

BILL ANALYSIS

Senate Research Center

S.B. 764
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State Affairs
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Drought conditions throughout Texas create an increased risk for wildfires. Five out of the last 10 years have been designated as extreme fire seasons, 90 percent of fires are caused by human factors, and 80 percent of wildfires burn within two miles of a community, posing a significant danger to communities and infrastructure.

Across Texas, groups are actively working to address the wildfire threat to the wildland urban interface, but forested, urban areas remain at high risk.

One way to mitigate the risk of wildfires is to use the technique of a prescribed or controlled burn. Currently, a controlled burn may take place during a burn ban (which is the vast majority of the year) only if supervised by an insured, certified burn manager. While municipalities can hire or contract with experienced burn managers, municipalities struggle to find private insurance to fully meet this requirement.

Presently, this issue is being considered by the Prescribed Burning Board and the Texas Department of Agriculture. However, municipalities believe they need help from the legislature to provide the authority needed to self-insure and subsequently to manage prescribed burns.

S.B. 764 allows a municipality, county, or other subdivision of the state to self-insure rather than purchase a private policy. The bill maintains all other legal protections and guidelines regarding prescribed or control burns.

S.B. 764 amends current law relating to a limitation on liability for prescribed burning conducted on agricultural or conservation land.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 153.081, Natural Resources Code, as follows:

Sec. 153.081. **LIMITATION OF OWNER LIABILITY.** (a) Provides that, subject to Section 153.082, an owner, lessee, or occupant of agricultural or conservation land is not liable for property damage or for injury or death to persons caused by or resulting from prescribed burning conducted on the land owned by, leased by, or occupied by the person if the prescribed burning is conducted under the supervision of a certified and insured prescribed burn manager.

(b) Provides that this section does not apply to an owner, lessee, or occupant of agricultural or conservation land who is a certified and insured prescribed burn manager and conducts a burn on that land.

(c) Defines "agricultural or conservation land," rather than "agricultural land," in this section.

SECTION 2. Amends Section 153.082, Natural Resources Code, as follows:

Sec. 153.082. INSURANCE. Provides that the limitation on liability under Section 153.081 does not apply to an owner, lessee, or occupant of agricultural or conservation land unless:

(1) the certified and insured prescribed burn manager conducting a burn on the land has liability insurance coverage of at least \$1 million for each single occurrence of bodily injury or death, or injury to or destruction of property, and with a policy period minimum aggregate limit of at least \$2 million; or

(2) the owner, lessee, or occupant is a governmental unit, as that term is defined by Section 2259.001 (Definitions), Government Code, that has a self-insurance program that provides the amount of coverage required by Subdivision (1).

Makes nonsubstantive changes.

SECTION 3. Effective date: upon passage or September 1, 2013.