

## **BILL ANALYSIS**

C.S.H.B. 1959  
By: Thompson  
Licensing & Administrative Procedures  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties observe that when an application for a license or permit under the Alcoholic Beverage Code is filed, the county clerk, city clerk, or city secretary, as appropriate, is required to certify whether the location or address given in the application is in a wet area and whether the sale of alcoholic beverages for which the license or permit is sought is prohibited. These parties further observe that, in the past, when an application was denied based on the location listed in the application, the Texas Alcoholic Beverage Commission (TABC) allowed an applicant to contest the certification at a hearing before a county judge. Finally, interested parties contend that many applicants are not currently being given this opportunity for a hearing and in some cases, if an application is denied based on the location listed in the application, the TABC automatically refuses to issue the permit or license and refuses the applicant's request to contest the certification. C.S.H.B. 1959 seeks to address this issue by entitling an applicant for such a permit or license to a hearing before the county judge to contest the certification of the county clerk, city clerk, or city secretary or the refusal of any of those local officials to issue the required certification.

### **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. 1959 amends the Alcoholic Beverage Code to entitle an applicant for a permit or license for the sale of alcoholic beverages to a hearing before the county judge to contest the certification by the county clerk, the city secretary, or the clerk of the city in which the application is made that the location or address given in the application is not in a wet area or the refusal by one of those local officials to issue the certification. The bill requires the applicant to submit a written request to the county judge for such a hearing and requires the county judge to conduct the hearing not later than the 30th day after the date the county judge receives the written request.

### **EFFECTIVE DATE**

September 1, 2011.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 1959 differs from the original by entitling an applicant for a permit or license for the sale of alcoholic beverages to a hearing before the county judge to contest the certification by the county clerk, the city secretary, or the clerk of the city in which the application is made that the location or address given in the application is not in a wet area or the refusal by one of those local officials to issue the certification, whereas the original entitles an applicant for such a permit or license to a hearing before the Texas Alcoholic Beverage Commission (TABC) to

contest the TABC's decision to refuse to issue the permit or license to the applicant based on the certification by one of those local officials, or the refusal of the local official to issue the certification of whether the location or address given in the permit or license is in a wet area and whether the sale of alcoholic beverages for which the permit or license is sought is prohibited by any valid order of the county commissioners court or by the charter or an ordinance of the city.

C.S.H.B. 1959 contains provisions not included in the original requiring the applicant to submit a written request to the county judge for such a hearing and requiring the county judge to conduct the hearing not later than the 30th day after the date the county judge receives the written request.

C.S.H.B. 1959 differs from the original by establishing that the substitute's provisions apply only to a certification issued or a refusal to certify made by a county clerk, city secretary, or city clerk on or after the effective date of the substitute, whereas the original establishes that the original's provisions apply only to a refusal by the TABC to issue a permit or license on or after the effective date of the original.

C.S.H.B. 1959 omits a saving provision included in the original.