

## **BILL ANALYSIS**

C.S.H.B. 1204  
By: Baxter  
Urban Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Committee Substitute House Bill 1204 proposes to amend the subdivision statutes, chapters 212, 232, and 242 of the Local Government Code. Chapter 212 is entitled *Municipal Regulation of Subdivisions and Property Development*. It contains the statutory requirements for city approval of subdivision plats, including matters related to utilities, developer participation, procedures, and enforcement authority. Chapter 232 is entitled *County Regulation of Subdivisions*, and generally requires county approval of subdivisions in unincorporated areas. Chapter 242 addresses the approval of subdivisions within the extraterritorial jurisdiction of a city, which may vary up to five miles. Chapter 242 is entitled *Authority of Municipality and County to Regulate Subdivisions In and Outside Municipality's Extraterritorial Jurisdiction*.

Historically, the competing interests of approving subdivision plats within a city's ETJ has been the subject of debate and legislative action. Under current law, both cities and counties may approve subdivision plats within the ETJ and in the event of a conflict, the "more stringent" regulations apply. C.S.H.B. 1204 proposes to clarify who approves subdivision plats in the ETJ.

Under current law, enacted in 2001, cities and counties were required to enter into written agreements regarding the regulation of subdivisions in the ETJ. These agreements were generally required to be executed by April 1, 2002. Under these agreements, either the county or the city could be granted "exclusive jurisdiction" to approve ETJ subdivision plats, or the county could apportion geographical areas of the ETJ, or the city and county could establish "one office" for subdivision plat applications and adopt "a consolidated and consistent set of regulations" for subdivisions. Until these agreements are reached, approval of both the municipality and county are required and the "more stringent regulation" applies in the event of conflict.

Municipalities and their counties who have complied with the 2001 legislation (HB 1445, 77th Legislature) would not be affected by this bill. Municipalities and their counties who have not complied will be required to reach an agreement under Chapter 242. If no agreement is reached, regulation of subdivisions in the ETJ would either become the exclusive responsibility of the county or the city or county could call for binding arbitration.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends heading, Local Government Code § 242.001.

SECTION 2. This section exempts municipalities with a population of 1.9 million or more and counties within 50 miles of an international border, or to which subchapter C (economically distressed counties), Chapter 232, applies.

This section also clarifies that municipalities and counties that choose to adopt an interlocal agreement must establish a single set of development regulations in the ETJ; it prohibits dual regulation in the ETJ and deletes the "more stringent" language.

This section establishes that if a municipality and county do not reach a valid agreement, the county is granted exclusive regulatory control in ETJ after the 60-day period as provided by Section 3; requires arbitration.

This section clarifies that a regulation or an agreement adopted that conflicts with a metropolitan planning organization's plan, the metropolitan planning organizations's plan prevails.

SECTION 3. This section adds a provision to provide a method for binding arbitration in the event that a municipality and county do not agree on regulatory controls. It provides the method for selecting an arbitrator or arbitration panel.

This section also limits the authority of the arbitration panel to the authority of the municipality and county to establish a process for establishing a single set of development regulations and not individual plats. Both the city and county are required to participate in the arbitration.

The cost of the arbitration are assessed equally to the city and county in arbitration. The prevailing party in arbitration is required to assume the maintenance of that infrastructure covered by regulation. Arbitration is limited to the authority to regulate plats and precludes arbitration of individual plats. This section expires on September 1, 2005.

SECTION 4. This section adds a chapter-wide provision to make conforming changes.

SECTION 5. This section makes conforming changes to other sections of the statute.

SECTION 6. This section makes conforming changes to other sections of the statute.

SECTION 7. This section establishes a severability provision so that if any portion of the statute is held invalid, the invalidity does not affect the rest of the Act.

SECTION 8. This section states that this bill only applies to subdivision plats that are filed on or after the effective date of the Act, and continues prior law in effect for subdivision plats filed before that date.

SECTION 9. Effective date

**EFFECTIVE DATE:** September 1, 2003.

**COMPARISON OF ORIGINAL TO SUBSTITUTE:**

C.S.H.B. 1204 modifies the original bill by restoring language in Section 242.001 that currently establishes the exemption for Houston, border counties, and economically distressed counties. The substitute removes the language that exempts small cities. Language was removed from the original bill that established specific items for local control instead of language that addressed "more stringent shall prevail." C.S.H.B. 1204 has substituted a binding arbitration provision for the requirement in the original bill that the county would become the regulatory authority over plats. The substitute also provides for an alternate effective date and adds a severability clause.