

## **BILL ANALYSIS**

C.S.H.B. 1407  
By: Murphy  
County Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Currently, under Chapter 343, Health and Safety Code, unsecured pools on abandoned and unoccupied property are considered a public nuisance. In counties of over 1.1 million, unsecured pools on any property in a neighborhood, whether abandoned or not, are also considered a nuisance. The law requires that the pool must be protected by a fence at least 4 feet in height with a latch that cannot be opened by a child, or have a cover entirely over it that cannot be removed by a child. Such nuisances are generally investigated by county health departments; however upon discovering a violation they are limited as to what they can do past the costly action of demolition and removal. Also, they may take no action at all until after a lengthy hearing process.

C.S.H.B. 1407 would accomplish three objectives for pools on abandoned and unoccupied property: (1) it would add a requirement that the fence be locked and the pool covered; (2) it would allow counties to immediately secure an abandoned pool by installing a locked fence and a cover over the pool prior to the lengthy hearing process; and (3) it would allow counties to abate the nuisance posed by abandoned pools by installing a locked fence and cover or draining and filling the pool instead of demolition and removal.

### **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**

C.S.H.B. 1407 requires that abandoned pools be fenced, locked, and covered and to allow counties to immediately secure abandoned pools prior to hearing by installing a locked fence and a cover and, after a hearing, to either fence, lock, and cover or drain and fill abandoned pools.

### **EFFECTIVE DATE**

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

Subsection (c)(6) of Section 343.011 was amended to require that a pool on abandoned property be secured with a fence with a locked gate and a cover over the entire pool that cannot be removed by a child. The original bill required that abandoned pools be secured by either a fence with a locked gate or a cover.

Subsection 2 of Section 343.021 was amended so that it is not applicable to Section 343.011(c)(6). In the original bill, subsection 2 of Section 343.021 applied to Section 343.011(c)(6).

Subsection 3 of Section 343.021 was amended so that the subsection will be applicable to Section 343.011(c)(6). In the original bill subsection 3 of Section 343.021 applied to Section 343.011(c)(7). Subsection 3 of Section 343.021 was also amended to allow a county to abate the nuisance by both prohibiting access to the premises and installing a cover over the entire swimming pool. The original bill did not authorize a county to both prohibit access and install a cover.

Subsection 343.022(f) was amended to allow a county to immediately secure an abandoned pool prior to hearing by both prohibiting access to the premises and installing a cover over the entire swimming pool. The original bill did not authorize a county to both prohibit access and install a cover.

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