would require the TPWD to create a list of aquatic plants that could be imported and possessed within Texas without a permit. The importation of exotic

aquatic plants poses unknown future risks to the Texas environment that cannot be prevented by TPWD's current efforts. TPWD's current efforts to regulate harmful exotic aquatic species is by keeping a black list of species that cannot be imported or possessed in the state without a permit. Under this approach, TPWD currently allows the free importation of all species not currently on the black list.

Texas' semi-tropical, aquatic environment is especially prone to negative effects by invasive plants which can crowd out native species, destroy habitats, deplete oxygen from water, and spread so rapidly as to render waterways unusable to boat traffic. Many new plant species can be imported even though no information is available about the potential harm that they could cause. New exotic plants can invade rivers and lakes before the TPWD can research and add the species to the list.

Other states and other nations have implemented white list processes to allow only the importation of exotic species that are proven not to harm the environment.

Joining the Interstate Wildlife Violator Compact (IWVC). CSHB 3391 would authorize TPWD to join the IWVC and gain the benefits of a multi-state approach to handling violations of fish and game laws. Texas would need to change its wildlife laws to match those of other IWVC states, but through rulemaking, the commission would have the flexibility to indicate which laws of other states would be recognized as violations for Texas licensees. Enforcing wildlife laws against out-of-state violators is burdensome on game wardens because game wardens are having to arrest and transport non-residents to appear before a magistrate for offenses that only require issuing a citation to a Texas resident. This process would ensure that Texas game wardens were able to spend more time in the field looking for violations, enable Texas sportsmen to receive citations instead of being arrested while in other states, and enhance the effectiveness of Texas wildlife laws by preventing violators from escaping consequences by crossing a state line. Other states have joined the Interstate Wildlife Violator Compact as a means of enforcing hunting and fishing laws on non-residents.

Transfer of Parrie Haynes Ranch Trust. In 1957, Parrie Haynes left her Bell County ranch and assets in trust to the State Orphan Home to benefit orphans. The TYC currently holds the ranch and leases it to TPWD for youth outreach and education. TPWD and its partners have developed the

property to provide outdoor access and education primarily to Texas' youth. Because TPWD only leases the ranch, it is reluctant to continue to put resources into the property. TPWD is well positioned to operate the ranch in accordance with Parrie Haynes' wishes and to increase youth participation and appreciation of Texas' natural and cultural resources. By keeping the Parrie Haynes Ranch at TYC, the state misses an opportunity to provide improved outdoor access to the state's youth.

Comments on proposed projects or permits for resource protection.

This change would improve the protection of the state's fish and wildlife and allow TPWD to better understand the success, value, and effectiveness of its resource review function. In addition, by knowing if a proposed permit or project did or did not incorporate the recommendations, TPWD would be aware of the impacts resulting from the project. This would help the agency be more proactive in its fish and wildlife protection activities in the field.

**OPPONENTS
SAY:**

Transfer of Parrie Haynes Ranch Trust. While it is agreed that TPWD is well positioned to operate the ranch in accordance with Parrie Haynes' wishes and to increase youth participation and appreciation of Texas' natural and cultural resources, this can be done without any change to the Parrie Haynes Trust. TYC should continue to hold the Parrie Haynes Ranch property and lease it to TPWD. TYC uses the \$48,000 a year in lease proceeds for the benefit of orphan children within the care of the agency, most often to support their pursuit of vocational and academic degrees.

Boat registration. CSHB 3391 would not address the recommendations of the Sunset Commission regarding assisting counties in offering boat registration and title services.

NOTES:

The committee substitute differs from the bill as filed by including private organizations in the requirement to respond to TPWD comments on projects that affect fish and wildlife resources and establishing a 90-day deadline for responses by state and local agencies and private organizations; clarifying the types of cases over which internal affairs would have jurisdiction; specifying that the definition of exotic aquatic plants includes plants not normally found in aquatic and riparian areas, not just public waters; allowing TPWD to remove an exotic aquatic plant from the approved list on an emergency basis; providing authority for TPWD to issue permits for plants not appearing on the approved list for certain

appropriate uses; extending the deadline for TPWD to create the list of approved plants from 12 to 16 months; providing rulemaking authority to TPWD regarding joining the IWVC; and expanding the type and use of funds that may be deposited into TPWD general revenue-dedicated accounts.

The companion bill, SB 1010 by Hegar, was considered in a public hearing by the Senate Government Organization Committee on March 23 and left pending.