

BILL ANALYSIS

Senate Research Center

H.B. 2049
By: Hightower (Madla)
Intergovernmental Relations
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Committee Report (Amended)

DIGEST

Currently, state law allows a county commissioners court to restrict or prohibit the use of certain aerial fireworks in an unincorporated part of a county if there is a danger of fire due to lack of rain. Orders by the commissioners court must be adopted before June 15 for the 4th of July season and before December 15 of the December fireworks season. However, if county commissioners regulate or restrict the use of aerial fireworks in an area, they cannot allow any exceptions to that regulation. The pyrotechnics industry has expressed interest in county commissioners having the ability to designate "safe areas" where fireworks could be used, during a time of regulation. H.B. 2049 would allow county commissioners courts to regulate serial fireworks in unincorporated areas of the county if the Texas Forest Service designates the area as having a drought condition.

PURPOSE

As proposed, H.B. 2049 outlines provisions regarding the authority of a county to regulate certain fireworks during a drought.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 240.904, Local Government Code, to define "drought conditions." Deletes the definition of "climatic conditions."

(b) Requires the Texas Forest Service in the ordinary course of its activities to determine whether drought conditions, as defined under Subsection (a)(2), exist in all or part of any county requesting such determination. Requires the Texas Forest Service to make available the measurement index guidelines that determine whether a particular area is in drought condition. Provides that following any determination that such drought conditions exist, the Texas Forest Service shall notify said county or counties when such drought conditions no longer exist. Requires the Texas Forest Service to be allowed to take such donations of equipment or funds as necessary to aid in the carrying out of this section.

(c) Authorizes the commissioners court to prohibit the use of fireworks in certain parts of the unincorporated areas of the county where drought conditions have been determined to exist, rather than in which the danger of fire is enhanced or anticipated to be enhanced by climatic conditions, upon a determination that drought conditions exist within all or part of a specified county, rather than to protect the public health or safety. Authorizes the commissioners court to restrict the use of fireworks in specified areas when certain conditions exist.

(d) Provides that to facilitate compliance with an order adopted under Subsection (c), rather than Subsection (b), the order must be adopted before June 15 and December 15 of each year.

(e) Requires an order issued under this section to expire upon determination as provided under Subsection (b) that such drought conditions no longer exist, rather than may not extend beyond the period that the enhanced fire danger exists.

(f) Authorizes the county to designate one or more areas of appropriate size and accessibility in the county as safe areas where the use of aerial fireworks is not prohibited. Deletes existing Subsection (e).

(g) Requires a person selling fireworks in a county that has adopted an order under Subsection (c) to provide notice of the order and of any location, rather than the safe area, designated under Subsection (f) as a safe area. Makes conforming and nonsubstantive changes.

(h) Makes a conforming change.

(i) Makes a conforming change.

(j) Makes application of this Act prospective.

SECTION 2. Emergency clause.

Effective date: upon passage.

SUMMARY OF COMMITTEE CHANGES

Amendment 1.

Amends text to delete Section 240.904(a)(2), Local Government Code, in its entirety and substitute a new definition for "drought conditions."

Amendment 2.

Amends text to add a new Subsection (j) to Section 240.904, Local Government Code.