

BILL ANALYSIS

C.S.H.B. 2205
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County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, any person or promoter wishing to have a mass gathering outside the limits of a municipality must obtain a permit from a county judge. By definition, a mass gathering is a gathering that attracts, or is expected to attract, more than 5,000 persons who will remain at the meeting location for more than five continuous hours. Before a person, or promoter, organizing a mass gathering can obtain a permit, they must file an application to the county judge of the county where the gathering is to be held. The county judge then sends a copy of the application to the county health authority, the county fire marshal, and the sheriff. These offices then conduct investigations of the location to ensure that the state health and safety standards will be maintained and report back to the county judge at least 5 days before the hearing to grant or deny the permit. The county judge holds a hearing on the permit application no later than the 10th day before the date on which the gathering will begin. After the hearing is completed, the county judge grants or denies the permit. The county judge may deny the permit based on a variety of reasons relating to inadequacies with the application or preparations for the mass gathering itself.

For promoters of large productions, usually planned months in advance, the time line of the permit process is often an obstacle. It is difficult for promoters to plan a large event if they do not know until 10 days before the event whether their permit has been granted or denied. Another obstacle for promoters is including the list of artist to perform at an event. Sometimes artists do not commit until after the permit application has been submitted. C.S.H.B. 2205 changes the permit process so that a county judge must grant or deny a permit within 5 days of receiving the application. C.S.H.B. 2205 does away with the hearing on an application. A hearing on the application would be held only if a county judge denies the application for permit and the applicant requests a hearing to appeal the denial. Under C.S.H.B. 2205, the onerous of obtaining a letter of good standing or permit from the county health authority, fire marshal and sheriff, is placed on the person applying for the mass gathering permit. The letter or permit must be included with the application. C.S.H.B. 2205 also adds flexibility in the application process in regard to artist contracts and line-ups.

In some cases, promoters of mass gatherings return to a facility or permanent structure - such as a coliseum or an amphitheater - located out side the limits of a municipality. Every time a promoter returns to that structure he must apply for a permit. C.S.H.B. 2205 gives counties the ability to establish a permit for the facility as opposed to the individual using the facility.

C.S.H.B. 2205 also extends the definition of "mass gathering" to include any gathering held outside the limits of a municipality that attracts, or is expected to attract, more than 500 persons who will remain at the location for more than five continuous hours or for any duration of time between the hours of 10 p.m. and 4 a.m., and where a majority of the persons may reasonably be expected to be under 21 years of age and where alcoholic beverages will be sold, served or consumed at or around the gathering.

The purpose of C.S.H.B. 2205 is to make changes to the mass gatherings permit process in a way that promoters have flexibility, without weakening the county judge's involvement in the permit process.

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. Section 751.002 (1), Health and Safety Code, is amended to read as follows:

- (1) “Mass gathering” means a gathering that is held outside the limits of a municipality and that:
- (A) attracts or is expected to attract more than 5,000 persons who will remain at the meeting location for more than five continuous hours or for any duration of time between the hours of 10 p.m. and 4 a.m.; or
 - (B) attracts or is expected to attract more than 500 persons who will remain at the meeting location for more than five continuous hours or for any duration of time between the hours of 10 p.m. and 4 a.m. where:
 - (i) a majority of the persons may reasonably be expected to be under 21 years of age; and
 - (ii) it is planned or may reasonably be expected that alcoholic beverages will be sold, served, or consumed at or around the gathering.

SECTION 2. Section 751.004, Health and Safety Code, is amended by adding Subsections (c), (d), (e), and (f) to read as follows:

- (c) The application must also include the name and address, if known, of a performer who may appear at the mass gathering and has not yet agreed to appear as of the date of the filing of the application.
- (d) A county judge may not require a promoter to provide a copy of the agreement or contract described by Subsection (b)(9).
- (e) With the application required by this section, the promoter must submit a letter or permit:
 - (1) from the county health authority stating that, based on the information in the application, the health authority believes that the minimum standards of health and sanitation prescribed by state and local laws, rules, and orders will be maintained;
 - (2) from the county fire marshal stating that, based on the information in the application, the fire marshal believes that the minimum standards for ensuring public fire safety and order as prescribed by state and local laws, rules, and orders will be maintained; and
 - (3) from the sheriff stating that, based on the information in the application, the sheriff believes that the minimum standards for ensuring public safety and order that are prescribed by state and local laws, rules, and orders will be maintained.
- (f) If there is no county fire marshal in the county, the commissioners court shall designate a person to submit the documentation required by Subsection (e)(2).

