

BILL ANALYSIS

C.S.H.B. 736
By: Quintanilla
County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Many counties in Texas are experiencing a significant increase in the development of residential communities in unincorporated county areas as opposed to the less congregated rural homes that traditionally occupied such areas. Residents of these communities experience many of the same issues faced by municipal areas, including nuisances and disorderly conduct, but are not protected by civil statutes to resolve such issues that currently protect municipal residents.

C.S.H.B. 736 authorizes the commissioners court of a county to abate and remove a nuisance and punish by fine the person responsible for the nuisance.

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. 736 amends the Local Government Code to authorize a commissioners court of a county by order to abate and remove a nuisance and punish by fine the person responsible for the nuisance; to define and declare what constitutes a nuisance and authorize and direct the summary abatement of the nuisance; and to abate in any manner the commissioners court considers expedient any nuisance that may injure or affect the public health or comfort. The bill makes an order adopted by a commissioners court under provisions regarding county regulation of nuisances applicable only in the unincorporated area of a county with a population of 650,000 or more that is located within 100 miles of an international border.

C.S.H.B. 736 provides that a municipal ordinance prevails within the municipality's jurisdiction to the extent of the conflict if an order adopted by a commissioners court conflicts with an ordinance of the municipality. The bill prohibits its provisions from being construed to interfere with a right guaranteed by the Second Amendment to the United States Constitution, and establishes that authority under the bill's provisions is cumulative of other authority that a county has to regulate nuisances and does not limit that other authority.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 736 differs from the original by making an order adopted by a commissioners court of a county under the bill's provisions applicable only in the unincorporated area of a county with a population of 650,000 or more that is located within 100 miles of an international border,

whereas the original makes such an order applicable only in the unincorporated area of a county. The substitute removes provisions from the original authorizing the commissioners court by order to prevent and punish a person engaging in certain acts of disorderly conduct, and authorizing the commissioners court by order to suppress, prevent, or restrain certain acts of disorderly conduct. The substitute adds provisions not in the original to prohibit the bill's provisions from being construed as interfering with a right guaranteed by the Second Amendment to the United States Constitution, and to establish that authority under the bill's provisions is cumulative of other authority that a county has to regulate nuisances and does not limit that other authority.