

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 965  
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Intergovernmental Relations  
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Committee Report (Substituted)

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

An approximately three-mile stretch of the San Marcos River, east of the City of San Marcos, is visited by tens of thousands of tubers and recreational users each year. The number of visitors to the river, especially for tubing, has increased substantially in recent years as the population and interest in the area has grown. The particular section of the river lies within an unincorporated area and forms the border between Caldwell and Guadalupe counties. The county governments lack sufficient resources to consistently station police officers on and along the river to enforce existing state regulations related to public intoxication, underage drinking, drug use, trespassing, indecency, and littering, among other crimes. Tubers, especially those under the legal drinking age, are attracted to this stretch of river because they know state laws related to consuming alcohol frequently are not enforced.

The increased activity and lawlessness is dangerous, disruptive, and costly to the taxpayers of Caldwell and Guadalupe counties, the City of Martindale, and the State of Texas. The river and surrounding roadways experience a high volume of alcohol-related incidents ranging from minor to catastrophic in nature, which require costly responses by local, county, and state law enforcement and emergency service providers. Existing efforts by Texas Parks and Wildlife game wardens, DPS troopers, county sheriffs and constables, and local emergency response teams draw resources away from the rest of the region, leaving the citizens of the area without adequate law enforcement and emergency services coverage. What's more, excessive littering caused by some recreationists on the river is unsightly and detrimental to the river's ecosystem.

To address the pressing need for law enforcement without creating a new level of government, C.S.S.B. 965 would authorize a commissioners court of a county bordering or including the San Marcos River to designate a county water recreation safety zone only for the purpose of improving the public health, safety, and welfare of residents and river recreationists in the zone. A commissioners court may propose this designation by its own motion and must propose the designation if it receives a petition by a requisite number of registered voters.

Before a zone is designated, the court must prepare a preliminary plan for the use of zone fees and provide notice of and hold a public hearing on the proposal and preliminary plan. The court may order an election on the question of designating the zone, if it finds the designation will serve the aforementioned purpose.

If the voters approve and a zone is designated, the commissioners court may impose a fee up to \$4 per person for each rental of water-oriented recreational equipment; or, if not renting equipment, for the use of a shuttle service related to water-oriented recreational activities, or for a service for ingress or egress to the river. The fee revenue collected may be used only to employ or contract with additional peace officers to provide law enforcement in the zone. The bill also establishes requirements for administration of fees and procedures for zone dissolution.

C.S.S.B. 965 amends current law relating to the authority of certain counties to designate a county water recreation safety zone along certain rivers and authorizes a fee.

### **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 Subtitle B, Title 10, Local Government Code, by adding Chapter 328, as follows:

### **CHAPTER 328. COUNTY WATER RECREATION SAFETY ZONE ALONG CERTAIN RIVERS**

#### **SUBCHAPTER A. GENERAL PROVISIONS**

Sec. 328.001. **APPLICABILITY.** Provides that this chapter applies only to a county that borders a river or that includes all or part of a river that is the habitat of certain federally listed endangered species.

Sec. 328.002. **DEFINITIONS.** Defines "fee," "fund," "water-oriented recreational equipment," and "zone."

#### **SUBCHAPTER B. DESIGNATION OF COUNTY WATER RECREATION SAFETY ZONE**

Sec. 328.021. **AUTHORITY TO DESIGNATE ZONE.** Authorizes the commissioners court of a county to designate a contiguous geographic area located in the county that is adjacent to and includes all or part of a river described by Section 328.001 as a county water recreation safety zone (zone).

328.022. **PURPOSE OF ZONE.** Authorizes a county to designate a zone only for the purpose of improving the public health, safety, and welfare of residents of the zone and individuals who engage in recreational activities in, on, or along a river described by Section 328.001 that is located in the zone.

Sec. 328.023. **PROPOSAL TO DESIGNATE ZONE.** (a) Provides that the commissioners court of a county:

(1) is authorized to propose the designation of a zone on the commissioners court's own motion; and

(2) is required to propose the designation of a zone if the county clerk receives a written petition for the designation signed by a number of registered voters of the county equal to at least five percent of the votes received in the county in the most recent gubernatorial general election.

(b) Requires that a proposal described by Subsection (a) describe the boundaries of the proposed zone with sufficient definiteness to identify with ordinary and reasonable certainty the area included in the zone.

Sec. 328.024. **PRELIMINARY PLAN FOR FEES.** Requires the commissioners court, before conducting a public hearing under Section 328.025, to prepare a preliminary plan for the use of zone fees that the county is authorized to impose.

