

BILL ANALYSIS

Senate Research Center

S.B. 1132
By: Perry
Agriculture, Water & Rural Affairs
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In carrying out its mission, the Texas Parks and Wildlife Department (TPWD) is authorized to develop inventions, products, or creative works for which it is appropriate and necessary to obtain intellectual property protection, such as a patent, trademark, or copyright. For example, TPWD biologists at the Kerr Wildlife Management Area are working to develop a toxicant for feral hogs, for which it may be appropriate to seek patent protection. S.B. 1132 clarifies TPWD authority regarding intellectual property and ensures that TPWD is able to own and protect intellectual property developed or acquired by TPWD and that TPWD can protect certain information associated with the development of intellectual property.

Although there are some references to licensing, obtaining royalties, and conducting research in the Parks and Wildlife Code, there is a lack of clear general authority regarding the protection of intellectual property. Currently, TPWD has authority to license or obtain royalties regarding certain TPWD products, under Sections 11.055 (Wildlife Art Prints, Decals, and Stamps), 11.056 (Costs of Wildlife Art Prints, Decals, and Stamps), 12.006 (Publications on Wildlife Values and Management), 13.017 (Publications on Parks), and 13.0155 (Use of Parks and Wildlife Department Brand), Parks and Wildlife Code.

Although current law allows TPWD to license and obtain royalties on certain TPWD products, there is no general express authority to hold and protect intellectual property. This legislation will clearly authorize TPWD to do the following:

- Secure and maintain legal protections for intellectual property (e.g., patent, trademark, copyright);
- Commercialize intellectual property (e.g., obtain royalties for patents, trademarks or copyrights);
- Protect intellectual property (e.g., withhold certain information from public disclosure);
- Deposit funds generated from intellectual property to TPWDs funds;
- Share royalties with inventors; and
- Adopt policies regarding intellectual property

S.B. 1132 amends current law relating to the protection and use of certain products, information and technology of the Parks and Wildlife Department.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 11, Parks and Wildlife Code, by adding Subchapter M, as follows:

SUBCHAPTER M. INTELLECTUAL PROPERTY

Sec. 11.351. PROTECTION AND USE OF INTELLECTUAL PROPERTY.

(a) Provides that the Texas Parks and Wildlife Department (TPWD) may:

(1) apply for, register, secure, hold, and protect under the laws of the United States, any state, or any nation:

(A) a patent for an invention or discovery of, or improvement to, any process, machine, manufacture, or composition of matter;

(B) a copyright for an original work of authorship fixed in any tangible medium of expression now known or later developed that can be perceived, reproduced, or otherwise communicated;

(C) a trademark, service mark, collective mark, or certification mark for a word, name, symbol, device, or slogan, or any combination of those items, that has been adopted and used by TPWD to identify goods or services and distinguish those goods or services from other goods or services; or

(D) other evidence of protection or exclusivity issued in or for intellectual property;

(2) enter into a contract with an individual or company for the sale, lease, marketing, or other distribution of intellectual property of TPWD;

(3) obtain under a contract entered into under Subdivision (2) a royalty, license right, or other appropriate means of securing appropriate compensation for the development or purchase of intellectual property of TPWD; and

(4) waive or reduce the amount of a fee, royalty, or other thing of monetary or nonmonetary value to be assessed by TPWD if TPWD determines that the waiver will:

(A) further the goals and missions of TPWD; and

(B) result in a net benefit to the state.

(b) Provides that intellectual property for which TPWD has applied for or received a patent, copyright, trademark, or other evidence of protection or exclusivity is excepted from required disclosure under Chapter 552 (Public Information), Government Code.

(c) Requires that money paid to TPWD under this section be deposited to the credit of the game, fish, and water safety account or the state parks account, as appropriate.

(d) Provides that it is not a violation of Chapter 572 (Personal Financial Disclosure, Standards of Conduct, and Conflict of Interest), Government Code, or another law of this state for an employee of TPWD who conceives, creates, discovers, invents, or develops intellectual property to own or to be awarded any amount of equity interest or participation in the research, development, licensing, or exploitation of that intellectual property with the approval of the Parks and Wildlife Commission (commission).

(e) Requires the commission to institute intellectual property policies for TPWD that establish minimum standards for:

- (1) the public disclosure or availability of products, technology, and scientific information, including inventions, discoveries, trade secrets, and computer software;
- (2) review by TPWD of products, technology, and scientific information, including consideration of ownership and appropriate legal protection;
- (3) the licensing of products, technology, and scientific information;
- (4) the identification of ownership and licensing responsibilities for each class of intellectual property; and
- (5) royalty participation by inventors and TPWD.

SECTION 2. Effective date: upon passage or September 1, 2015.