

## **BILL ANALYSIS**

Senate Research Center  
82R5475 JSC-F

S.B. 506  
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Health & Human Services  
3/31/2011  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Mercury exposure is especially dangerous to the unborn and young children because of risk of neurological damage, including impairment of memory, language, and motor skills.

Even small quantities in the environment are dangerous because mercury accumulates in the body. Adults can build up mercury levels from consuming food such as fish with high levels of mercury. A pregnant woman can pass mercury to her unborn child. Thus, people who rely on locally caught fish for their protein sources can have significant risks in areas of Texas with high levels of mercury contamination in fish.

The Texas Department of State Health Services (DSHS) posts fish consumption advisories at about a dozen lakes and rivers, as well as some areas of the coastal waters. These advisories (and impaired water decisions) are based on the State's position that warnings should be posted and state regulatory actions considered if contamination in fish reaches or exceeds 0.7 mg/kg.

The Environmental Protection Agency (EPA) and most other states use triggers of less than 0.7 mg/kg for such advisories or regulatory actions. Many states use the 0.3 mg/kg for consumption advisories. The EPA recommends 0.3 mg/kg for regulatory actions. Louisiana and Oklahoma uses 0.5 mg/kg for such actions. New Mexico is lowering its limit to 0.029 mg/kg.

S.B. 506 proposes to use the 0.3 mg/kg level for consumption advisories. With this, Texas would provide advisories on five to 10 times the number of water bodies it currently covers.

As proposed, S.B. 506 amends current law relating to consumption advisories for mercury contamination in fish, crustaceans, molluscan shellfish, and other aquatic and terrestrial animals.

[**Note:** While the statutory reference in this bill is to the Texas Department of Health (TDH), the following amendments affect the Department of State Health Services, as the successor agency to TDH.]

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Section 436.092, 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 and 436.093, as follows:

Sec. 436.092. SURVEY. (a) Authorizes the director of the Texas Department of Health (director; TDH) to rely on surveys of the levels of mercury and mercury compounds in fish, crustaceans, molluscan shellfish, and other aquatic or terrestrial animals living in or near bodies of water in or bordering on this state that have been conducted by state and federal agencies, institutions of higher education, or other organizations that the director determines reliable.

(b) Requires the director to annually notify the public of the survey results and of any declaration of a prohibited area or consumption advisory necessary based on the survey results.

(c) Authorizes the executive commissioner of the Health and Human Services Commission (executive commissioner) to adopt rules governing the surveys used or public notifications required under this section.

Sec. 436.093. CONSUMPTION ADVISORY FOR MERCURY. (a) Requires the executive commissioner to annually issue or update consumption advisories for fish, crustaceans, molluscan shellfish, and other aquatic or terrestrial animals living in or near bodies of water in or bordering on this state if the surveys under Section 436.092 indicate that levels of methyl mercury in the tissues of fish or other animals that are consumed by the public equal or exceed 0.3 mg/kg.

(b) Authorizes the executive commissioner to issue a consumption advisory if the survey shows levels lower than 0.3 mg/kg if the executive commissioner determines that the risks of consumption of the animal require an advisory.

(c) Requires a consumption advisory to distinguish risks related to particular fish or other animal species, and risks to sensitive or at-risk populations, such as children.

(d) Requires the executive commissioner, in consultation with the Texas Parks and Wildlife Commission (commission) and other state or federal agencies, to post consumption advisories on the Internet website of TDH, at any public body of water that is the subject of an advisory, and through any other means of public notification that the executive commissioner determines appropriate.

(e) Requires the TDH to provide on its Internet website a map of public bodies of water in this state for which a consumption advisory or a consumption ban has been issued.

(f) Requires TDH to provide on its Internet website information advising the public of the risks of consuming fish or other animals covered by a consumption advisory under this section.

(g) Authorizes TDH to use its Internet website or other means to educate the public about the risks of consumption of fish or other animals with elevated levels of mercury or mercury compounds.

SECTION 2. Provides that notwithstanding Sections 436.092 and 436.093, Health and Safety Code, as added by this Act, a consumption advisory is not required to be issued before February 1, 2012.

SECTION 3. Effective date: upon passage or September 1, 2011.