

## **BILL ANALYSIS**

C.S.H.B. 459  
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Urban Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Currently, there are several locations in the unincorporated areas of Bexar County where residential houses have become public nuisances. Located in subdivisions, these houses are considered unsafe to the community due to fires and abandonment by the owners. They have become unsafe structures that children play near or places where illegal activity occurs. The owners have made no attempt to repair or demolish the unsafe structures for a long time.

C.S.H.B. 459 authorizes counties to abate these nuisances by controlling or prohibiting access to these properties to improve the safety of Texas communities.

### **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. 459 amends the Health and Safety Code to include under the definition of "abate," in a case of eliminating or remedying a nuisance by prohibiting or controlling access to it, the public nuisance of maintaining a building in a manner that is structurally unsafe or constitutes a hazard to the safety, health, or public welfare because of certain conditions as described in provisions of the Health and Safety Code relating to public nuisance. The bill makes conforming changes relating to the grounds under which a county may bring suit to prevent a continued or future violation of public nuisance laws, the authority to abate a nuisance, the administration of abatement procedures, the notice of the county's authority to abate a nuisance, and the use of county funds to abate a nuisance.

C.S.H.B. 459 adds other public nuisances classified as such under the Health and Safety Code to the definition of "abate" for purposes of county authority relating to nuisance. The bill adds, in the case of eliminating or remedying a nuisance by prohibiting or controlling access to it, the public nuisance of discarding refuse on the smaller of the area that spans 20 feet on each side of a utility line or the actual span of the utility easement. The bill removes the public nuisance of maintaining a flea market in a manner that constitutes a fire hazard from the definition of "abate" in that case. The bill adds the public nuisance of discarding refuse on property that is not authorized for that activity to the definition of "abate" in the case of eliminating or remedying a nuisance by an authorized means of waste management. The bill includes this public nuisance in provisions relating to the authority to abate a nuisance and the administration of abatement procedures.

C.S.H.B. 459 reenacts Section 343.011(c), Health and Safety Code, as amended by Chapters 388 (S.B. 680) and 1366 (H.B. 3581), Acts of the 80th Legislature, Regular Session, 2007, relating to activity that is a public nuisance. The bill amends provisions relating to a criminal penalty to provide that a person commits an offense if a nuisance in violation of the law remains unabated after the 10th, rather than the 30th, day after the date on which person receives notice from a

county official, agent, or employee to abate the nuisance. The bill makes conforming changes relating to the notice of the county's authority to abate a nuisance.

**EFFECTIVE DATE**

September 1, 2009.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 459 adds provisions not in the original to include public nuisances relating to discarding waste near a utility line and discarding waste on property that is not authorized for that activity to the definition of "abate." The substitute removes a provision from the original that includes a public nuisance relating to a flea market in the definition of "abate." The substitute adds provisions not in the original to reenact a Health and Safety Code provision relating to activity that is a public nuisance. The substitute adds provisions not in the original to reduce the amount of time that must pass after a person receives a notice to abate a nuisance before a person commits an offense if the nuisance remains unabated.