

## **BILL ANALYSIS**

Senate Research Center  
84R544 BEF-F

H.B. 2119  
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Agriculture, Water & Rural Affairs  
5/8/2015  
Engrossed

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

H.B. 2119 creates a statutory prescribed burning organization, classified as a charitable organization. This would allow these organizations to conduct prescribed burning with volunteers, so long as the leader of the burn has completed the approved training curriculum and the group maintains the insurance coverage established by the Prescribed Burning Board.

The purpose of this bill is to codify the standards and requirements for volunteer burn organizations so that they may achieve insurance coverage for volunteers who participate in the burn under the guidance of a qualified burn manager.

H.B. 2119 amends current law relating to charitable organizations, including charitable organizations that may conduct prescribed burning.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Prescribed Burning Board in SECTION 10 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 84.003(1), Civil Practice and Remedies Code, to redefine "charitable organization."

SECTION 2. Amends Section 352.081(f), Local Government Code, as follows:

(f) Provides that this section does not apply to outdoor burning activities:

(1) and (2) Makes nonsubstantive changes to these subdivisions; or

(3) that are conducted by the members of a prescribed burning organization under the conditions provided by Section 153.049, Natural Resources Code, and meet the standards of Section 153.047, Natural Resources Code.

SECTION 3. Amends Section 153.001, Natural Resources Code, by adding Subdivision (3) to define "prescribed burning organization."

SECTION 4. Amends Section 153.004, Natural Resources Code, as follows:

Sec. 153.004. **PRESCRIBED BURNING IN STATE OF EMERGENCY OR DISASTER.** Authorizes a certified and insured prescribed burn manager or the members of a prescribed burning organization to conduct a burn in a county in which a state of emergency or state of disaster has been declared by the governor or the president of the United States, unless the declaration expressly prohibits all outdoor burning.

SECTION 5. Amends Section 153.046, Natural Resources Code, as follows:

Sec. 153.046. DUTIES. Adds the establishment of minimum insurance requirements for prescribed burning organizations to the functions the Prescribed Burning Board (board) is required to perform.

SECTION 6. Amends Section 153.047, Natural Resources Code, as follows:

Sec. 153.047. PRESCRIBED BURNING STANDARDS. Requires that minimum standards established by the board for prescribed burning:

- (1) Makes no change to this subdivision;
- (2) require that at least one certified and insured prescribed burn manager is present on site during the conduct of the prescribed burn or the burn be conducted by the members of a prescribed burning organization;
- (3) and (4) Makes no change to these subdivisions; and
- (5) include minimum insurance requirements for certified and insured prescribed burn managers and prescribed burning organizations.

SECTION 7. Amends Subchapter B, Chapter 153, Natural Resources Code, by adding Section 153.049, as follows:

Sec. 153.049. PRESCRIBED BURNING ORGANIZATIONS. Authorizes the members of a charitable organization, as defined by Section 84.003 (Definitions), Civil Practice and Remedies Code, that is organized and operated for prescribed burning purposes to conduct a burn under this chapter if:

- (1) the member in charge of the burn has completed the approved training curriculum described by Section 153.048(a) (relating to minimum standards established by the board for certification as a certified and insured prescribed burn manager); and
- (2) the organization has insurance coverage in an amount not less than the amount established by the board under Section 153.046.

SECTION 8. Amends Section 153.081(a), Natural Resources Code, to provide that, subject to Section 153.082, an owner, lessee, or occupant of agricultural or conservation land is not liable for property damage or for injury or death to persons caused by or resulting from prescribed burning conducted on the land owned by, leased by, or occupied by the person if the prescribed burning is conducted under the supervision of a certified and insured prescribed burn manager or by the members of a prescribed burning organization.

SECTION 9. Amends Section 153.082, Natural Resources Code, as follows:

Sec. 153.082. INSURANCE. Provides that the limitation on liability under Section 153.081 (Limitation of Owner Liability) does not apply to an owner, lessee, or occupant of agricultural or conservation land unless:

- (1) the burn is conducted under the supervision of a certified and insured prescribed burn manager who has liability insurance coverage, rather than a certified and insured prescribed burn manager conducting a burn on the land has liability insurance coverage:
  - (A) Makes no change to this paragraph; and
  - (B) Makes a nonsubstantive change to this paragraph;
- (2) Makes a nonsubstantive change to this subdivision; or

(3) the burn is conducted by the members of a prescribed burning organization that has insurance coverage in an amount not less than the amount established by the board under Section 153.046.

SECTION 10. Requires the board, not later than November 1, 2015, to adopt rules to establish minimum insurance requirements for prescribed burning organizations as provided by Section 153.046(6), Natural Resources Code, as added by this Act.

SECTION 11. Effective date: September 1, 2015.