

BILL ANALYSIS

H.B. 1174
By: Workman
County Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Current law authorizes a county to regulate outdoor burning and to institute burn bans, which may not last longer than 90 days unless renewed, in all or part of the unincorporated areas of the county under certain conditions. A burn ban may be lifted in certain instances by a subsequent action of a commissioners court. According to interested parties, this is impractical in some situations because some commissioners courts meet only once or twice a month. For instance, rainfall that occurs shortly after a burn ban is instituted may remove the need for the burn ban, but it may be one or more weeks before the ban can be lifted by the commissioners court.

Some commissioners courts would like to delegate the authority to lift a burn ban to another person designated by the court, such as the county judge or county fire marshal. However, certain case law disfavors that notion.

H.B. 1174 allows a county commissioners court, at its discretion, to delegate to either the county judge or fire marshal the authority to lift a burn ban.

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

H.B. 1174 amends the Local Government Code, in a provision establishing that an order by the commissioners court of a county prohibiting or restricting outdoor burning in all or part of the unincorporated area of the county expires on the date a determination is made by the commissioners court that circumstances no longer exist that would create a public safety hazard that would be exacerbated by outdoor burning, to include as an alternative such a determination made by the county judge or fire marshal if designated for that purpose by the commissioners court.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.