

Suspending limitations on conference committee jurisdiction, H.B. No. 3699 (Wilson/Bettencourt)

By: Bettencourt

S.R. No. 717

R E S O L U T I O N

1 BE IT RESOLVED by the Senate of the State of Texas, 88th
2 Legislature, Regular Session, 2023, That Senate Rule 12.03 be
3 suspended in part as provided by Senate Rule 12.08 to enable the
4 conference committee appointed to resolve the differences on House
5 Bill 3699 (municipal regulation of subdivisions and approval of
6 subdivision plans or plats) to consider and take action on the
7 following matters:

8 (1) Senate Rule 12.03(4) is suspended to permit the
9 committee to add text on a matter which is not included in either
10 the house or senate version of the bill by adding the following
11 SECTIONS to the bill:

12 SECTION 1. Sections 212.001(2) and (3), Local Government
13 Code, are amended to read as follows:

14 (2) ~~["Plan" means a subdivision development plan,~~
15 ~~including a subdivision plan, subdivision construction plan, site~~
16 ~~plan, land development application, and site development plan.~~

17 ~~[(3)]~~ "Plat" includes a preliminary plat, ~~[general~~
18 ~~plan]~~ final plat, and replat.

19 SECTION 2. Subchapter A, Chapter 212, Local Government
20 Code, is amended by adding Section 212.0015 to read as follows:

21 Sec. 212.0015. CONSTRUCTION OF SUBCHAPTER. This subchapter
22 may not be construed to restrict a municipality from establishing a
23 submittal calendar to be used by an applicant to facilitate
24 compliance with the approval process described by Sections 212.009,

1 212.0091, 212.0093, and 212.0095.

2 SECTION 6. Sections 212.0065(a) and (c), Local Government
3 Code, are amended to read as follows:

4 (a) The governing body of a municipality or the municipal
5 planning commission may delegate to one or more officers or
6 employees of the municipality or of a utility owned or operated by
7 the municipality the ability to approve, approve with conditions,
8 or disapprove a plat [+

9 [~~(1) amending plats described by Section 212.016;~~

10 [~~(2) minor plats or replats involving four or fewer~~
11 ~~lots fronting on an existing street and not requiring the creation~~
12 ~~of any new street or the extension of municipal facilities; or~~

13 [~~(3) a replat under Section 212.0145 that does not~~
14 ~~require the creation of any new street or the extension of municipal~~
15 ~~facilities].~~

16 (c) An applicant has the right to appeal to the governing
17 body of the municipality or the municipal planning commission if
18 the designated [~~The~~] person disapproves a [~~or persons shall not~~
19 ~~disapprove the~~] plat [~~and shall be required to refer any plat which~~
20 ~~the person or persons refuse to approve to the municipal authority~~
21 ~~responsible for approving plats within the time period specified in~~
22 ~~Section 212.009].~~

23 SECTION 9. Section 212.0091(a), Local Government Code, is
24 amended to read as follows:

25 (a) A municipal authority or governing body that
26 conditionally approves or disapproves a [~~plan or~~] plat under this
27 subchapter shall provide the applicant a written statement of the

1 conditions for the conditional approval or reasons for disapproval
2 that clearly articulates each specific condition for the
3 conditional approval or reason for disapproval.

4 SECTION 10. Sections 212.0093, 212.0095, and 212.0096,
5 Local Government Code, are amended to read as follows:

6 Sec. 212.0093. APPROVAL PROCEDURE: APPLICANT RESPONSE TO
7 CONDITIONAL APPROVAL OR DISAPPROVAL. After the conditional
8 approval or disapproval of a [~~plan or~~] plat under Section 212.0091,
9 the applicant may submit to the municipal authority or governing
10 body that conditionally approved or disapproved the [~~plan or~~] plat
11 a written response that satisfies each condition for the
12 conditional approval or remedies each reason for disapproval
13 provided. The municipal authority or governing body may not
14 establish a deadline for an applicant to submit the response.

15 Sec. 212.0095. APPROVAL PROCEDURE: APPROVAL OR DISAPPROVAL
16 OF RESPONSE. (a) A municipal authority or governing body that
17 receives a response under Section 212.0093 shall determine whether
18 to approve or disapprove the applicant's previously conditionally
19 approved or disapproved [~~plan or~~] plat not later than the 15th day
20 after the date the response was submitted.

