

BILL ANALYSIS

Senate Research Center
85R21338 BEF-F

H.B. 2567
By: Bailes (Nichols)
Agriculture, Water & Rural Affairs
5/11/2017
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Forest pest control policy was first developed in 1966 and later revised in 1977. While this legislation was originally created to grant the Texas Forestry Service (TFS) the authority to access private forestlands in Texas to control insect outbreaks and to suppress and mitigate native pine bark beetle attacks, TFS feels that the current policy should be updated to reflect relevant conditions Texans face today.

The purpose of this legislation remains the same in that it provides TFS the authority to control forest pest and disease outbreaks on private lands in cases where no action has been taken by the landowner and where TFS believes that this non-action can result in detrimental effects on our economy and environment. HB 2567 updates the policy on forest pest control by adjusting the definition of "forest pests" to include all forest/tree health issues facing forest and woodland owners in Texas and to also include native as well as non-native invasive insects, diseases, and plants that are deemed as harmful, injurious, or destructive to forests or trees pursuant to Chapter 19, Subchapter T of the Texas Administration Code and Chapter 71, Subchapter D of the Texas Agriculture Code.

HB 2567 also strikes redundancies in the current policy where it relates to TFS providing notification to the general public and affected forest landowners. Lastly, HB 2567 removes the \$10/acre cost of pest control to allow TFS to recoup costs of pest control at current market rates.

H.B. 2567 amends current law relating to forest pest control.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 152.001, Natural Resources Code, as follows:

Sec. 152.001. POLICY. Provides that it is the public policy of the State of Texas to mitigate and control pests threatening forest land in this state in order to protect associated ecological resources, rather than forest resources, enhance the health and maintenance of forests, promote stability of forest-using industries, ensure public safety, and conserve the ecosystem values of the forest, rather than to control forest pests in or threatening forests in this state in order to protect forest resources, enhance the growth and maintenance of forests, promote stability of forest-using industries, protect recreational wildlife uses, and conserve other values of the forest.

SECTION 2. Amends Sections 152.003(1), (2), (3), (6), and (7), Natural Resources Code, to redefine "service," "forest pests," "forest land," "infestation," "landowner," and "owner."

SECTION 3. Amends the heading to Subchapter B, Chapter 152, Natural Resources Code, to read as follows:

SUBCHAPTER B. POWERS AND DUTIES OF TEXAS A&M FOREST SERVICE

SECTION 4. Amends Section 152.016, Natural Resources Code, as follows:

Sec. 152.016. PROCEDURES FOR CONTROL. Deletes existing text requiring the Texas A&M Forest Service (service) to mail a copy to all appearing at the hearing and to all to whom notices were originally sent. Deletes existing text providing that publication as provided in this section is notice to each landowner and each tract of land in the affected area on the date of publication. Deletes existing designation of Subsection (a).

SECTION 5. Amends Sections 152.018(a), (b), and (c), Natural Resources Code, as follows:

(a) Makes nonsubstantive changes.

(b) Authorizes the notice to be given by:

(1) personal delivery to, rather than personal service on, the landowner or the person having control of the forest land;

(2) registered or certified mail directed to the landowner or person having control of the forest land at that person's last known address; or

(3) if the identity or address of the landowner or person having control of the forest land is unknown publication in one issue of a newspaper of general circulation in the county in which the land is located, or posting notice on the county's Internet website or on a bulletin board at a place convenient to the public in the county courthouse for the county in which the land is located.

Makes conforming and nonsubstantive changes.

(c) Requires a published or posted notice under Subsection (b) to include the information specified in Subsection (a), state the name of the owner, if known, and briefly describe the land to which the notice applies. Makes nonsubstantive changes.

SECTION 6. Amends Section 152.019, Natural Resources Code, as follows:

Sec. 152.019. NOTICE TO FOREST OWNER. Requires the service, if the landowner has notified the service of a forest owner under Section 152.064 (Notifying Service of Forest Owner), rather than given notice to the service of an interest in the forest on his land owned by another, as provided for in Section 152.064 of this code, to furnish the same information to the forest owner that it is required by this chapter (Forest Pest Control) to give to the landowner. Makes nonsubstantive changes.

SECTION 7. Amends Section 152.020(a), Natural Resources Code, as follows:

(a) Requires a landowner to inform the service of measures taken, rather than requires the service to keep informed of what is done, by the landowner to control, rather than take measures to control, the infestation and the results of those measures. Makes a nonsubstantive change.

