

BILL ANALYSIS

H.B. 2895
By: Phillips
Culture, Recreation, & Tourism
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Texas Parks and Wildlife Department (TPWD) currently has authority to collect damages under parallel provisions of the Parks and Wildlife Code and the Water Code when fish and wildlife are killed or injured by human activities. The Water Code (§7.109(b)) addresses damages for kills or injuries caused by violations of the Water Code or of regulations or permits issued under the Water Code. The Parks and Wildlife Code addresses damages for kills or injuries caused either by pollution (§12.0011(b)(1)) or by any violation of the code or of regulations or proclamations issued under the code (§§12.301-12.307).

Although the damages provisions are largely parallel in the Water Code and the Parks and Wildlife Code, there is an important difference. The Water Code includes a provision authorizing TPWD to recover investigation costs, reasonable attorney's fees, and reasonable expert witness fees in addition to damages. This last provision was omitted from the parallel provisions of the Parks and Wildlife Code. H.B. 2895 addresses this technical loophole in the law that currently makes it difficult for TPWD to collect its costs for investigating fish or wildlife kills that are not caused by a violation of the Water Code.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

- SECTION 1. Amends Chapter 12, Subchapter D of the Parks and Wildlife Code by adding a new §12.308(a) authorizing TPWD to recover its actual investigation costs, reasonable attorney's fees and reasonable expert witness fees incurred as a result of pursuing a case against a person who kills, catches, takes, possesses or injures any fish, shellfish, reptile, amphibian, bird or animal in violation of the Parks and Wildlife Code. Section 1 also adds §12.308(b) which specifies that any such amounts recovered shall be placed in the same operating accounts from which the expenditures occurred.
- SECTION 2. Amends Chapter 103, Subchapter B, §103.022 of the Government Code (Additional Court Fees and Costs) by adding a new subsection (21) to the list of miscellaneous fees and costs that shall be paid or collected. New subsection (21) adds investigation costs, reasonable attorney's fees and reasonable expert witness fees as recoverable fees and costs in a civil or criminal case for recovery of the value of any fish, shellfish, reptile, amphibian, bird or animal.
- SECTION 3. Makes the application of the law in a civil suit prospective only. Applies to civil suits only if they are commenced on or after the effective date of the Act.
- SECTION 4. Effective on September 1, 2005.

EFFECTIVE DATE

September 1, 2005

H.B. 2895 79(R)