

**SUBJECT:** Authorizing county judges to delegate duties under the Mass Gatherings Act

**COMMITTEE:** County Affairs — favorable, without amendment

**VOTE:** 8 ayes — Ramsay, G. Lewis, Brown, Chisum, Farabee, Krusee, Salinas, Shields

0 nays

1 absent — Hilderbran

**WITNESSES:** For — Lee Jackson, Dallas County Judge

Against — None

**BACKGROUND:** The Texas Mass Gatherings Act (Health and Safety Code, Chapter 751) requires organizers of outdoor events that are to be held outside the limits of an incorporated municipality to seek and receive a permit from the county judge if the event is expected to attract more than 5,000 people for more than 12 hours. The application must be filed at least 45 days before the event. The county judge must hold a hearing no later than 10 days before the event, notify interested parties, and allow testimony on the permit application. The county health authority and county sheriff must investigate the preparations for the gathering and report their findings to the county judge at least five days before the hearing. Following the hearing, the judge must make findings on the record and either grant or deny the permit.

Upon 24 hours' notice, the county judge can revoke a permit for fraud or misrepresentation or if the preparations for the gathering will not be completed in time. Those affected by the county judge's decision may appeal the decision to a district court for the county.

**DIGEST:** HB 1111 would amend the Mass Gatherings Act to allow the county judge to delegate to another county official the duty to hold permit application hearings and the authority to revoke permits. Orders issued by the delegate would have the same effect as those of the county judge. The county judge could revoke the delegation of authority at any time.

HB 1111 would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2001.

**SUPPORTERS  
SAY:**

HB 1111 would allow a more convenient process for county judges and applicants for mass-gathering permits by allowing the judge to delegate the decision-making authority to another county official, such as a local justice of the peace or an official of the county health authority. Currently, county judges in larger counties can be responsible for areas covering parts of five senatorial districts, and they alone must hear and decide all mass-gathering permit applications sought within their jurisdiction. Since hearings must be held no later than 10 days before the event and the health authority and sheriff's department must inspect the site and report to the county judge at least five days before the hearing, the window for a hearing is not very large. If the judge is out of town, on vacation, or otherwise unable to hold the hearing, he or she may not be able to hear the applicant's permit request. In fact, judges have had to cut short trips abroad to return to hold these hearings. Should anything go wrong, requiring the permit to be revoked, only the county judge can perform this duty.

The bill also could promote efficiency in the application process. For instance, if the judge delegated authority to an official from the county health authority that must investigate the health and sanitation preparations for the gathering, the person most familiar with many of the regulations at issue in the hearing would make the decision, thereby streamlining the process. Also, allowing the county judge to delegate authority over mass gathering permits to a local J.P. with jurisdiction over the site would make it more convenient for neighbors interested in the permit to attend the hearing.

The permit process generally does not involve the exercise of broad discretion as long as the gathering meets standard health and safety criteria. Whichever county official handled these duties would be as accountable as the county judge.

**OPPONENTS  
SAY:**

The changes proposed by HB 1111 are unnecessary. Even in the largest counties, only a handful of mass-gathering permit applications are filed each year, and there is a three- to four-week window in which the hearing can be held. Thus, these responsibilities are not very burdensome for county judges.

HB 1111 could place too much authority in the hands of unelected officials. Current law already requires the county health authority to adopt standards for health and sanitation at mass gatherings. This bill could result in the same officials applying and interpreting those standards. Also, depending on who the judge's delegate is, the bill could eliminate the existing check on sheriffs and county health officials by allowing the judge to reach a decision independent of the health authority or sheriff and even to conduct an independent investigation if necessary.

NOTES:

The companion bill, SB 286 by Carona, passed the Senate on the Local and Uncontested Calendar on February 20 and was reported favorably, without amendment, by the House County Affairs Committee on March 7, making it eligible to be considered in lieu of HB 1111.