

BILL ANALYSIS

Senate Research Center
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S.B. 1124
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Fish advisories are important communications to the public regarding the potential risks associated with consuming fish from bodies of water around Texas. The Department of State Health Services (DSHS) is responsible for conducting fish surveys related to fish advisories and for issuing the advisories. Currently, there are no statutory or regulatory provisions specifically concerning how fish surveys are to be conducted, how stakeholders should be involved, or how the information contained in fish advisories should be communicated to the public. Guidance from the United States Environmental Protection Agency (EPA) stresses the importance of stakeholder involvement in each step of developing a fish advisory.

As proposed, S.B. 1124 requires DSHS to implement a stakeholder and public involvement process when undertaking a fish survey that may result in a fish advisory.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Committee in SECTION 1 (Section 463.098, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter G, Chapter 436, Health and Safety Code, by adding Sections 436.092 through 436.098, as follows:

Sec. 436.092. DUTIES OF DIRECTOR. Requires the director of the Texas Department of State Health Services (DSHS) (director) to take certain actions before conducting a sanitary, chemical, or bacteriological survey (survey) of a body of public water.

Sec. 436.093. NOTICE TO STAKEHOLDERS. (a) Requires the director to identify persons with a direct interest in a body of public water that is the subject of a proposed survey, including certain individuals.

(b) Requires the director to mail notice of the proposed survey to each person listed or identified under Subsection (a) not later than the 60th day before the proposed survey is scheduled to begin. Requires the notice to state certain information.

Sec. 436.094. QUALITY ASSURANCE PROJECT PLAN. Requires the quality assurance project plan for a survey of a body of public water to include certain descriptions and statements.

Sec. 436.095. REVIEW AND COMMENT PERIOD. (a) Requires the director to provide a review and comment period of at least 30 days during which interested persons and other members of the public are authorized to comment on the proposed survey of a body of public water and the proposed quality assurance project plan.

(b) Requires the director to consider each comment received during the review and comment period and provide a written response to the comments before conducting the proposed survey.

(c) Requires the director's response to comments to either accept or reject each comment and state the reason the comment was accepted or rejected.

Sec. 436.096. NOTICE TO PUBLIC OF RESPONSE TO COMMENTS AND QUALITY ASSURANCE PLAN. (a) Requires DSHS to make available to the public the director's written response to comments and a final quality assurance project plan after the close of the review and comment period and before a proposed survey of a body of public water is conducted.

(b) Requires the director to mail notice of the response to comments and final quality assurance project plan to each person listed by or identified under Section 436.093(a) and to each person who submitted a comment during the review and comment period.

Sec. 436.097. NOTICE ON COMPLETION OF SURVEY. (a) Requires the director to notify the public of the survey results and of any declaration of a prohibited area or fish advisory the director considers necessary based on the survey results on completion of a survey of a body of public water.

(b) Requires notice under this section to be published at least once in a newspaper regularly published or circulated in each county in which the body of public water is located. Requires the director to mail the notice to each person listed by or identified under Section 436.093(a) and to each person who submitted a comment during the review and comment period.

Sec. 436.098. FISH ADVISORIES. (a) Requires the executive commissioner of the Health and Human Services Commission (HHSC) to adopt rules in accordance with this section to establish standards for the form and content of health advisories concerning consumption of fish to ensure that the advisories communicate the appropriate level of risk associated with fish consumption.

(b) Requires a fish advisory to distinguish certain risks if survey data obtained from a body of public water suggest a distinction is appropriate.

(c) Requires rules adopted under this section to address other areas of potential public concern that may arise from the issuance of a fish advisory, including swimming, boating, catch-and-release fishing, and other recreational activities.

(d) Requires DSHS to provide ongoing assistance to the public and interested persons in the effective communication of the advisory through preparation of circulars, maintaining posted signs, and providing a DSHS contact for questions that arise regarding the advisory if a fish advisory is issued.

(e) Requires rules adopted under this section to require that DSHS review each fish advisory at least once during each four-year period. Requires the review to address and consider certain items at a minimum.

(f) Authorizes DSHS to accept gifts and grants to fund surveys related to fish advisories. Requires rules adopted under this section to include provisions to ensure that appropriate information concerning the conduct of surveys supported by the gifts and grants is available to interested persons and other members of the public, and the surveys supported by gifts and grants produce reliable data.

SECTION 2. Requires the executive commissioner of HHSC to adopt rules as necessary to implement this Act not later than January 1, 2008.

SECTION 3. Makes application of this Act to a survey of a body of public water prospective to January 1, 2008.

SECTION 4. Makes application of this Act to a fish advisory prospective to January 1, 2008.

SECTION 5. Effective date: September 1, 2007.