

BILL ANALYSIS

C.S.H.B. 2732
By: Eissler
County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Persistent and disruptive dog barking has become an increasing problem in unincorporated areas that are adjacent to major metropolitan centers. The population in these areas is growing rapidly and neighborhoods are becoming more urban, but the areas remain outside municipal boundaries. Currently, a Texas county is restricted in its authority to enact ordinances and, as a result, there is no effective recourse available to families that are unable to peacefully and quietly enjoy their homes due to persistent dog barking.

C.S.H.B. 2732 addresses the problem of barking dogs in the unincorporated areas of certain counties. In the applicable counties, the bill establishes that it is a public nuisance under the Health and Safety Code to allow a dog to bark in a manner that a reasonable person would find objectionable.

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. 2732 amends the Health and Safety Code to establish that, in an unincorporated area of a county, it is a public nuisance to allow the barking of or another noise made by a dog outdoors if a reasonable person would find the noise objectionable. The bill restricts its provisions to a county that either has a population of 800,000 or more or is adjacent to a county with a population of 3.3 million or more in which a planned community is located that has 20,000 or more acres of land, was originally established under the federal Urban Growth and New Community Development Act of 1970, and is subject to restrictive covenants containing ad valorem or annual variable budget based assessments on real property. The bill makes an exception to these provisions, providing that in a county adjacent to a county with a population of 3.3 million or more and in which a planned community is located, as described in the bill, the noise is a public nuisance only if made on premises in a neighborhood. The bill clarifies that in determining whether a noise is objectionable to a reasonable person, the following factors may be considered: the time of day the noise is produced, the proximity of the production of the noise to other premises, and whether the sound is recurrent, intermittent, or constant.

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. 2732 differs from the original by removing the minimum population of a county applicable to the bill's provisions and providing two alternative sets of criteria for determining

applicability: one dependent only on the population of the county and a second dependent on the population of an adjacent county in which certain planned communities are located. The substitute specifies that the barking or other noise made by a dog is a public nuisance when made by a dog that is on premises only in a neighborhood in such a planned community; whereas, in the original the specification that the noise be made by a dog on premises in a neighborhood applies in all cases.