

RESOLUTION ANALYSIS

C.S.H.J.R. 126
By: Burns
Agriculture & Livestock
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There is a need to protect the right to farm and ranch in Texas in order to ensure our future food security. Farmers and ranchers who engage in production agriculture within municipal boundaries are being subjected to broad overregulation by municipal ordinances that prohibit and greatly restrict normal practices of agricultural operations, such as the raising and keeping of livestock, the production of hay, and the cultivation of certain row crops. C.S.H.J.R. 126 seeks to address this issue and empower landowners in the state by constitutionally protecting their right to engage in certain generally accepted agricultural practices on their own property.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this resolution does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this resolution does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.J.R. 126 proposes an amendment to the Texas Constitution to establish that the people have the right to engage in generally accepted farm, ranch, timber production, horticulture, or wildlife management practices on real property they own or lease. That provision expressly does not affect the legislature's authority to authorize the following by general law:

- the regulation of such practices by the following:
 - a state agency or political subdivision when there is clear and convincing evidence that the law or regulation is necessary to protect the public health and safety from imminent danger;
 - a state agency to prevent a danger to animal health or crop production; or
 - a state agency or political subdivision to preserve or conserve the state's natural resources under applicable provisions of the constitution; or
- the use or acquisition of property for a public use, including the development of the state's natural resources under such provisions.

ELECTION DATE

The constitutional amendment proposed by this joint resolution will be submitted to the voters at an election to be held November 7, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.J.R. 126 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the resolution.

The substitute includes horticulture among the generally accepted practices in which a person has the right to engage on property they own or lease, whereas the introduced did not include horticulture as such.

With regard to the provision present in the introduced establishing that the resolution does not affect the legislature's authority to authorize by general law a state agency or political subdivision to regulate where there is clear and convincing evidence that the law or regulation is necessary to protect the public health and safety from imminent danger or to authorize by general law a state agency to regulate to prevent a danger to animal health or crop production, the substitute differs by doing the following:

- specifying the scope of the regulation as being the regulation of generally accepted farm, ranch, timber production, horticulture, or wildlife management practices, whereas the introduced did not include this specification; and
- specifying regulation by a state agency or political subdivision when there is such clear and convincing evidence, whereas the introduced specified such regulation where there is such evidence.

The substitute includes provisions absent from the introduced establishing that the resolution does not affect the legislature's authority to authorize the following by general law:

- the regulation of generally accepted farm, ranch, timber production, horticulture, or wildlife management practices by a state agency or political subdivision to preserve or conserve the state's natural resources under applicable provisions of the constitution; or
- the use or acquisition of property for a public use, including the development of the state's natural resources under such constitutional provisions.