21 (b) A municipal authority or governing body that
22 conditionally approves or disapproves a [~~plan or~~] plat following
23 the submission of a response under Section 212.0093:

24 (1) must comply with Section 212.0091; and

25 (2) may disapprove the [~~plan or~~] plat only for a
26 specific condition or reason provided to the applicant under
27 Section 212.0091.

1 (c) A municipal authority or governing body that receives a
2 response under Section 212.0093 shall approve a previously
3 conditionally approved or disapproved [~~plan or~~] plat if the
4 response adequately addresses each condition of the conditional
5 approval or each reason for the disapproval.

6 (d) A previously conditionally approved or disapproved
7 [~~plan or~~] plat is approved if:

8 (1) the applicant filed a response that meets the
9 requirements of Subsection (c); and

10 (2) the municipal authority or governing body that
11 received the response does not disapprove the [~~plan or~~] plat on or
12 before the date required by Subsection (a) and in accordance with
13 Section 212.0091.

14 Sec. 212.0096. APPROVAL PROCEDURE: ALTERNATIVE APPROVAL
15 PROCESS. (a) Notwithstanding Sections 212.009, 212.0091,
16 212.0093, and 212.0095, an applicant may elect at any time to seek
17 approval for a [~~plan or~~] plat under an alternative approval process
18 adopted by a municipality if the process allows for a shorter
19 approval period than the approval process described by Sections
20 212.009, 212.0091, 212.0093, and 212.0095.

21 (b) An applicant that elects to seek approval under the
22 alternative approval process described by Subsection (a) is not:

23 (1) required to satisfy the requirements of Sections
24 212.009, 212.0091, 212.0093, and 212.0095 before bringing an action
25 challenging a disapproval of a [~~plan or~~] plat under this
26 subchapter; and

27 (2) prejudiced in any manner in bringing the action

1 described by Subdivision (1), including satisfying a requirement to
2 exhaust any and all remedies.

3 SECTION 11. Section 212.0099, Local Government Code, is
4 amended to read as follows:

5 Sec. 212.0099. JUDICIAL REVIEW OF DISAPPROVAL. In a legal
6 action challenging a disapproval of a [~~plan or~~] plat under this
7 subchapter, the municipality has the burden of proving by clear and
8 convincing evidence that the disapproval meets the requirements of
9 this subchapter or any applicable case law. The court may not use a
10 deferential standard.

11 Explanation: This change is necessary to provide limitations
12 on municipal regulation of subdivisions and approval of subdivision
13 plans or plats.

14 (2) Senate Rules 12.03(1), (3), and (4) are suspended to
15 permit the committee to change, alter, or amend text which is not in
16 disagreement, to add text on a matter which is not in disagreement,
17 and to add text on a matter which is not included in either the house
18 or senate version of the bill in proposed SECTION 4 of the bill, in
19 Section 212.004, Local Government Code, by amending Subsections (a)
20 and (b) and adding Subsections (f) and (g) to read as follows:

21 (a) The owner of a tract of land located within the limits or
22 in the extraterritorial jurisdiction of a municipality who divides
23 the tract in two or more parts to lay out a subdivision of the tract,
24 including an addition to a municipality, to lay out suburban,
25 building, or other lots, or to lay out streets, alleys, squares,
26 parks, or other parts of the tract intended by the owner of the
27 tract to be dedicated to public use [~~or for the use of purchasers or~~

1 ~~owners of lots fronting on or adjacent to the streets, alleys,~~
2 ~~squares, parks, or other parts]~~ must have a plat of the subdivision
3 prepared. A division of a tract under this subsection includes a
4 division regardless of whether it is made by using a metes and
5 bounds description in a deed of conveyance or in a contract for a
6 deed, by using a contract of sale or other executory contract to
7 convey, or by using any other method. A division of land under this
8 subsection does not include a division of land into parts greater
9 than five acres, where each part has access and no public
10 improvement is being dedicated.

