

BILL ANALYSIS

C.S.S.B. 673
By: Hughes
Land & Resource Management
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill sponsor has informed the committee that accessory dwelling units (ADUs), which are sometimes referred to as "casitas," "cottages," and "granny flats," could help fill the current need for housing faced by students, caregivers, extended families, teachers, first responders, traveling professionals, and empty nesters, while also adding flexibility for home seekers and property owners and providing supplemental income for homeowners struggling with growing economic burdens. In an effort to increase the supply of safe, affordable housing, C.S.S.B. 673 establishes certain restrictions on municipal and county regulation of ADUs.

CRIMINAL JUSTICE IMPACT

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

ANALYSIS

C.S.S.B. 673 amends the Local Government Code to set out provisions relating to municipal and county regulation of accessory dwelling units. The bill defines "accessory dwelling unit" as a residential housing unit that meets the following conditions:

- is located on any lot that is not zoned or is zoned for a single-family home or duplex;
- is independent of the attached or detached primary dwelling unit; and
- is a complete and independent living facility for at least one individual.

The bill establishes that its provisions may not be construed to affect or conflict with requirements implementing state water quality laws, including Health and Safety Code provisions relating to on-site sewage disposal systems.

C.S.S.B. 673 prohibits a municipality or county from adopting or enforcing an order, ordinance, or other measure that does the following:

- prohibits an owner of a lot that is not zoned or is zoned for a single-family home or duplex from building an accessory dwelling unit (ADU) before, after, or concurrently with the building of the primary dwelling unit on the lot;
- prohibits the owner from entering into a residential lease for an ADU;
- requires any owner occupancy of the primary dwelling unit;
- requires parking for an ADU on a lot that is less than 7,000 square feet or is located within 1,320 feet of a public transit line;
- requires a minimum lot size for an ADU that is larger than the minimum lot size required by the municipality or county for:
 - a single-family home or duplex, as applicable, in a lot zoned for that purpose; or

- an ADU on September 1, 2025, if the municipality or county only required a property owner to provide notice to the municipality or county of the proposed unit to be authorized to build the unit;
- charges an impact fee unless the ADU requires an increase in the size of the meter or connection to serve the primary dwelling unit or requires a new meter or connection for the ADU;
- charges any additional fee or any exaction, including a parkland or right-of-way dedication;
- imposes any restriction of ADU occupancy on the basis of age or employment relationship with the primary dwelling unit owner;
- prohibits construction of an ADU in accordance with the current residential building code adopted by the state or a housing regulatory authority of the state; or
- prohibits an ADU based on its orientation on the lot with respect to the primary dwelling unit if space allows for that orientation.

The bill establishes that the prohibition against measures that require parking for ADUs on certain lots does not limit a municipality's or county's authority to require the replacement of parking required for the primary dwelling unit if the ADU construction eliminates the primary dwelling unit's existing parking.

C.S.S.B. 673 additionally prohibits a municipality or county from adopting or enforcing an order, ordinance, or other measure that does the following:

- requires side or rear building, plane, or other setbacks, not including setbacks related to environmental features, erosion, or waterways to the extent authorized by federal or state law, larger than five feet for an ADU;
- prevents an owner of a lot zoned for a single-family home or duplex from converting an existing structure to an ADU by requiring setbacks larger than the current structure's setbacks;
- applies the municipality's or county's local growth restrictions or density or bulk limitations to an ADU;
- provides a limitation on the square footage of an ADU that is less than 800 square feet or 50 percent of the square footage of the primary dwelling unit;
- regulates the design of an ADU, including the shape, massing, or distribution of square footage between floors; or
- requires the height of an ADU to be less than 14 feet, measured from floor to ceiling.

The bill makes the prohibitions against these measures inapplicable to a municipality with a population of less than 150,000 or a county with a population of less than 300,000 if the municipality or county has adopted regulations for ADUs that allow for a minimum ADU size of at least 850 square feet and are not more restrictive than the requirements that would apply to a single-family home located on the site of the ADU. The bill establishes that nothing in the provision establishing this limitation of applicability may be construed to prohibit a municipality or county from adopting less restrictive standards for ADUs.

C.S.S.B. 673 authorizes a municipality or county, except as otherwise provided by the bill, to apply the municipality's or county's height limitations, front setback limitations, open space or impervious cover limitations, floodplain requirements, waterway setbacks, environmental setbacks, drainage requirements, requirements related to erosion, site plan review, and other zoning requirements to the extent authorized by federal or state law, but only if those requirements:

- would be applicable to a single-family home or duplex located on the same site as the ADU; and
- are not more restrictive than the requirements applicable to a single-family home or duplex.

The bill authorizes a municipality or county to publish ADU plans, building codes, and design standards that are permitted in the municipality or county and authorizes the standards to include

height, setback, landscape, and maximum size of an ADU, subject to the bill's regulation prohibitions.

