

## **BILL ANALYSIS**

Senate Research Center  
82R27413 TJB-D

C.S.H.B. 2857  
By: Gallego (Uresti)  
Intergovernmental Relations  
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Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The McDonald Observatory is one of the world's leading centers for astronomical research, teaching, public education, and outreach. The observatory operates a multi-faceted international public outreach program, including star parties, public tours, radio programs, and print and online publications. Observatory facilities are located atop Mount Locke and Mount Fowlkes in the Davis Mountains of West Texas. This location offers some of the darkest night skies in the continental United States and ensures the telescopes of the observatory have an unfettered view of the night sky.

A hundred years ago, it was easy to see the stars that inspired wonder and awe in all who saw them in the night sky. Unfortunately, poor outdoor lighting regulations coupled with the growth of surrounding communities in the area have resulted in light pollution that endangers the operations of the observatory.

C.S.H.B. 2857 allows the counties and municipalities in a 57-mile radius of the observatory to establish provisions relating to the regulation of outdoor lighting. This bill would not apply to lighting in existence or under construction on January 1, 2012, and would ensure the protection of the valuable research of the McDonald Observatory.

C.S.H.B. 2857 amends current law relating to regulation of outdoor lighting in certain areas and provides a criminal penalty and for injunctive relief.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 229, Local Government Code, by adding Subchapter B, as follows:

#### **SUBCHAPTER B. REGULATION OF OUTDOOR LIGHTING**

Sec. 229.051. DEFINITIONS. Defines, in this subchapter, "major astronomical observatory" and "outdoor lighting."

Sec. 229.052. APPLICABILITY. (a) Provides that this subchapter applies to a municipality located in a county any part of which is located within 57 miles of a major astronomical observatory at the McDonald Observatory.

(b) Provides that this subchapter does not apply to:

(1) outdoor lighting in existence or under construction on January 1, 2012; or

(2) the installation, maintenance, repair, or replacement of outdoor lighting owned or operated by an electric utility as defined by Section 31.002 (Definitions), Utilities Code.

Sec. 229.053. REGULATION OF OUTDOOR LIGHTING. (a) Requires the governing body of a municipality by ordinance to regulate the installation and use of outdoor lighting.

(b) Requires that an ordinance adopted under this section be designed to protect against the use of outdoor lighting in a way that interferes with scientific astronomical research of an observatory.

(c) Authorizes the governing body, in the ordinance, to:

(1) require that a permit be obtained from the municipality before the installation and use of certain types of outdoor lighting in a regulated area;

(2) establish a fee in an amount to cover the costs of administrating the issuance of the permit;

(3) prohibit the use of a type of outdoor lighting that is incompatible with the effective use of an observatory;

(4) establish requirements for the shielding of outdoor lighting; and

(5) regulate the times during which certain types of outdoor lighting may be used.

(d) Authorizes the governing body to apply more stringent standards for areas in which the use of outdoor lighting has a greater impact on observatory activities.

(e) Authorizes the governing body to adopt an ordinance under this section only after conducting a public hearing on the proposed ordinance. Requires the governing body to give at least two weeks' public notice of the hearing.

Sec. 229.054. REGULATION OF SUBDIVISIONS. (a) Requires the governing body of a municipality by ordinance to establish standards relating to proposed subdivisions to minimize the interference with observatory activities caused by outdoor lighting.

(b) Prohibits the governing body from approving a subdivision plat unless the plat provides that outdoor lighting will comply with standards adopted under this section.

Sec. 229.055. ENFORCEMENT; PENALTY. (a) Authorizes a municipality to sue in any court to enjoin a violation of this subchapter.

(b) Provides that a person who violates an ordinance adopted under this subchapter commits an offense. Provides that an offense under this section is a Class C misdemeanor.

SECTION 2. Amends Section 240.032(a), Local Government Code, to require the commissioners court of a county any part of which is located within 57 miles of a major astronomical observatory at the McDonald Observatory, rather than authorize, on the request of the director of McDonald Observatory, the commissioners court of a county any part of which is located within 57 miles of a major astronomical observatory at the McDonald Observatory, to adopt orders regulating the installation and use of outdoor lighting in any unincorporated territory of the county.

SECTION 3. Amends Section 240.033, Local Government Code, by amending Subsection (b) and adding Subsections (c) and (d), as follows:

(b) Requires the commissioners court of a county, any part of which is located within 57 miles of a major astronomical observatory at the McDonald Observatory, to adopt orders establishing standards relating to proposed subdivisions to minimize the interference with observatory activities caused by outdoor lighting, rather than authorizing the commissioners court of a county, any part of which is located within 57 miles of a major astronomical observatory at the McDonald Observatory or within five miles of a major astronomical observatory at the George Observatory or the Stephen F. Austin State University Observatory, to adopt orders establishing standards relating to proposed subdivisions in order to minimize the interference with observatory activities caused by outdoor lighting.

(c) Creates this subsection from existing text. Authorizes the commissioners court of a county, any part of which is located within five miles of a major astronomical observatory at the George Observatory or the Stephen F. Austin State University Observatory, to adopt orders establishing standards relating to proposed subdivisions to minimize the interference with observatory activities caused by outdoor lighting.

(d) Creates this subsection from existing text. Prohibits a commissioners court that adopts orders under this section from approving a plat of a proposed subdivision that does not meet the standards established in the orders. Makes a nonsubstantive change.

SECTION 4. Amends Chapter 229, Local Government Code, by designating Sections 229.001, 229.002, and 229.003 as Subchapter A and adding a heading for Subchapter A to read as follows:

**SUBCHAPTER A. REGULATION OF FIREARMS AND EXPLOSIVES**

SECTION 5. Repealer: Section 240.031(3) (defining "person"), Local Government Code.

SECTION 6. Effective date: January 1, 2012.