

## **BILL ANALYSIS**

Senate Research Center  
76R11873 MI-F

H.B. 3079  
By: Kuempel (Brown)  
Natural Resources  
5/14/1999  
Committee Report (Amended)

### **DIGEST**

Widespread aquatic plant problems in Texas began with the appearance of the water hyacinth. The Texas Parks and Wildlife Department has a statewide aquatic plant control program to control nuisance aquatic plants. In 1965, the program was discontinued because of new federal laws and herbicide restrictions. H.B. 3079 sets forth the development and financing of a statewide aquatic vegetation management plan.

### **PURPOSE**

As proposed, H.B. 3079 sets forth the development and financing of a statewide aquatic vegetation management plan.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the Texas Parks and Wildlife Department in SECTION 1 (Section 11.082(a), Parks and Wildlife Code) and the Texas Water Development Board in SECTION 2 (Section 15.854, Water Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 11, Parks and Wildlife Code, by adding Subchapter G, as follows:

#### **SUBCHAPTER G. AQUATIC VEGETATION MANAGEMENT**

Sec. 11.081. DEFINITIONS. Defines “governing entity,” “integrated pest management,” “local plan,” “public body of water,” “state plan,” and “water district.”

Sec. 11.082. STATE AQUATIC VEGETATION MANAGEMENT PLAN. Requires the Parks and Wildlife Department (department) to develop and by rule adopt a state aquatic vegetation management plan following the general accepted principles of integrated pest management. Requires the state plan to apply throughout the state unless a governmental entity has adopted an approved local plan. Requires the department to develop the state plan in coordination with the Texas Natural Resource Conservation Commission (TNRCC), water districts the Department of Agriculture (TDA), and other political subdivisions of the state with jurisdiction over public bodies of surface water, and public drinking water providers. Requires the state plan to take certain actions.

Sec. 11.083. LOCAL AQUATIC VEGETATION MANAGEMENT PLAN. Authorizes a governing entity to develop and adopt a local aquatic vegetation management plan. Requires the plan to be approved by the department, TNRCC, and TDA. Sets forth certain requirements of the local aquatic vegetation management plan.

Sec. 11.084. APPLICATION OF AQUATIC HERBICIDE IN PUBLIC BODY OR SURFACE WATER. Provides that no person may apply aquatic herbicides in a public body of surface water unless the herbicide is applied in a manner consistent with the plan adopted by the governing entity. Prohibits money from being used to pay for treatment of a public body of surface water with chemical herbicide unless the application is performed by an application licensed by TDA. Sets forth certain requirements for a person to apply aquatic herbicides. Authorizes the state plan to provide for use of an aquatic herbicide consistent with the plan if certain conditions are met. Requires the governing entity to take certain action, after receiving notice of a proposed application of aquatic herbicide. Requires the governing body to take certain action.

Sec. 11.085. LIABILITY. Provides that the liability under other law of a governing entity that receives notice of a proposed application of aquatic herbicide is not affected by the requirements of this subchapter. Provides that notice by a governing entity to an individual under Section 11.084(f)(2) does not constitute authorization by that entity for the application of the herbicide. Provides that this subchapter does not relieve an individual who applies aquatic herbicide to a public body of surface water of the obligation to comply with all applicable federal, state, or local, laws, rules, ordinances, or orders relating to the application of the herbicide in the body of water.

Sec. 11.086. RECORDS. Requires the entity to maintain for not less than five years all records relating to notifications received under Section 11.084 and any other information relevant to a particular individual request for shoreline treatment.

SECTION 2. Amends Chapter 15, Water Code, by adding Subchapter N, as follows:

#### SUBCHAPTER N. AQUATIC VEGETATION MANAGEMENT FUND

Sec. 15.851. DEFINITIONS. Defines “approved local plan” “fund,” political subdivision,” and “water district.”

Sec. 15.825. CREATION OF FUND. Sets forth the creation of the aquatic vegetation management fund.

Sec. 15.852. USE OF FUND. Authorizes money in the fund to be used for certain purposes. Prohibits the amount of funding for the purpose authorized by this subsection from exceeding amounts equal to certain percentages.

Sec. 15.854. RULES. Requires the Texas Water Development Board (board) to adopt necessary rules establishing procedures for application for and award of grants, and administration of grants and the grant program established under this subchapter.

SECTION 3. Amends Section 15.002(a), Water Code, to provide that the legislature finds that it is in the public interest to provide vegetation management of aquatic vegetation.

SECTION 4. Amend Section 15.011(b), Water Code, to include the aquatic vegetation management fund created under Subchapter N of this chapter among the funds to which the board is authorized to transfer money from the fund.

SECTION 5. Amends Section 15.012(c), Water Code, to make a conforming change.

SECTION 6. Effective date: September 1, 1999, except as provided by Subsection (b) and (c) of this section. Provides that the Parks and Wildlife Commission is required to implement this Act only if the legislature appropriates money specifically for that purpose. Provides that Sections 11.083, 11.084, 11.085, and 11.086, Parks and Wildlife Code, as added by this Act, take effect on the date on which the Parks and Wildlife Commission publishes notice in the Texas Register of the final adoption of a state aquatic Code.

SECTION 7. Emergency clause.