C.S.S.B. 673 authorizes a municipality or county to authorize an ADU on the following lots:

- a lot that contains a structure subject to a historic preservation law, subject to a municipality's or county's authority to regulate under other law, including municipal zoning regulations;
- a lot that is located in an area used to implement a water conservation plan required under applicable Water Code provisions; or
- a lot that is located in an area subject to a standard imposed by the Texas Water Development Board as described by a specified statutory provision establishing exceptions to the prohibition against certain governmental regulations regarding building products, materials, or methods.

The bill authorizes a municipality or county to apply the municipality's or county's regulations on short-term rental units to an ADU.

C.S.S.B. 673 authorizes a municipality or county to prohibit the sale of an ADU separately from the primary dwelling unit unless either the ADU is located on a separate lot from the primary dwelling unit or the ADU and the primary dwelling unit are separate condominium units under the Uniform Condominium Act.

C.S.S.B. 673 authorizes a municipality or county to apply the municipality's or county's parking regulations that are not prohibited under the bill's provisions to an ADU if the regulations do not:

- require more than one parking space for each ADU; and
- regulate the placement or adequacy of parking.

C.S.S.B. 673 requires a municipality or county that requires a permit to construct an ADU to do the following:

- process the application for the permit ministerially without discretionary review or a hearing;
- consider only whether the application satisfies the applicable building codes, design standards, and fire codes; and
- approve or deny the application not later than the 60th day after the date the applicant submits the completed application.

The permit application is considered approved if the municipality or county to which the application is submitted does not approve or deny the application on or before the 60th day after the date the applicant submits the application.

C.S.S.B. 673 expressly does not supersede, preempt, or apply to a historic preservation rule, deed restriction, or homeowners association rule that limits or prohibits the construction of an ADU.

C.S.S.B. 673 authorizes a property owner to bring an action against a municipality or county that violates the bill's provisions for appropriate equitable relief. The bill authorizes a court to award a prevailing claimant reasonable attorney's fees and costs incurred in bringing such an action.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2025.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 673 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

While both the engrossed and the substitute set out provisions relating to local government regulation of ADUs, the engrossed version's provisions were applicable to a political subdivision, whereas the substitute's provisions are instead applicable to a municipality or county.

While both the engrossed and the substitute prohibit an applicable entity from adopting or enforcing an order, ordinance, or other measure that takes certain actions relating to ADUs, those prohibitions differ as follows:

- the engrossed included a prohibition against measures that require parking for an ADU on a lot that was platted before 1965, whereas the substitute does not;
- while both versions prohibit measures that require side or rear building, plane, or other setbacks larger than five feet for an ADU, the substitute specifies that such prohibition does not include setbacks related to environmental features, erosion, or waterways to the extent authorized by federal or state law, whereas the engrossed did not include that specification and expressly included a waterway setback in the prohibition;
- under the prohibition against measures that regulate the design of an ADU, the engrossed included size under such design specifications, whereas the substitute does not; and
- the engrossed included a prohibition against measures that prohibit the construction of ADUs consistent with the engrossed version's provisions under otherwise applicable open space or permeable surface restrictions, whereas the substitute does not.

The substitute includes provisions absent from the engrossed that do the following:

- make certain of the bill's prohibitions against municipal or county measures regulating ADUs inapplicable to a municipality with a population of less than 150,000 or a county with a population of less than 300,000 if the municipality or county has adopted regulations for ADUs that meet specified criteria;
- establish that nothing in the provision establishing that limitation of applicability may be construed to prohibit a municipality or county from adopting less restrictive standards for ADUs; and
- establish that the bill's provisions may not be construed to affect or conflict with requirements implementing state water quality laws, including Health and Safety Code provisions relating to on-site sewage disposal systems.

Whereas the engrossed established that a political subdivision's height limitations, front setback limitations, site plan review, and other zoning requirements that are generally applicable to residential construction for the area in which an ADU is built apply to the ADU, the substitute instead authorizes a municipality or county to apply its height limitations, front setback limitations, open space or impervious cover limitations, floodplain requirements, waterway setbacks, environmental setbacks, drainage requirements, requirements related to erosion, site plan review, and other zoning requirements to the extent authorized by federal or state law, but only if those requirements:

- would be applicable to a single-family home or duplex located on the same site as the accessory dwelling unit; and
- are not more restrictive than the requirements applicable to a single-family home or duplex.

Both the engrossed and the substitute authorize a property owner to bring an action against an applicable entity that violates the bill's provisions. However, those authorizations differ as follows:

- whereas the engrossed authorized a property owner to bring an action for damages resulting from the violation and appropriate equitable relief, the substitute only authorizes a property owner to bring an action for appropriate equitable relief; and
- the substitute omits the following provisions that appeared in the engrossed:
 - the prohibition against a claimant recovering exemplary damages in the action; and
 - a provision that waived governmental immunity of a political subdivision to suit and from liability to the extent of liability created by the bill's provisions.