

**SUBJECT:** Defining liability for those who conduct prescribed burns

**COMMITTEE:** Agriculture and Livestock — committee substitute recommended

**VOTE:** 9 ayes — Springer, Anderson, Beckley, Buckley, Burns, Fierro, Meza, Raymond, Zwiener

0 nays

**WITNESSES:** For — Merwyn Kothmann, Prescribed Burning Alliance of Texas; Ray Hinnant; (*Registered, but did not testify*: Donnie Dippel, Texas Agricultural Industries Association; Joe Morris, Texas Forestry Association, Texas Sheep and Goat Raisers Association; Robert Turner, Texas Forestry Association)

Against — None

On — Jessica Escobar, Texas Department of Agriculture

**BACKGROUND:** Natural Resources Code ch. 153 authorizes the Prescribed Burning Board to permit prescribed burning organizations to conduct a burn under certain circumstances.

Some suggest that the role and scope of liability for those who participate in prescribed burn activities is unclear.

**DIGEST:** CSHB 2053 would repeal the authority of prescribed burning organizations to conduct a prescribed burn and remove related references to such organizations from statute.

The bill would allow a "burn boss," defined as an individual who was responsible for directing a prescribed burn under a written prescription plan, to be held liable for property damage, personal injury, or death caused by or resulting from the burn if the burn boss was otherwise liable under other law.

If the burn boss was not the owner, lessee, or occupant of the land on which a burn was conducted, the written prescription plan for that burn would be required to include the signature of the burn boss or the owner, lessee, or occupant of the land and a contract that acknowledged liability.

A person other than the burn boss could be held liable for property damage, personal injury, or death caused by or resulting from the burn, subject to certain statutory limitations, if the person was grossly negligent or caused harm or damage intentionally and was otherwise liable under other law.

The provisions of the bill could not be construed to create a cause of action or create a standard of care, obligation, or duty that formed the basis of a cause of action.

The bill would take effect September 1, 2019, and would apply only to a cause of action that accrued on or after that date.