

BILL ANALYSIS

C.S.H.B. 1649
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County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Recent legislation allows certain counties to adopt certain building codes on new residential construction in an unincorporated area and makes a person who does not provide proper notice of compliance with certain standards subject to certain penalties. C.S.H.B. 1649 seeks to address matters relating to the enforcement of building code standards for new residential construction in an unincorporated area of a county and to authorize a fee to defray the costs of administering such enforcement.

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. 1649 amends the Local Government Code to authorize a county that has adopted a resolution or order requiring the application of residential building code standards in unincorporated areas of the county and that is located within 50 miles of an international border or has a population of more than 100 to charge a fee not to exceed \$25 for each new residential construction to defray the costs of administering those building code requirements.

C.S.H.B. 1649 authorizes such a county to require the issuance of a certificate of compliance as a precondition to obtaining utility services as provided by the bill. The bill requires the county, not later than the fifth business day after the date a request is received, to issue the requesting party a written certificate of compliance if the county receives a written request from a person who builds new residential construction subject to certification requirements, the person for whom the new residential construction is built, or an entity that provides utility service and the requesting party demonstrates that the new residential construction has complied with all the residential building code requirements applicable in the county's unincorporated areas as determined by the county. The bill prohibits an electric, gas, water, or sewer service utility from permanently serving or connecting new residential construction subject to the bill's provisions with electricity, gas, water, sewer, or other utility service unless the utility receives a certificate issued by the county stating that compliance with all the residential building code requirements applicable in the county's unincorporated areas was demonstrated. The bill provides that such provisions do not prevent the temporary use or connection of utilities necessary to complete new residential construction, including temporary use or connection of utilities to pass an inspection of the residential building code requirements applicable in the county's unincorporated areas.

C.S.H.B. 1649 makes its provisions requiring certification by a county of building code compliance applicable only to new residential construction for which notice was given if a county requires notice by the builder before starting new residential construction.

C.S.H.B. 1649 repeals Section 233.153(f), Local Government Code, prohibiting the charging of a fee to defray the costs of enforcing the building code standards.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1649 differs from the original by authorizing certain counties to charge a fee not to exceed \$25, rather than a fee not to exceed \$125 as in the original, for each new residential construction to defray the costs of administering the residential building code requirements applicable in the county's unincorporated areas.

C.S.H.B. 1649 omits a provision included in the original limiting the applicability of provisions relating to a certification of compliance and the connection of utilities to new residential construction of a single-family house or duplex. The substitute contains a provision not included in the original authorizing the county to require the issuance of a certificate of compliance as a precondition to obtaining utility services. The substitute differs from the original by requiring the county to issue a written certificate of compliance if the county receives a written request for a certificate from certain persons and entities and the requesting party demonstrates compliance with applicable requirements, whereas the original requires the commissioners court of the county to first determine whether the new residential construction meets all applicable requirements and to then issue a certificate of the commissioners court's determination. The substitute differs from the original by requiring a county to issue such a written certificate of compliance not later than the fifth business day after the date a request for the certificate is received, whereas the original requires the commissioners court to make a determination and issue a certificate of that determination on written request of certain persons and entities.

C.S.H.B. 1649 differs from the original by specifying that an electric, gas, water, or sewer service utility is prohibited from permanently serving or connecting new residential construction with the applicable utility unless the utility receives a certificate of compliance issued by the county, whereas the original prohibits such utility services from serving or connecting new residential construction unless the utility receives a certificate of compliance issued by the commissioners court. The substitute contains a provision not included in the original establishing that provisions regarding the prohibition against serving or connecting with certain utilities without a certificate of compliance do not prevent the temporary use or connection of utilities necessary to complete new residential construction, including temporary use or connection of utilities to pass an inspection of the residential building code requirements applicable in the county's unincorporated areas. The substitute differs from the original in nonsubstantive ways.