

## **BILL ANALYSIS**

C.S.H.B. 362  
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County Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Under current law, certain Texas counties cannot regulate noise in unincorporated areas of the county. Loud and disturbing noises are a problem for residents in such areas. Counties have regulatory authority on other issues, including the placement of water wells and communication facility structures in unincorporated areas of the county.

C.S.H.B. 362 authorizes commissioners courts of certain counties to regulate sound levels from a loudspeaker or sound amplifier in unincorporated areas of the county. The bill provides that regulation applies only to sound levels that exceed 85 decibels at a distance of 50 feet from the property line of the property on which the loudspeaker or sound amplifier is operating and that disturb a person of ordinary sensibilities in the immediate vicinity. The bill authorizes county commissioners courts to issue permits for events that will exceed the specified sound level but does not authorize the commissioners court to regulate restricted fireworks. The bill creates a Class C misdemeanor offense for noncompliance and specifies which courts have jurisdiction over the matter.

### **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. 362 amends the Local Government Code to authorize the commissioners court of a nonurban county located adjacent to a major metropolitan county to enact by order noise regulations that prohibit the production of sound from a loudspeaker or sound amplifier if the sound level exceeds 85 decibels at a distance of 50 feet from the property line of the property on which the loudspeaker or sound amplifier is operated and disturbs a person of ordinary sensibilities in the immediate vicinity of the loudspeaker or sound amplifier. The bill specifies that such noise regulations are applicable only to the unincorporated areas of the county. The bill does not authorize a commissioners court to regulate restricted fireworks.

C.S.H.B. 362 defines "major metropolitan county" as a county in which three or more municipalities, each with a population of more than 175,000, are predominantly located. The bill defines "nonurban county" as a county that has a population of less than 100,000 and that had a percentage change in its population growth, according to the most recent federal decennial census, of less than 50 percent.

C.S.H.B. 362 authorizes the commissioners court by order to issue a permit that authorizes the holding of an event at which loudspeakers or sound amplifiers produce sounds that exceed the levels specified in the bill and provides for procedures relating to the permit process; the denial, suspension, or revocation of a permit by the county; and the imposition of fees.

C.S.H.B. 362 specifies that if a noise and sound level regulation order adopted by a county

conflicts with an ordinance of a municipality, the municipal ordinance prevails within the municipality's jurisdiction to the extent of the conflict.

C.S.H.B. 362 authorizes a county to sue in the district court for an injunction to prohibit the violation or threatened violation of a prohibition or other regulation adopted by the county to regulate noise and sound levels.

C.S.H.B. 362 makes it a Class C misdemeanor offense to violate a prohibition or other regulation adopted by a county to regulate noise and sound levels and specifies that each hour that such a violation continues constitutes a separate offense.

**EFFECTIVE DATE**

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 362 adds a provision not in the original that specifies the bill does not authorize a commissioners court to regulate restricted fireworks.