

- SUBJECT:** State aquatic vegetation management plan
- COMMITTEE:** State Recreational Resources — committee substitute recommended
- VOTE:** 7 ayes — Kuempel, Cook, J. Davis, Ellis, Homer, Hope, Ritter
0 nays
2 absent — Alexander, Crownover
- WITNESSES:** (*On committee substitute:*)
For— Tim C. Moore, Texas Aquaculture Association and SePro; Susan Pitman, The Chemical Connection

Against — None
- BACKGROUND:** Hydrilla, water hyacinth, and other species of aquatic vegetation considered to be pests have become an increasing problem in Texas. These plants affect water flow, water supply, and can impede boating for recreation or commercial purposes. Hydrilla is found in about 85 reservoirs throughout the state. It is generally believed that hydrilla can be managed, but not eradicated.
- DIGEST:** CSHB 3079 would require Texas Parks and Wildlife Department (TPWD) to develop, adopt, and monitor a state aquatic vegetation management plan in cooperation with Texas Natural Resource Conservation Commission (TNRCC), Texas Department of Agriculture (TDA), water districts, providers of public drinking water, and other political subdivisions of the state that have jurisdiction over public bodies of surface water. It also would establish the aquatic vegetation management fund as a mechanism to support the plan, without making appropriations.
- The statewide plan would:
- ! establish minimum standards for government entities regulating public bodies of surface water;
 - ! require any application of aquatic herbicides to comply with label requirements approved by the U.S. Environmental Protection Agency (EPA);

- ! outline notice requirements to public drinking water providers two river miles below a proposed herbicide application site;
- ! provide for the oversight, public notification, and enforcement of all aquatic herbicide use to protect fish and wildlife and to prevent unreasonable risk from the use of any aquatic herbicides; and
- ! ensure that aquatic herbicide application would not exceed limits on contaminants in drinking water set by TNRCC and EPA.

Governing bodies would be required to adopt the statewide plan or develop a local plan, approved by TPWD, TNRCC, and TDA, meeting minimum standards of the state plan with similar notification rules.

CSHB 3079 would provide standards for the application of aquatic pesticides and persons performing the application. State money would be used only for herbicide application by persons licensed by TDA. An unlicensed individual could apply aquatic pesticides only with approval of a local government entity that has adopted the state plan or an approved local plan, and the application would have to be consistent with that plan.

A governing entity would be required to maintain records relating to herbicide application notifications for at least five years. Liability of a governing entity would be unaffected by this bill. The bill would not relieve an individual applying aquatic herbicides from the obligation to comply with local, state, and federal regulations and laws.

CSHB 3079 would add a subchapter to Chapter 15 of the Water Code to establish the aquatic vegetation management fund. The fund would consist of money appropriated to or transferred by the Texas Water Development Board or earned interest from the money in the fund. It would be used for grants to TPWD for the state plan and for research, outreach, and education programs, and for grants to political subdivisions to develop local plans or to manage aquatic vegetation infestations.

Grant funding would be divided, with 30 percent going to TPWD and 70 percent going to local political subdivisions. Only 35 percent of local funding could be used for herbicide treatments.

CSHB 3079 would take effect September 1, 1999, unless Legislature does not appropriate funds. If funds are not appropriated, TPWD may, but would not

be required to, implement this bill. Regardless of funding, the parts of CSHB 3079 having to do with local aquatic vegetation management plans, notification procedures, liability, and record keeping would take effect as soon as the Parks and Wildlife Commission published notice in the Texas Register.

**SUPPORTERS
SAY:**

CSHB 3079 would provide for a statewide plan, local plans, and funding mechanisms to help control invasive plant species clogging Texas waters. These vegetable pests not only affect drinking water but recreation, posing problems to boat owners.

Prevention is key in limiting future state spending on this very real problem. Florida has had to spend more than \$13 million a year on chemical treatment of water bodies because that state let its aquatic vegetation problem get out of control. Texas has the opportunity to stay ahead of the curve and put in place a preventative aquatic vegetation management plan.

Implementing a plan and spending dollars now will prevent the future need to apply large amounts of aquatic herbicide to the state's water supply. This measure also would help ensure that Texas retains water for human use, rather than allowing aquatic vegetation to consume that water.

Local political bodies could craft their own management plans based on the state plan, or adopt the state plan itself, saving money otherwise required to develop a plan. The bill also would benefit local areas because it would require that 70 percent of grant funding be spent at the local level. Other funding would go into research and education on this crucial problem.

This bill would not appropriate funds, and TPWD would not be required to implement it without an appropriation. However, the agency would be allowed to do so, with or without funding. In any case, provisions on notification procedure, liability, and record keeping would take effect when the Parks and Wildlife Commission published notice in the Texas Register.

Right now, any individual could apply herbicides to any body of water as long as they do it according to the label on the product. If several individuals did this, causing drinking water standards to be violated, it would be up to the drinking water provider to bring the water into compliance with safety levels. This aquatic management plan would remedy this situation, requiring anyone

wishing to apply an aquatic herbicide to give notice to the local governing body, which could disapprove. With a plan in place, the use of too high a level of herbicides in public drinking water would be avoided.

**OPPONENTS
SAY:**

There is no need for a statewide aquatic vegetation plan. Many local governing entities already have their own plans for local bodies of water, and these plans are carefully crafted for regional needs. A statewide plan would not necessarily address regional needs, and plans that are already in place may not be in compliance with a new state standard.

This bill is the first step to further regulation of chemicals and pesticides, and this is a dangerous door to open. Most pesticides and herbicides have label restrictions established by the EPA, and anyone applying these products are required to comply with the label. These label requirements are more than enough regulation, and the state does not need to create more hoops to jump through just to apply herbicides to water.

NOTES:

The House-passed version of HB 1 by Junell includes in the Article 11 wish list a \$3 million appropriation from general revenue to the Texas Water Development Board, contingent on enactment of HB 3079.

The committee substitute added these provisions to the original bill:

- ! require the state to provide coordination, oversight, public notification, and enforcement of all aquatic herbicides to protect fish and wildlife resources and to prevent risk;
- ! ensure that herbicide application levels would not exceed the maximum contaminant level or label rate;
- ! allow the state to provide for herbicide use consistent with the plan if the individual gave notice to the appropriate governing entity and that entity did not disapprove;
- ! allow TPWD to use a grant for research, outreach, and educational activities that relate to vegetation control; and
- ! permit TPWD to develop a statewide plan, and certain sections of the bill to become effective, even if no appropriations were made, after notice had been published in the Texas Register.