

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 3556
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Natural Resources
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

National wildlife refuges along the Texas coast protect some of the most critical avian habitat in the world. The Texas coast is part of migratory flyways for more than 400 species, ultimately used by millions of birds migrating across North America in the spring and the fall. People travel from all over the world to observe these species, and the Texas tourism industry benefits greatly from the crowds. Development now threatens these historical migratory patterns. Tall structures, especially those with moving parts, are a deadly risk to migrating birds. Even when they do not cause death, they can cause substantial disruption in long-established natural patterns, forcing birds to use alternate nesting grounds or flight paths that may no longer come over Texas.

C.S.H.B. 3556 attempts to balance the development of a growing state with the risks posed by a small part of that development. In a covered county, a person would have to give notice to the Texas Parks and Wildlife Department (TPWD) 90 days before building a structure over 500 feet tall. TPWD then has 45 days to conduct a permissive review and provide mitigation measures. If the person wishing to construct a structure is not willing to implement those measures, the person can provide alternative measures to TPWD within 45 days. The bill adds a backstop that states that if TPWD finds that the mitigation measures are insufficient to prevent the structure(s) from materially damaging migratory birds in the state, it has 45 days to file suit to stop the construction. TPWD only has standing to seek an injunction for harm to wildlife during this period. C.S.H.B. 3556 covers only structures that are over 500 feet tall. As a rule of thumb, that is about the height of a 50-story building. It does not apply to counties with a population over 500,000, as these urban counties may have significant growth including skyscrapers and other large industrial structures. This limitation is an effort to limit only the most problematic structures in more naturally preserved locations.

C.S.H.B. 3556 amends current law relating to the construction of structures exceeding a certain height in certain counties containing national wildlife refuges and in adjacent counties and authorizes injunctive relief.

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 Subchapter A, Chapter 12, Parks and Wildlife Code, by adding Section 12.023, as follows:

Sec. 12.023. NOTICE OF CONSTRUCTION OF CERTAIN STRUCTURES. (a) Provides that this section applies only in a county with a population of less than 500,000 that:

- (1) borders the Gulf of Mexico and in which a national wildlife refuge is wholly or partly located; or
- (2) does not contain a municipality with a population greater than 300,000 and is adjacent to a county described by Subdivision (1).

(b) Requires a person, not later than the 90th day before the date a person begins construction of a structure taller than 500 feet, to submit to the Texas Parks and Wildlife Department (TPWD) a request for TPWD to review the project under Section 12.0011(b)(3) (relating to providing that TPWD's resource protection activities include providing information on fish and wildlife resources to certain entities).

(c) Requires TPWD, not later than the 45th day after the date TPWD receives a request under Subsection (b), to recommend in writing measures to minimize the impact of the structure on migratory birds.

(d) Authorizes the construction of the project, if TPWD does not provide recommendations under Subsection (c) to the person who requested review within the period required by that subsection, to proceed without further delay or modification.

(e) Requires a person who requested review, not later than the 45th day after the date the person receives the recommendations under Subsection (c), to provide a written response to TPWD accepting the recommendations or providing alternative minimization measures in place of TPWD recommendations.

(f) Authorizes TPWD, not later than the 45th day after the date TPWD receives alternative minimization measures the under Subsection (e), to bring an action for injunctive relief as provided by Subsection (g) if TPWD determines that the proposed structure, if constructed utilizing the alternative minimization measures, would materially damage migratory birds in this state.

(g) Authorizes TPWD to bring an action for injunctive relief for a violation of this section or as provided by Subsection (f) to limit or enjoin the construction of a structure in a district court for the county in which the structure is being or is proposed to be constructed. Authorizes the court to grant appropriate injunctive relief in an action under this subsection if the court determines that:

(1) the person violated this section; or

(2) the proposed structure, if constructed utilizing the alternative minimization measures, would materially damage migratory birds in this state.

(h) Authorizes TPWD or the court, as applicable, in making a determination under Subsection (f) or (g)(2), to consider the cumulative impact of all structures the person proposes to construct for the project.

(i) Provides that TPWD is not required to post a bond in an action for injunctive relief under this section.

(j) Provides that information submitted to TPWD under this section is not subject to Chapter 552 (Public Information), Government Code.

(k) Provides that this section does not apply to a facility that supports space flight activities, as defined by Section 100A.001 (Definitions), Civil Practice and Remedies Code.

SECTION 2. Makes application of Section 12.023, Parks and Wildlife Code, as added by this Act, prospective to the 90th day after the effective date of this Act.

SECTION 3. Effective date: upon passage or September 1, 2025.