

BILL ANALYSIS

C.S.H.B. 1643
By: Riddle
County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to interested parties, certain authorities in Harris County are being deployed in response to nuisance complaints yet often encounter undeveloped forested properties adjacent to a subdivision or neighborhood that do not pose a threat to the public's health. These unnecessary deployments, the parties continue, are an issue in Harris County as developers build new subdivisions in previously undeveloped areas. The parties suggest that current nuisance law contains ambiguities that force county authorities to respond for purposes other than to protect the public from nuisances that pose a hazard to safety, health, and well-being. C.S.H.B. 1643 seeks to address this issue by better delineating what constitutes a public nuisance in certain counties.

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.H.B. 1643 amends the Health and Safety Code to establish that with regard to a county with a population of 3.3 million or more certain conduct constituting a public nuisance in the unincorporated area of the county apply only to undeveloped land for which a condition on that land has been found to cause a public nuisance in regard to such conduct in the preceding year and a finding of public nuisance could have been applied to that condition when the condition first occurred. The bill specifies such conduct as maintaining premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or other disease-carrying pests or allowing weeds to grow on premises in a neighborhood if the weeds are located within 300 feet of another residence or commercial establishment.

C.S.H.B. 1643 defines "undeveloped land" as land in a natural, primitive state that lacks improvements, infrastructure, or utilities and that is not located in a municipality. The bill redefines the applicable definition of "weeds" to mean, in part, all rank and uncultivated vegetable growth or matter that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or other disease-carrying pests, regardless of the height of the weeds, rather than all such growth or matter that may create an unsanitary condition or may become a harborage for rodents, vermin, or other disease-carrying pests, regardless of the height of the weeds.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1643 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 343.002, Health and Safety Code, is amended by adding Subdivision (10-a) and amending Subdivision (11) to read as follows:

(10-a) "Undeveloped land" means land in a natural, primitive state that lacks improvements, infrastructure, and utilities.

(11) "Weeds" means all rank and uncultivated vegetable growth or matter that:

(A) has grown to more than 36 inches in height; or

(B) creates [~~may create~~] an unsanitary condition likely to attract or harbor mosquitoes, [~~become a harborage for~~] rodents, vermin, or other disease-carrying pests, regardless of the height of the weeds.

SECTION 2. Section 343.011, Health and Safety Code, is amended by amending Subsection (c) and adding Subsection (d-1) to read as follows:

(c) A public nuisance is:

(1) keeping, storing, or accumulating refuse on premises in a neighborhood unless the refuse is entirely contained in a closed receptacle;

(2) keeping, storing, or accumulating rubbish, including newspapers, abandoned vehicles, refrigerators, stoves, furniture, tires, and cans, on premises in a neighborhood or within 300 feet of a public street for 10 days or more, unless the rubbish or object is completely enclosed in a building or is not visible from a public street;

(3) maintaining premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or other disease-carrying pests;

(4) allowing weeds to grow on premises in a neighborhood if the weeds are located

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 343.002, Health and Safety Code, is amended by adding Subdivision (10-a) and amending Subdivision (11) to read as follows:

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(3) maintaining premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or other disease-carrying pests;

(4) allowing weeds to grow on premises in a neighborhood if the weeds are located

within 300 feet of another residence or commercial establishment;

(5) maintaining a building in a manner that is structurally unsafe or constitutes a hazard to safety, health, or public welfare because of inadequate maintenance, unsanitary conditions, dilapidation, obsolescence, disaster, damage, or abandonment or because it constitutes a fire hazard;

(6) maintaining on abandoned and unoccupied property in a neighborhood a swimming pool that is not protected with:

(A) a fence that is at least four feet high and that has a latched and locked gate; and

(B) a cover over the entire swimming pool that cannot be removed by a child;

(7) maintaining on any property in a neighborhood in a county with a population of more than 1.1 million a swimming pool that is not protected with:

(A) a fence that is at least four feet high and that has a latched gate that cannot be opened by a child; or

(B) a cover over the entire swimming pool that cannot be removed by a child;

(8) maintaining a flea market in a manner that constitutes a fire hazard;

(9) discarding refuse or creating a hazardous visual obstruction on:

(A) county-owned land; or

(B) land or easements owned or held by a special district that has the commissioners court of the county as its governing body;

(10) discarding refuse on the smaller of:

(A) the area that spans 20 feet on each side of a utility line; or

(B) the actual span of the utility easement;

(11) filling or blocking a drainage easement, failing to maintain a drainage easement, maintaining a drainage easement in a manner that allows the easement to be clogged with debris, sediment, or vegetation, or violating an agreement with the county to improve or maintain a drainage easement;

(12) discarding refuse on property that is not authorized for that activity; or

(13) surface discharge from an on-site sewage disposal system as defined by Section 366.002.

(d-1) Subsections (c)(3) and (4) do not apply to undeveloped land for which:

(1) a condition on that land has not been

within 300 feet of another residence or commercial establishment;

(5) maintaining a building in a manner that is structurally unsafe or constitutes a hazard to safety, health, or public welfare because of inadequate maintenance, unsanitary conditions, dilapidation, obsolescence, disaster, damage, or abandonment or because it constitutes a fire hazard;

(6) maintaining on abandoned and unoccupied property in a neighborhood a swimming pool that is not protected with:

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(11) filling or blocking a drainage easement, failing to maintain a drainage easement, maintaining a drainage easement in a manner that allows the easement to be clogged with debris, sediment, or vegetation, or violating an agreement with the county to improve or maintain a drainage easement;

(12) discarding refuse on property that is not authorized for that activity; or

(13) surface discharge from an on-site sewage disposal system as defined by Section 366.002.

(d-1) This subsection applies only to a county with a population of 3.3 million or more. Subsections (c)(3) and (4) apply only to undeveloped land in the county for which:

(1) a condition on that land has been found

found to cause a public nuisance under those provisions for at least one year; and (2) a finding of public nuisance could not have been applied to that condition when the condition first occurred.

SECTION 3. 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, 2015.

to cause a public nuisance under those provisions in the preceding year; and (2) a finding of public nuisance could have been applied to that condition when the condition first occurred.

SECTION 3. Same as introduced version.