

BILL ANALYSIS

C.S.H.B. 4175
By: Bolton
Land & Resource Management
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Some Texas counties are experiencing rapid growth and urbanization. Some people have argued that Texas law does not allow counties to regulate this growth and urbanization to a sufficient degree. In some of these counties, controversial development applications submitted to local authorities have requested the placement of arguably incompatible land uses next to residential areas, schools, hospitals, and churches. Some Texans in these rapidly growing areas are concerned about the effect that such incompatible uses will have on such things as their property values, their health, and their safety.

C.S.H.B. 4175 gives certain counties the ability to require buffers between industrial land uses and sensitive receptors such as schools, hospitals, and churches.

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. 4175 amends the Local Government Code to authorize the commissioners court of a county with a population of more than 800,000 in which a municipality with a population of more than 500,000 is primarily located to adopt a regulation to require a buffer zone between an industry and a residential area, hospital, elder-care facility, school, day-care facility, church, or similar land use that the commissioners court finds to be incompatible with the industry. The bill requires such an adopted buffer zone to be reasonably necessary to protect public health, safety, or general welfare, and to be related and in proportion to the impact the industry has on public health, safety, or general welfare. The bill prohibits a commissioners court from regulating a tract of land devoted to agricultural use, an activity or a structure or appurtenance on a tract of land devoted to agricultural use, land used for an activity described by provisions for jurisdiction of the Railroad Commission of Texas in the Natural Resources Code, or an interstate gas pipeline facility as defined by federal law.

C.S.H.B. 4175 sets out provisions for compliance with a county comprehensive plan, the requirements and procedure governing adoption of regulations, the adoption of a comprehensive plan, the provision of incentives, special exceptions to the regulations adopted, cooperation with municipalities to implement and enforce regulations, the authority of the commissioners court to regulate development under other law, and conflict with other laws.

C.S.H.B. 4175 authorizes the commissioners court to adopt orders to enforce its provisions or an order or buffer zone regulation adopted under its provisions. The bill makes it a misdemeanor punishable by a fine of not less than \$500 or more than \$1,000 to violate an order or regulation adopted under provisions for regulation of land development in certain counties. The bill provides that each day that a violation occurs constitutes a separate offense, and that the trial shall be in the district court.

C.S.H.B. 4175 establishes the purpose of its provisions as the promotion of public health, safety, or general welfare and defines "agricultural use," "agriculture," "buffer zone," and "industry."

EFFECTIVE DATE

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

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 4175 differs from the original by changing those counties to which its provisions apply from a county with a population of more than 800,000 and not more than 1.3 million, to a county with a population of more than 800,000 in which a municipality with a population of more than 500,000 is primarily located. The substitute includes a definition of "buffer zone" not included in the original.

C.S.H.B. 4175 requires a buffer zone adopted under its provisions to be related and in proportion to the impact the industry has on public health, safety, or general welfare, in addition to the requirement in the original that such a buffer zone be reasonably necessary to protect public health, safety, or general welfare.

C.S.H.B. 4175 adds a provision not in the original to require a commissioners court to establish a technical advisory committee to develop and recommend buffer zone regulations to the court, and requires the commissioners court to appoint the members of the committee which must include industry representatives. The substitute removes two of the purposes listed under the comprehensive plan for land development in the original, those being to prevent the overcrowding of land and to avoid undue concentration of population.

C.S.H.B. 4175 authorizes a commissioners court to grant a special exception, when certain conditions are met, for the reduction or elimination of a buffer zone, instead of a special exception that mitigates or offsets a buffer zone as is authorized by the original.