

## **BILL ANALYSIS**

Senate Research Center

S.B. 1438  
By: Taylor  
Water & Rural Affairs  
7/18/2019  
Enrolled

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

Concerned parties note that disposition of property by navigation districts has resulted in disregard or dispossession of accrued and vested rights in Texas private oyster leases, and to the rights of the public to fish oysters in Texas public waters and oyster beds. Limitations on the conveyance or exchange of real property for the purpose of bedding or harvesting oysters by navigation districts is necessary to preclude those entities from disrupting the established co-management relationship between the Texas Parks and Wildlife Department (TPWD) and its stakeholders, including commercial oyster fishermen. Additional prohibitions are needed to ensure that the Texas oyster industry's positive impact on Texas' economy remains intact.

S.B. 1438 seeks to address this issue by clarifying the law regarding navigation district's property conveyances for certain purposes. The need for such limitations beyond the current law is demonstrated by *Chambers-Liberty Ctys. Navigation Dist. v. State*, 565 S.W.3d 1 (Tex. App.-Austin 2016, pet. granted). In that case, TPWD had to bring an action against a navigation district that exceeded its legal authority when its commissioners leased submerged lands within TPWD's control to a third party for cultivation of oysters. Such a conveyance of public property to a private party for private commercial purposes was noted by the Austin Court of Appeals as inconsistent with a public purpose. (Original Author's/Sponsor's Statement of Intent)

S.B. 1438 amends current law relating to prohibitions on the disposition of property interests by navigation districts for certain purposes.

### **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 60.038, Water Code, by adding Subsection (d), as follows:

(d) Prohibits a navigation district organized under Article III, Section 52 (Restrictions on Lending Credit or Making Grants by Political Corporations Political Subdivisions; Authorized Bonds; Investment of Funds), or Article XVI, Section 59 (Conservation and Development of Natural Resources; Development of Parks and Recreational Facilities; Conservation and Reclamation Districts; Indebtedness and Taxation Authorized), of the Texas Constitution from conveying or exchanging an interest in real property to an individual or private entity for the purpose of bedding or harvesting oysters, regardless of whether the bedding or harvesting is to be done directly by the individual or private entity or the heirs, successors, or assigns of the individual or private entity.

SECTION 2. Effective date: upon passage or September 1, 2019.