

SUBJECT: County fire inspections for certain multi-family dwellings

COMMITTEE: County Affairs — favorable, without amendment

VOTE: 9 ayes — R. Allen, W. Smith, Casteel, Coleman, Farabee, Laney,  
Naishtat, Olivo, Otto

0 nays

SENATE VOTE: On final passage, April, 14 — 31-0, on Local and Uncontested Calendar

WITNESSES: *(On House companion bill, HB 631 by W. Smith:)*

For — David Mintz, Texas Apartment Association; Mike Montgomery, Harris County Fire and Emergency Services; *(Registered but did not testify:)* Veronica deLafuente, Office of the Cameron County Judge Gilberto Hinojosa, County Judge; Jim Allison, County Judges and Commissioners Association of Texas; Randy Cain, Texas Fire Chiefs Association; Amanda Jones, Harris County; Donald Lee, Texas Conference of Urban Counties; Carole Lenz, Harris County Commissioner Steve Radack; Jim Lewis, McLennan County; Mark Mendez, Tarrant County Commissioners Court; Cathy Sisk, Harris County Attorney)

Against — None

BACKGROUND: Under Local Government Code, ch. 233, subch. H, the commissioners court of a county with a population of more than 250,000 or a county adjacent to a county with a population of more than 250,000 may adopt and enforce a fire code in an unincorporated area for commercial and public buildings.

Sec. 233.063 states that a person may not construct a commercial or public building in an unincorporated area without a building permit issued by the county. Sec. 233.064 requires the owner of a building under construction to request a county fire inspection in writing on or before completion of the building. If the county does not begin the inspection within two days after receipt of the written request, the building is considered approved.

DIGEST:

SB 736 would allow a commissioner's court in a county governed by ch. 233, subch. H to apply its fire code to multifamily residential dwellings with four or more units, as well as commercial and public buildings, in an unincorporated area. The code would have to meet or exceed the standards published in the International Fire Code or the Uniform Fire Code as these codes existed on May 1, 2005.

The bill would prohibit the improvement or construction of a commercial, public, or multi-family building in an unincorporated area without a building permit and would require the owner of a building undergoing construction or "substantial improvement" to request a county fire inspection in writing on or before the completion of work. If the county did not begin the inspection within five business days after receipt of the written request, the building would be considered approved. If the inspector determined that the building did not comply with the fire code, the county would have to deny the certificate of compliance and the building could not be occupied. The inspection fee would have to be reasonable and commensurate with the cost of staff, materials, and administrative overhead involved in conducting the inspection.

SB 736 would define "substantial improvement" as:

- improvement in which the cost of repairing, restoring, or remodeling a building exceeded 50 percent of the building's previous year's taxable value; or
- a change in occupancy classification that changed the purpose or level of activity in a building, including the conversion of warehouses into lofts.

The bill would consider that substantial improvement had begun on the date the improvement or change of classification had begun or materials were delivered for such purposes. It would consider that construction had begun when ground was broken or when material was added, foundation pilings were installed, or a manufactured building was located on the original property.

The bill 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, 2005, and would apply only to a fire code adopted on or after that date.

SUPPORTERS  
SAY:

SB 736 would give counties the authority they need to enforce fire code compliance and perform inspections to monitor safe residential growth. Growing county populations have resulted in the increased construction of multifamily residential dwellings outside of cities. Under Local Government Code, ch. 214, municipalities may enforce fire codes and perform inspections on residential dwellings to protect public safety. Until recently, counties may not have needed such powers, but today an increasing number of families live outside of cities in buildings that have not been inspected. Along with new construction, warehouses have been converted to residential dwellings, and older buildings have been remodeled to house multiple families, growing trends that make the provisions in SB 736 necessary.

The application of fire code and inspection requirements to certain multifamily dwellings, would protect many lives. Since inspection currently is not required, some structures lack essential fire prevention components. When these buildings do catch fire, they tend to be more unstable than buildings that have passed inspection and thus dramatically increase risk to fire fighters who must enter the burning buildings.

While the bill could increase counties' administrative workload, the inspection fees could be set to cover these costs.

OPPONENTS  
SAY:

No apparent opposition.

NOTES:

The House companion bill, HB 631 by W. Smith, was considered in a March 16 public hearing by the House County Affairs Committee and was left pending.