

## **BILL ANALYSIS**

C.S.H.B. 2991  
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Energy Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties note that many municipalities in Texas have adopted local ordinances prescribing the manner in which mineral exploration and development activities may proceed within municipal jurisdictions and that such ordinances commonly include a minimum setback requirement for such activities from certain surface uses. The parties further note that these surface uses typically include but are not limited to residential use structures, hospitals, churches, schools, and daycares and that the justification for enacting these setbacks often include nuisance avoidance and protection of public health, safety, and welfare.

The parties contend, however, that as urban sprawl increasingly transitions rural Texas into urban and suburban landscapes, municipalities are permitting the development of surface property at shorter distances from mineral exploration and development activities than the buffer established by a setback requirement. The parties further contend that purchasers of such property are often unaware of the property's proximity to such activities, activities which later may cause distress to the purchasers. C.S.H.B. 2991 seeks to address these issues.

### **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. 2991 amends the Local Government Code to set out provisions relating to the regulation of minimum setback requirements for mineral exploration and development activities applicable to a municipality that adopts or has adopted an ordinance that requires a minimum distance that must be maintained between land used for such activities and a school, regular place of worship, residence, residential neighborhood, public park, or other land use specified by the ordinance. The bill requires a municipality to apply such an ordinance uniformly to subsequent development of a land use specified by the ordinance and land used for mineral exploration and development activities within the municipality's corporate boundaries, but authorizes a person with authority to develop or otherwise use a tract of land to submit a request to the municipality to grant a waiver to allow the development or other use of land that is located within the minimum distance area. The bill requires a municipality that grants a waiver to file a notice of the waiver in the real property records of the county in which the land subject to the waiver is located. The bill requires the notice to include a description legally sufficient for identification of the land subject to the waiver and to state that the person granted the waiver was informed of the minimum distance required by municipal ordinance and voluntarily requested a

waiver of the minimum distance.

## **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. 2991 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 92.007 of Chapter 92 of the Natural Resources Code is amended to read as follows:

(a) For the purposes of this section, "identified marker" is defined as a school, regular place of religious worship, residence, residential neighborhood, public park or other specified land use that the governing body of a municipality identifies as a marker from which mineral exploration and development must maintain a maximum proximity.

(b) This chapter does not affect the authority of a municipality to require approval of subdivision plats or the authority of a home-rule city to regulate exploration and development of mineral interests within its boundaries.

(c) A maximum proximity allowance established by a municipality between mineral exploration and development activities and identified markers must be applied uniformly to subsequent development of identified markers in relation to all existing mineral and exploration activity locations within its boundaries.

(d) A property owner or lessee desiring to build or otherwise utilize property within the area created by a proximity allowance may petition the municipality for a waiver. If a waiver petition is granted, the municipality must record a notice in the county records that:

### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter Z, Chapter 212, Local Government Code, is amended by adding Section 212.905 to read as follows:

Sec. 212.905. REGULATION OF MINIMUM SETBACK REQUIREMENTS FOR MINERAL EXPLORATION AND DEVELOPMENT ACTIVITIES; WAIVER.

(a) This section applies to a municipality that adopts or has adopted an ordinance that requires a minimum distance that must be maintained between land used for mineral exploration and development activities and a school, regular place of worship, residence, residential neighborhood, public park, or other land use specified by the ordinance.

(b) Except as provided by Subsection (c), a municipality shall apply an ordinance described by Subsection (a) uniformly to subsequent development of a land use specified by the ordinance and land used for mineral exploration and development activities within the municipality's corporate boundaries.

(c) A person with authority to develop or otherwise use a tract of land may submit a request to the municipality to grant a waiver to allow the development or other use of land that is located within the minimum distance area.

(d) A municipality that grants a waiver requested as provided by Subsection (c) shall file a notice of the waiver in the real property records of the county in which the land

(1) the property owner or lessee was made aware of the maximum proximity allowance for mineral exploration and development and an identified marker; and  
(2) the property owner or lessee voluntarily sought a waiver of the allowance limit.

(d) Information regarding the voluntary waiver of the allowance limit must be maintained in county records so as to provide notice to a potential purchaser prior to transfer of any portion of the property.

SECTION 2. 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.

subject to the waiver is located. The notice filed under this subsection must:

(1) include a description legally sufficient for identification of the land subject to the waiver; and

(2) state that the person granted the waiver was informed of the minimum distance required by municipal ordinance and voluntarily requested a waiver of the minimum distance.

SECTION 2. Same as introduced version.