SECTION 8. Amends Section 152.021, Natural Resources Code, as follows:

Sec. 152.021. New heading: CONTROL MEASURES APPLIED BY SERVICE. Authorizes the service, if the landowner or another person fails to apply the pest control measures prescribed by the service not later than the 10th day after the date notice is given under Section 152.014 (Notice of Finding of Infestation) or 152.018 (Notice to Specific Landowner), to contact the landowner to offer further assistance or to enter the land and have the forest pests controlled. Deletes existing text requiring representatives of the service, if pest control measures prescribed by the service are not applied by the landowner or any other person within 10 days from the time notice is given, as provided

in this chapter, exclusive of the date the notice is given, to enter the land and have the forest pests controlled or destroyed.

SECTION 9. Amends Section 152.022, Natural Resources Code, as follows:

Sec. 152.022. EXPENSE OF CONTROL MEASURES TAKEN BY SERVICE. (a) Requires the landowner to pay all charges and expenses of control measures taken by the service. Deletes existing text requiring all charges and expenses of destruction or control measures taken by the service, except as provided in Subsection (b) of this section, to be paid by the owner of the land on which the infestation occurred.

(b) Requires the service to charge amounts consistent with current commercial rates for control measures taken by the service. Deletes existing text requiring the cost of control, if the tract with respect to which the service conducted control measures contains 50 acres of forest land or less and the landowner in whose name the record title to the land stands owns no more than 50 acres of forest land in the county in which the infestation occurred, to be borne by the service.

SECTION 10. Amends Section 152.023, Natural Resources Code, as follows:

Sec. 152.023. CLAIM AGAINST LANDOWNER. Provides that the amount charged for control measures taken by the service constitutes a legal claim against the landowner, but does not constitute a lien on any land owned by the landowner. Deletes existing text providing that if control is undertaken by the service, the cost, not to exceed \$10 for each infested acre or part of an acre on which control measures have been employed, constitutes a legal claim against the landowner, but does not constitute a lien on any land owned by the landowner.

SECTION 11. Amends Section 152.025, Natural Resources Code, as follows:

Sec. 152.025. LANDOWNER REIMBURSEMENT. (a) Entitles the landowner, if the landowner has notified the service of a forest owner under Section 152.064, to reasonable reimbursement from the forest owner for certain amounts. Deletes existing text entitling the landowner, if the landowner has given the service notice of an interest owned by another in the forest on his land and the landowner has made expenditures for certain pest control or paid a certain legal claim, to a reasonable reimbursement for the expenses from the forest owner. Makes nonsubstantive changes. Creates this subsection from existing text.

(b) Requires that the amount of reimbursement paid by a forest owner under Subsection (a) be proportional to the interest owned in the forest by the forest owner. Creates this subsection from existing text.

SECTION 12. Amends Section 152.061, Natural Resources Code, as follows:

Sec. 152.061. GENERAL DUTY OF LANDOWNER. Requires each owner of forest land to control the forest pests on land owned by the person or under the person's direction as provided in this chapter. Makes nonsubstantive changes.

SECTION 13. Amends Section 152.062, Natural Resources Code, as follows:

Sec. 152.062. DUTY TO APPLY CONTROL MEASURES. Requires each affected landowner, not later than the 10th day after the date notice is given under Section 152.014 or 152.018, rather than within 10 days after notice is given as provided in Section 152.014 or 152.018 of this code, exclusive of the date the notice is given, to commence diligently to take measures to control the infestation as prescribed and continue this activity with all practical expedition and efficiency under the direction of the service.

SECTION 14. Amends Section 152.063(a), Natural Resources Code, as follows:

(a) Requires the landowner to notify the service of the landowner's actions and the result of those actions. Makes nonsubstantive changes.

SECTION 15. Amends Section 152.064, Natural Resources Code, as follows:

Sec. 152.064. NOTIFYING SERVICE OF FOREST OWNER. Requires the landowner, if all or part of the standing trees are owned by someone other than the landowner, either by a present right or by a future right under the terms of a valid existing contract, to notify the service of that fact and furnish the name and address, rather than the names and addresses, of each forest owner not later than the 10th day after the date the landowner receives notice, rather than within 10 days after receiving the notice, from the service under Section 152.014 or 152.018. Makes nonsubstantive changes.

SECTION 16. Amends Section 152.105, Natural Resources Code, as follows:

Sec. 152.105. INJUNCTIVE RELIEF FOR LANDOWNER. Authorizes the landowner, if the final judgment in an action seeking relief from a notice is in favor of the landowner, to be entitled to injunctive relief against the use of any control measures on the landowner's forest land by the service until a time determined by the court, rather than until such time as the court may determine. Makes nonsubstantive changes.

SECTION 17. Repealer: Section 152.003(9) (relating to the definition of "tract"), Natural Resources Code.

SECTION 18. Effective date: September 1, 2017.