11 (b) To be recorded, the plat must:

12 (1) describe the subdivision by metes and bounds;

13 (2) locate the subdivision with respect to a corner of
14 the survey or tract or an original corner of the original survey of
15 which it is a part; and

16 (3) state the dimensions of the subdivision and of
17 each street, alley, square, park, or other part of the tract
18 intended by the owner of the tract to be dedicated to public use [~~or~~
19 ~~for the use of purchasers or owners of lots fronting on or adjacent~~
20 ~~to the street, alley, square, park, or other part)].~~

21 (f) A plat is considered filed on the date the applicant
22 submits the plat, along with a completed plat application and the
23 application fees and other requirements prescribed by or under this
24 subchapter, to:

25 (1) the governing body of the municipality; or

26 (2) the municipal authority responsible for approving
27 plats.

1 (g) The governing body of a municipality or the municipal
2 authority responsible for approving plats may not require an
3 analysis, study, document, agreement, or similar requirement to be
4 included in or as part of an application for a plat, development
5 permit, or subdivision of land that is not explicitly required by
6 state law.

7 Explanation: This change is necessary to repeal the plat
8 preparation requirement in relation to purchasers or owners of
9 certain lots, to specify the date on which a plat is considered
10 filed, and to prohibit a municipality or municipal authority from
11 requiring certain additional materials for a plat, development
12 permit, or subdivision of land.

13 (3) Senate Rules 12.03(3) and (4) are suspended to permit
14 the committee to add text on a matter which is not in disagreement
15 and to add text on a matter which is not included in either the house
16 or senate version of the bill in proposed SECTION 8 of the bill, by
17 amending Sections 212.009(a), (b), (c), and (d), Local Government
18 Code, to read as follows:

19 (a) The municipal authority responsible for approving plats
20 shall approve, approve with conditions, or disapprove a [~~plan or~~]
21 plat within 30 days after the date the [~~plan or~~] plat is filed. A
22 [~~plan or~~] plat is approved by the municipal authority unless it is
23 disapproved within that period and in accordance with Section
24 212.0091.

25 (b) If an ordinance requires that a [~~plan or~~] plat be
26 approved by the governing body of the municipality in addition to
27 the planning commission, the governing body shall approve, approve

1 with conditions, or disapprove the [~~plan or~~] plat within 30 days
2 after the date the [~~plan or~~] plat is approved by the planning
3 commission or is approved by the inaction of the commission. A
4 [~~plan or~~] plat is approved by the governing body unless it is
5 disapproved within that period and in accordance with Section
6 [212.0091](#).

7 (c) If a [~~plan or~~] plat is approved, the municipal authority
8 giving the approval shall endorse the [~~plan or~~] plat with a
9 certificate indicating the approval. The certificate must be signed
10 by:

11 (1) the authority's presiding officer and attested by
12 the authority's secretary; or

13 (2) a majority of the members of the authority.

14 (d) If the municipal authority responsible for approving
15 plats fails to approve, approve with conditions, or disapprove a
16 [~~plan or~~] plat within the prescribed period, the authority on the
17 applicant's request shall issue a certificate stating the date the
18 [~~plan or~~] plat was filed and that the authority failed to act on the
19 [~~plan or~~] plat within the period. The certificate is effective in
20 place of the endorsement required by Subsection (c).

21 Explanation: This change is necessary to conform to other
22 changes made in the bill.

23 (4) Senate Rule 12.03(1) is suspended to permit the
24 committee to change, alter, or amend text which is not in
25 disagreement in proposed SECTION 8 of the bill, in amended Section
26 [212.009](#)(b-2), Local Government Code, by striking "a period" and
27 substituting "one or more periods, each [~~a period~~"].

1 Explanation: This change is necessary to provide for multiple
2 extensions for the deadlines provided by Section 212.009, Local
3 Government Code.

4 (5) Senate Rule 12.03(1) is suspended to permit the
5 committee to change, alter, or amend text which is not in
6 disagreement in proposed SECTION 12 of the bill, in added Section
7 212.010(e), Local Government Code, by striking "The prevailing
8 party may recover reasonable and necessary attorney's fees and
9 court costs in the action." and substituting the following:
10 The applicant shall recover reasonable attorney's fees and court
11 costs in the action if the applicant prevails. The municipality may
12 recover reasonable attorney's fees and court costs in the action if
13 the municipality prevails and the court finds the action is
14 frivolous.

15 Explanation: This change is necessary to provide different
16 standards for recovery of attorney's fees and court costs for an
17 applicant and a municipality.