

BILL ANALYSIS

C.S.H.B. 1287
By: Leibowitz
County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Illegal dumping and the creation of a public nuisance are frequent complaints of commissioners courts. The current process requires a 30-day notification period before a county can take any steps to abate nuisances on private property. Cost recovery to cleaning an illegal dump is limited to putting a lien on the property.

C.S.H.B. 1287 amends the Health and Safety Code to shorten the notification period from 30 days to 10 days for repeat offenders and allows counties to recover costs through any money available to it under law for cleanup or remediation of a public nuisance. C.S.H.B. 1287 also gives a county authority to limit or control access to the private property to prevent future dumping if the owner is non-responsive to previous abatement efforts.

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. Amends Section 343.013, Health and Safety Code, by adding Subsection (c) which authorizes a county authority to bring suit to prohibit or control access to private property to prevent a continued or future dumping if the property owner or responsible person is non-responsive to previous abatement efforts. The court is prohibited from granting relief that limits access by the owner or operator of a utility line or easement to the utility line or easement.

SECTION 2. Amends Section 343.021, Health and Safety Code, by adding authorization for a county to abate a nuisance by prohibition or control of access to the premises.

SECTION 3. Amends Section 343.022 (a) and (c), Health and Safety Code, as follows:

- (a) Adds that a person authorized by the person administering the abatement program can prohibit or control access to the premises.
- (c) Adds that a notice must state that the person receiving notice is required to abate the nuisance before the 31st day after the date on which the notice is served, if the person has not previously received a notice or the 10th day after the date on which the notice is served, if the person has previously received a notice. Additionally, the county is authorized to prohibit or control access to the premises to prevent a continued or future nuisance. It is also added that the person receiving notice is entitled to submit a written request for a hearing before the 31st day after the date on which the notice is served, if the person has not previously received a notice, or the 10th day after the date on which the notice is served, if the person has previously received a notice.

SECTION 4. Amends Subchapter C, Chapter 343, Health and Safety Code by adding Section 343.0235 which allows counties to use any money available under other law for cleanup or remediation of private property to abate a nuisance.

SECTION 5. The change to Section 343.022 (c), Health and Safety Code, applies only to notice given on or after the effective date of this Act.

C.S.H.B. 1287 79(R)

SECTION 6. Effective Date

EFFECTIVE DATE

September 1, 2005

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute modifies the original version of the bill by adding that if there is a lawsuit to control access to an illegal dump, the court cannot limit access to a utility line or easement by the owner of the utility line or easement.

The substitute modifies the original version of the bill by inserting a new section which adds limiting access to a nuisance as another measure to abate a public nuisance.

The substitute also modifies the original by allowing the county to use any money available to it under law for cleanup and remediation of a public nuisance instead of specific grant programs listed in the original bill.