Sec. 328.025. **PUBLIC HEARING.** (a) Requires a commissioners court that adopts a proposal to designate a zone to hold a public hearing on the proposal and the preliminary plan for fees at which members of the public are given the opportunity to be heard.

(b) Requires the commissioners court to hold the hearing not earlier than the 20th day or later than the 40th day after the date the commissioners court adopts the proposal designating the zone.

(c) Requires the county to publish notice of the public hearing in a newspaper of general circulation in the county at least once each week during the two weeks preceding the date of the hearing.

Sec. 328.026. ELECTION. (a) Authorizes the commissioners court, following the public hearing held under Section 328.025, to order an election on the question of designating the zone if the commissioners court finds that the designation will serve the purpose prescribed by Section 328.022.

(b) Requires a commissioners court that orders an election under this section to order the election to be held on the first uniform election date that falls on or after the 78th day after the date the public hearing is held.

(c) Requires that the order calling the election allow voters in the county to vote for or against the designation of the proposed zone.

(d) Requires a county that holds an election under this section to hold the election in the same manner as a general election of the county.

Sec. 328.027. DESIGNATION OF ZONE. (a) Requires the commissioners court of a county in which the voters approve the designation of the zone at an election held under this subchapter to designate the area as a zone.

(b) Requires the county, not later than the fifth day after the date the commissioners court adopts the order described by Section 328.026, to send notice of the designation to the commissioners court of each county authorized to designate a zone under this chapter.

#### SUBCHAPTER C. COUNTY WATER RECREATION SAFETY ZONE FEE

Sec. 328.041. COUNTY WATER RECREATION SAFETY ZONE FEE. (a) Authorizes a commissioners court that has designated a zone under Subchapter B to impose a zone fee in the zone as provided by this section.

(b) Authorizes the commissioners court to impose the fee on the rental of water-oriented recreational equipment, the provision of certain shuttle services related to water-oriented recreational activities, and a service for ingress or egress to a river described by Section 328.001 that is located in the zone.

(c) Authorizes the commissioners court to impose different fee rates for different types of water-oriented recreational equipment or services for which the county is authorized to impose the fee. Prohibits the commissioners court from imposing the fee at a rate greater than four dollars per person for each rental of water-oriented recreational equipment in the zone or certain services if the person does not rent water-oriented recreational equipment in the zone.

(d) Requires the commissioners court by order to establish procedures and deadlines for a person who collects a fee under this subchapter to report and remit the fee, penalties and interest for failure to timely remit a fee collected under this subchapter, and any other requirement necessary for the administration of the fee imposed under this section.

Sec. 382.042. EXEMPTION. Prohibits a county from imposing the fee authorized by this subchapter on a transaction to which the United States or this state is a party.

Sec. 328.043. COLLECTION AND REMITTANCE OF FEE. (a) Requires a person who rents certain water-oriented recreational equipment to another person or who provides certain services to that person to collect the fee imposed under this subchapter from the other person and to report and remit the fee to the county in the manner prescribed by the county.

(b) Provides that a person responsible for collecting the fee is liable to the county for the amount of the fee required to be collected under this section.

Sec. 328.044. COUNTY WATER RECREATION SAFETY ZONE FUND. (a) Requires a county in which the commissioners court has designated a zone under Subchapter B to create and maintain a county water recreation safety zone fund (fund) as a separate account in a depository authorized to accept deposits of county public funds.

(b) Requires that the county deposit all fee revenue remitted to the county under this subchapter to the credit of the fund.

(c) Prohibits a county from using fee revenue deposited to the credit of the fund for a purpose other than the purpose prescribed by Section 328.045.

Sec. 328.045. USE OF FEE REVENUE. Authorizes a county to use fee revenue deposited in the fund only to employ or contract with additional peace officers, as defined by Article 2.12 (Who Are Peace Officers), Code of Criminal Procedure, to provide law enforcement in the zone.

#### SUBCHAPTER D. DISSOLUTION OF ZONE

Sec. 328.061. DISSOLUTION OF ZONE. (a) Provides that the commissioners court of a county that has designated a zone under Subchapter B:

(1) is authorized to propose the dissolution of the zone on the commissioners court's own motion; and

(2) is required to propose the dissolution of the zone if the county clerk receives a written petition for the dissolution of the zone signed by a number of the registered voters of the county equal to at least 10 percent of the votes received in the county in the most recent gubernatorial general election.

(b) Requires a commissioners court that adopts a proposal for the dissolution of a zone to hold a public hearing on the proposal in the manner prescribed by Section 328.025.

(c) Requires the commissioners court, after the public hearing, to order the dissolution of the zone if the commissioners court finds that the dissolution is in the best interest of the county.

SECTION 2. Effective date: upon passage or September 1, 2017.