

BILL ANALYSIS

C.S.H.B. 1507
By: Bolton
County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In many urbanized counties, incompatible development has raised conflicts as new land uses expand to areas before incorporated municipalities are established. The purpose of this bill is to enable a county with a population greater than 800,000 to regulate noise levels in the unincorporated areas of the county. Regulations must be adopted with a comprehensive plan and promote noise levels compatible with land use of the area.

This bill appropriately identifies largely urban or rapidly urbanizing counties that would be provided this new tool to ensure that the use of land will be beneficial to the quality of life of citizens in unincorporated areas. The bill would allow division of unincorporated areas into districts set by the commissioners court with noise regulations set compatible to specified land uses in each district. In proposing regulations, the bill specifies public notice procedures, opportunity to set hearings, and the opportunity of affected persons to protest a new or revised regulation.

The bill addresses existing land uses that could come under future noise regulations by allowing residential and state and federal government land uses to continue and allowing a use to continue if at least one governmental entity authorized the use prior to September 1, 2009. The authority the bill would provide is permissive and does not require any county to implement a noise abatement program. Therefore, no mandated costs affect counties.

C.S.H.B. 1507 authorizes a commissioners court of a county with a population of more than 800,000 to adopt regulations to regulate noise levels in the unincorporated area of the county. The bill establishes that the purpose of such authority is to promote the public health, safety, morals, or general welfare.

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. 1507 amends the Local Government Code to authorize a commissioners court of a county with a population of more than 800,000 to adopt regulations to regulate noise levels in the unincorporated area of the county. The bill establishes that the purpose of such authority is to promote the public health, safety, morals, or general welfare.

C.S.H.B. 1507 requires the commissioners court to adopt noise regulations that are in accordance with a comprehensive plan and that are designed to promote the maintenance of noise levels that are compatible with the land use of an area or promote, to the greatest degree, the bill's purpose. The bill authorizes the commissioners court to divide the unincorporated area of the county into districts of a number, shape, and size the commissioners court considers best for carrying out the provisions of the bill. The bill provides that the regulations may vary from district to district,

must be uniform for each class or kind of land use in a district, and must be adopted with reasonable consideration for the character of each district and its peculiar suitability for particular uses, with a view of conserving the value of buildings and encouraging the most appropriate use of land in the county.

C.S.H.B. 1507 requires a commissioners court wishing to exercise the authority relating to noise regulations and district boundaries to establish procedures for adopting and enforcing the regulations and boundaries. The bill specifies that a regulation or boundary is not effective until after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard. The bill sets forth notification requirements for the public hearing and authorizes the commissioners court to prescribe the type of notice to be given.

C.S.H.B. 1507 requires a protest of a proposed change to a regulation or boundary to be written and signed by the owners of at least 20 percent of the area of the lots or land covered by the proposed change or at least 20 percent of the area of the lots of land immediately adjoining the area covered by the proposed change and extending 200 feet from that area, and requires streets and alleys to be included in computing the percentage of land area. The bill requires a proposed change that is protested to receive, in order to take effect, the affirmative vote of at least 75 percent of all members of the commissioners court.

C.S.H.B. 1507 authorizes a commissioners court to adopt orders to enforce the bill's provisions or any regulation adopted under the bill's provisions. The bill creates a misdemeanor offense for a person who violates the bill's provisions or a regulation adopted under the provisions of the bill. The bill provides that such an offense is punishable by fine, imprisonment, or both, as provided by the commissioners court, and authorizes the commissioners court to provide civil penalties for a violation. The bill authorizes an appropriate county authority, if a land use violates the noise regulations, to institute appropriate action to restrain, correct, or abate the violation or to prevent any illegal act, conduct, business, or use on or about the premises.

C.S.H.B. 1507 specifies that its provisions do not authorize a commissioners court to require the removal or destruction of property that exists at the time the commissioners court implements the bill's provisions and that is actually and necessarily used in a public service business. The bill specifies that its provisions do not authorize a commissioners court to regulate restricted fireworks.

C.S.H.B. 1507 applies its provisions to privately owned land when leased to a state agency, but excludes from its provisions land under the control, administration, or jurisdiction of a state or federal agency.

C.S.H.B. 1507 bars a county from prohibiting a person from continuing to use land in the manner in which the land was being used on January 1, 2010, if the land use was legal at that time, or from beginning to use land in the manner that was planned for the land before September 1, 2009, if one or more licenses, certificates, permits, approvals, or other forms of authorization by a governmental entity were required by law for the planned land use and a completed application for the initial authorization was filed with the governmental entity before September 1, 2009. The bill specifies that a completed application is filed if the application includes all documents and other information designated as required by the governmental entity in a written notice to the applicant. The bill specifies that this bar on the county's action does not prohibit a county from imposing a noise regulation that does not prevent a person from continuing to use property for residential purposes and provides that any order or regulation in conflict with the bar on the county's action is void.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1507 adds a provision not in the original specifying that the substitute's provisions do not authorize the commissioners court of a county to regulate restricted fireworks.