

BILL ANALYSIS

S.B. 1212
By: Estes
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The zebra mussel, a state-listed exotic harmful shellfish, was introduced to Lake Texoma in 2009 by unknown parties. Subsequently, zebra mussels were found in Sister Grove Creek, a tributary of Lake Lavon on the East Fork Trinity River, and in Lake Ray Roberts and downstream of Lake Ray Roberts on the Elm Fork Trinity River. This introduction and spread of zebra mussels in Texas will negatively impact aquatic resources in Texas and water supply districts and authorities that utilize water supplies from sources that may be infested with zebra mussels.

Section 66.007 (Exotic Harmful or Potentially Harmful Fish and Shellfish), Texas Parks & Wildlife Code, makes it unlawful to “import, possess, sell, or place into public water of this state” zebra mussels or other exotic harmful or potentially harmful fish or shellfish. Conveying water containing these invasive fish and shellfish through closed conveyance systems in accordance with an invasive species management plan approved by the United States (U.S.) Army Corps of Engineers effectively negates the harm Section 66.007 was meant to address—preventing the further introduction and propagation of invasive species in Texas. S.B. 1212 insulates water districts and authorities from liability under this state law for transporting invasive fish and shellfish, as long as such transport is accomplished in a manner where invasive species will not be further spread throughout the state, through the use of closed conveyances systems and in accordance with an invasive species management plan both approved by the U.S. Army Corps of Engineers.

S.B. 1212 amends current law relating to the applicability of certain provisions concerning the transfer of exotic species to certain transfers of water that supply populous areas.

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 Section 66.007, Parks and Wildlife Code, by adding Subsection (m), as follows:

(m) Provides that a water transfer described by this subsection is not a violation of this section (Exotic Harmful or Potentially Harmful Fish and Shellfish). Prohibits the Texas Parks and Wildlife Department from requiring a permit under this section for a water transfer described by this subsection. Provides that this subsection applies to a water transfer by a district or authority created under Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI, Texas Constitution, that:

(1) is initially conveyed by a water intake structure that is shared by at least two districts or authorities and located on a reservoir situated on the boundary of this state and another state;

(2) uses a closed conveyance system approved by the United States Army Corps of Engineers in accordance with an invasive species management plan approved by the United States Army Corps of Engineers; and

(3) contributes to a water supply that serves at least 1.5 million people, all of whom reside in an area that borders another state, contains at least 10 contiguous counties, contains at least one county with a population of more than one million, and is adjacent to a county with a population of more than one million.

SECTION 2. Provides for the effective date of this Act.

EFFECTIVE DATE

This Act takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house; otherwise, this Act takes effect September 1, 2013.