

BILL ANALYSIS

C.S.H.B. 2953
By: Guillen
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties have raised concerns regarding a recent trend among municipalities to adopt ordinances that impose additional restrictions and regulations on the business activities of persons and entities who have been granted a license by the state to practice their professions or conduct their business within the state. The parties note that these additional restrictions and regulations vary widely between municipalities, resulting in a lack of consistency in occupational regulation throughout the state. Many state license holders who are also regulated by municipalities assert that the authority granted to them by the state to practice their profession or legally conduct business is effectively taken away through this additional layer of regulation by municipalities. C.S.H.B. 2953 seeks to remedy these issues by providing more consistency in statewide occupational regulation.

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. 2953 amends the Local Government Code to prohibit the governing body of a municipality from adopting or enforcing an ordinance, rule, or regulation that establishes requirements for, imposes restrictions on, or otherwise regulates the activity of a state license holder within the municipality or the municipality's extraterritorial jurisdiction, except a zoning ordinance, a commercial building regulation, a sexually oriented business regulation, a fire code, an electrical code, a plumbing code, or an ordinance or regulation concerning wages, benefits, workplace safety, or working conditions. The bill specifies that a municipal ordinance, rule, or regulation that violates this provision is void and unenforceable.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2953 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Title 2, Occupations Code, is amended by adding Chapter 60 to read as follows:

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter A, Chapter 215, Local Government Code, is amended by adding Section 215.005 to read as follows:

83R 24992

13.115.500

Substitute Document Number: 83R 22843

CHAPTER 60. ABILITY TO PRACTICE PROFESSION

Sec. 60.01. DEFINITIONS. In this chapter:

(1) "State license holder" means a person who:

(A) is required by state law to obtain a license, permit, registration, certificate, or other evidence of authority from a state licensing authority to practice an occupation or conduct a business; and

(B) is subject to regulation by the licensing authority.

(2) "State licensing authority" means a state agency, department, board, or commission.

Sec. 60.02. ADDITIONAL REGULATION OF STATE LICENSE HOLDER PROHIBITED.

(a) Notwithstanding any other law, unless expressly authorized by state law, the governing body of a municipality may not adopt or enforce any ordinance, rule, or regulation that establishes requirements for, imposes restrictions on, or otherwise regulates the business activity of a state license holder within the municipality or the municipality's extraterritorial jurisdiction.

(b) A municipal ordinance, rule, or regulation that violates this section is void and unenforceable.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

Sec. 215.005. STATE LICENSE HOLDERS. (a) In this section:

(1) "State license holder" means a person who:

(A) is required by state law to obtain a license, permit, registration, certificate, or other evidence of authority from a state licensing authority to practice an occupation, conduct a business, or exercise certain other rights; and

(B) is subject to regulation by the licensing authority.

(2) "State licensing authority" means a state agency, department, board, or commission.

(b) Notwithstanding any other law, the governing body of a municipality may not adopt or enforce an ordinance, rule, or regulation that establishes requirements for, imposes restrictions on, or otherwise regulates the activity of a state license holder within the municipality or the municipality's extraterritorial jurisdiction, except as provided by Subsection (c).

(c) A municipality may adopt or enforce:
(1) a zoning ordinance under Chapter 211;
(2) a commercial building regulation under Chapter 214;
(3) a sexually oriented business regulation;
(4) a fire code;
(5) an electrical code;
(6) a plumbing code; or
(7) an ordinance or regulation concerning wages, benefits, workplace safety, or working conditions.

(d) A municipal ordinance, rule, or regulation that violates this section is void and unenforceable.

SECTION 2. Same as introduced version.