SECTION 3. Section 751.005, Health and Safety Code, is amended to read as follows:

Sec. 751.005. INVESTIGATION. [~~(a) After a permit application is filed with the county judge, the county judge shall send a copy of the application to the county health authority, the county fire marshal or the person designated under Subsection (c), and the sheriff.~~

~~[(b) The county health authority shall inquire into preparations for the mass gathering. At least five days before the date on which the hearing prescribed by Section 751.006 is held, the county health authority shall submit to the county judge a report stating whether the health authority believes that the minimum standards of health and sanitation prescribed by state and local laws, rules, and orders will be maintained.~~

~~[(c) The county fire marshal shall investigate preparations for the mass gathering. If there is no county fire marshal in that county, the commissioners court shall designate a person to act under this section. At least five days before the date on which the hearing prescribed by Section 751.006 is held, the county fire marshal or the commissioners court designee shall submit to the county judge a report stating whether the fire marshal or designee believes that the minimum standards for ensuring public fire safety and order as prescribed by state and local laws, rules, and orders will be maintained.~~

~~[(d) The sheriff shall investigate preparations for the mass gathering. At least five days before the date on which the hearing prescribed by Section 751.006 is held, the sheriff shall submit to the county judge a report stating whether the sheriff believes that the minimum standards for ensuring public safety and order that are prescribed by state and local laws, rules, and orders will be maintained.~~

~~[(e)] The county judge may conduct any additional investigation that the judge considers necessary.~~

~~[(f) The county health authority, county fire marshal, or commissioners court designee, and sheriff shall be available at the hearing prescribed by Section 751.006 to give testimony relating to their reports.]~~

SECTION 4. Section 751.007, Health and Safety Code, is amended by amending Subsection (a) and

adding Subsections (c) and (d) to read as follows:

(a) Not later than the fifth day after the date the permit application is received [After the completion of the hearing prescribed by Section 751.006], the county judge shall enter a ruling [his findings] in the record and shall either grant or deny the permit. A permit is considered granted if the judge fails to enter a ruling in the time required by this section.

(c) The county judge may not deny a permit under Subsection (b)(5) if the promoter:

(1) has complied with Section 751.004(c); and

(2) agrees to file a comprehensive list of agreements described by Sections 751.004(b)(8) and (9) not later than the fifth day before the date the mass gathering will begin.

(d) If the county judge denies the permit, the county judge shall state in the record the grounds for denying the permit.

SECTION 5. Chapter 751, Health and Safety Code, is amended by adding Section 751.0075 to read as follows:

Sec. 751.0075. DENIAL OF PERMIT; HEARING. (a) If the county judge denies the permit under Section 751.007, the promoter may request a hearing before the county judge on the application not later than the fifth day after the date the permit was denied. The county judge shall set the date and time of the hearing.

(b) Notice of the time and place of the hearing shall be given to the promoter and to each person who has an interest in whether the permit is granted or denied.

(c) At the hearing, any person may appear and testify for or against granting the permit.

(d) Not later than the fifth day after the date the hearing is completed, the county judge shall either grant the permit or affirm the denial of the permit.

SECTION 6. Section 751.008, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The county judge may revoke a permit issued under this chapter only if the county judge finds that:

(1) preparations for the mass gathering will not be completed by the time the mass gathering will begin;

(2) [~~or that~~] the permit was obtained by fraud or misrepresentation; or

(3) the promoter has not complied with Section 751.007(c)(2), if applicable.

(c) If a performer scheduled to perform at the mass gathering cancels the performance or does not perform, the county judge may not revoke a permit issued under this chapter if the promoter exercised good faith in representing that the performer would appear at the mass gathering.

SECTION 7. Subchapter A, Chapter 215, Local Government Code, is amended by adding Section 215.005 to read as follows:

Sec. 215.005. PERMITS FOR CERTAIN FACILITIES. (a) In this section, "facility" means an auditorium, exhibition hall, coliseum, amphitheater, or other similar structure used for public gatherings.

(b) A municipality that requires the owner or property manager of a facility located in the municipality to obtain a permit for an event held at a facility may establish standards for granting the permit, including standards relating to health and sanitation, general safety, traffic control, and medical and nursing care.

(c) A permit that the owner or property manager is required to obtain is valid for one year after the date the permit is granted. The permit applies to all events that are similar to the event for which the permit was originally granted, and the permit holder is not required to repeat the permit application procedure for each of those similar events held at the facility.

(d) A municipality may adopt rules for implementing this section.

SECTION 8. Chapter 234, Local Government Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. PERMITS FOR CERTAIN FACILITIES

Sec. 234.051. PERMIT. (a) In this section, "facility" means an auditorium, exhibition hall, coliseum, amphitheater, or other similar structure used for public gatherings.

(b) A county that requires the owner or property manager of a facility located in the unincorporated area of the county to obtain a permit for an event held at a facility may establish standards for granting the permit, including standards relating to health and sanitation, general safety, traffic control, and medical and nursing care.

(c) A permit that the owner or property manager is required to obtain is valid for one year after the date the permit is granted. The permit applies to all events that are similar to the event for which the permit was originally granted, and the permit holder is not required to repeat the permit application procedure for each of those similar events held at the facility.

(d) A county may adopt rules for implementing this subchapter.

SECTION 9. Section 751.006, Health and Safety Code, is repealed.

SECTION 10. The changes in law made by this Act apply only to a permit for which an application is filed on or after the effective date of this Act. A permit for which an application is filed before the effective date of this Act is governed by the law in effect when the permit was filed, and the former law is continued in effect for that purpose.

SECTION 11. This Act takes effect September 1, 2003.

EFFECTIVE DATE

This Act takes effect September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute adds a new SECTION 1, which changes the definition of a mass gathering. The substitute also strikes subsection (f) in SECTION 3.