

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 3581
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Intergovernmental Relations
5/18/2007
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Chapter 343 (Abatement of Public Nuisances), Health and Safety Code governs the abatement of public nuisances in the unincorporated areas of Texas counties and gives counties the authority to abate nuisances in such areas.

C.S.H.B. 3581 expands the definition of a public nuisance to include the discarding of refuse on property that is not authorized for that activity. The bill also gives counties and courts the authority to properly address and handle such refuse.

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 Section 343.002(1), Health and Safety Code, to redefine "abate."

SECTION 2. Amends Sections 343.011(c) and (d), Health and Safety Code, as follows:

(c) Provides that a public nuisance is discarding refuse on property that is not authorized for that activity.

(d) Provides that this section does not apply to a site or facility that is permitted and regulated by a state agency for the activity described by Subsection (c) or licensed or permitted under Chapter 361 (Solid Waste Disposal Act), Health and Safety Code, for the activity described by Subsection (c)

SECTION 3. Amends Sections 343.013(a) and (b), Health and Safety Code, as follows:

(a) Authorizes a county or district court by injunction to abate or otherwise remedy a violation of this chapter (Abatement of Public Nuisances) in the unincorporated area of the county and award abatement costs to certain persons.

(b) Authorizes the court to award the plaintiff reasonable attorney's fees and court costs, including attorney's fees and court costs incurred in seeking relief from a nuisance under Section 343.011(c)(11) from any state or federal environmental agency or in any state or federal court at any time after the nuisance arose if the court grants an injunction or awards abatement costs as provided by Subsection (a).

SECTION 4. Amends Section 343.021, Health and Safety Code, to authorize a county, if it adopts certain abatement procedures, to abate a nuisance under Section 343.011(c)(11), by removal, remediation, storage, transportation, disposal, or other means of waste management authorized under Chapter 361 (Solid Waste Disposal Act), Health and Safety Code. Makes conforming and nonsubstantive changes.

SECTION 5. Amends Section 343.022(a), Health and Safety Code, to authorize a person authorized by the person administering the abatement program to administer the abatement of a nuisance described by Section 343.011(c)(11). Makes conforming and nonsubstantive changes.

SECTION 6. Amends Section 343.023(a), Health and Safety Code, to authorize a county to assess the cost of abating the nuisance, including management, remediation, storage, transportation, and disposal costs, and damages and other expenses incurred by the county. Makes conforming changes.

SECTION 7. Provides that the change in law made by this Act applies only to the abatement of a nuisance under Section 343.001(c)(11), Health and Safety Code, as added by this Act, that meets certain conditions.

SECTION 8. Effective date: upon passage or September 1, 2007.