

BILL ANALYSIS

C.S.H.B. 2857
By: Gallego
County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

McDonald Observatory, a research unit of The University of Texas at Austin, is one of the world's leading centers for astronomical research, teaching, public education, and outreach. Observatory facilities are located atop Mount Locke and Mount Fowlkes in the Davis Mountains of West Texas, which offer some of the darkest night skies in the continental United States. The observatory operates a multi-faceted international public outreach program, including star parties and public tours, radio programs, and print and online publications.

A hundred years ago, it was easy to see the stars that inspired wonder and awe in all who saw them in the night sky. Unfortunately, the night sky is less dark than it used to be due to outdoor lighting and resulting light pollution that blots out the stars and threatens the nighttime environment.

Outdoor lighting and light pollution cause problems for viewers of the night sky, including the McDonald Observatory. To help alleviate this problem, C.S.H.B. 2857 seeks to establish provisions relating to the regulation of outdoor lighting in certain areas.

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. 2857 amends the Local Government Code to establish provisions relating to the regulation of outdoor lighting applicable to a municipality located in a county any part of which is located within 57 miles of a major astronomical observatory at the McDonald Observatory and which are inapplicable to outdoor lighting in existence or under construction on September 1, 2011, or outdoor lighting installed, maintained, repaired, or replaced by an electric utility regulated by the Public Utility Commission of Texas.

C.S.H.B. 2857 requires the governing body of an applicable municipality by ordinance to regulate the installation and use of outdoor lighting. The bill requires an adopted ordinance to be designed to protect against the use of outdoor lighting in a way that interferes with scientific astronomical research of an observatory. The bill authorizes the governing body, in the ordinance, to require that a permit be obtained from the municipality before the installation and use of certain types of outdoor lighting in a regulated area, establish a fee in an amount to cover the costs of administering the issuance of the permit, prohibit the use of a type of outdoor lighting that is incompatible with the effective use of an observatory, establish requirements for the shielding of outdoor lighting, and regulate the times during which certain types of outdoor lighting may be used. The bill authorizes the governing body to apply more stringent standards for areas in which the use of outdoor lighting has a greater impact on observatory activities. The bill authorizes the governing body to adopt an ordinance only after conducting a public hearing on the proposed ordinance and requires the governing body to give at least two weeks' public

notice of the hearing.

C.S.H.B. 2857 requires the governing body of an applicable municipality by ordinance to establish standards relating to proposed subdivisions to minimize the interference with observatory activities caused by outdoor lighting and prohibits the governing body from approving a subdivision plat unless the plat provides that outdoor lighting will comply with such standards.

C.S.H.B. 2857 authorizes an applicable municipality to sue in any court to enjoin a violation of these provisions relating to the municipal regulation of outdoor lighting. The bill makes it a Class C misdemeanor for a person to violate an ordinance adopted under such provisions.

C.S.H.B. 2857, for purposes of its provisions relating to the municipal regulation of outdoor lighting, provides for the meaning of "major astronomical observatory" and "outdoor lighting" by reference.

C.S.H.B. 2857 requires the commissioners court of a county, any part of which is located within 57 miles of a major astronomical observatory at the McDonald Observatory, to adopt orders regulating the installation and use of outdoor lighting in any unincorporated territory of the county, rather than authorizing such a commissioners court to adopt such orders on the request of the director of the McDonald Observatory.

C.S.H.B. 2857, in provisions applicable only to real estate subdivisions subject to the plat approval authority of the commissioners court of a county, requires, rather than authorizes, the commissioners court of a county, any part of which is located within 57 miles of a major astronomical observatory at the McDonald Observatory, to adopt orders establishing standards relating to proposed subdivisions to minimize the interference with observatory activities caused by outdoor lighting.

C.S.H.B. 2857 makes conforming and nonsubstantive changes.

C.S.H.B. 2857 repeals Section 240.031(3), Local Government Code, relating to the definition of "person" applicable to provisions relating to outdoor lighting near observatories and military installations.

EFFECTIVE DATE

January 1, 2012.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2857 contains a provision not included in the original making the bill's provisions relating to the regulation of outdoor lighting in a municipality located in certain counties inapplicable to outdoor lighting installed, maintained, repaired, or replaced by an electric utility regulated by the Public Utility Commission of Texas.