

BILL ANALYSIS

S.B. 1603
By: Estes
Culture, Recreation, & Tourism
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The 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 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 or by any violation of the Parks and Wildlife Code or of regulations or proclamations issued under the Parks and Wildlife Code. 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.

As proposed, S.B. 1603 authorizes TPWD to recover actual investigation costs, reasonable attorney's fees, and reasonable expert witness fees incurred as a result of pursuing a case against any person who kills, catches, takes, possesses, or injures any fish, shellfish, reptile, amphibian, bird, or animal in violation of a provision of the Parks and Wildlife Code. The bill specifies that all such amounts recovered shall be credited to the operating funds from which the expenditures occurred. S.B. 1603 also adds the actual amounts of investigation costs, reasonable attorney's fees and reasonable expert witness fees to the list of miscellaneous fees and costs that shall be paid or collected in either a civil suit or a criminal prosecution. These amendments correct the 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 Subchapter D, Chapter 12, Parks and Wildlife Code, by adding Section 12.308, as follows:

Sec. 12.308. CERTAIN COSTS RECOVERABLE. (a) Authorizes the actual costs of investigation, reasonable attorney's fees, and reasonable expert witness fees incurred by the Parks and Wildlife Department in a civil suit under this subchapter (Recovery by the State for Value of Fish, Shellfish, Reptile, Amphibian, Bird, or Animal), to be recovered in addition to damages for the value of any fish, shellfish, reptile, amphibian, bird, or animal unlawfully killed, caught, taken, possessed, or injured.

(b) Requires any amounts recovered under this section to be credited to the same operating accounts from which the expenditures occurred.

SECTION 2. Amends Section 103.022, Government Code, to require the actual costs of investigation, reasonable attorney's fees, and reasonable expert witness fees in a civil suit or a criminal prosecution for recovery of the value of any fish, shellfish, reptile, amphibian, bird, or animal to be paid or collected. Makes a nonsubstantive change.

SECTION 3. Makes application of this Act prospective to a civil suit commenced on or after the effective date of this Act.

SECTION 4. Effective date: September 1, 2005.

EFFECTIVE DATE

September 1, 2005