

BILL ANALYSIS

C.S.S.B. 680
By: Williams
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. 680 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. 680 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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