

By: Baxter

H.B. No. 1204

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the authority of municipalities and counties to  
3 regulate subdivisions and certain development in a municipality's  
4 extraterritorial jurisdiction.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. The heading of Section 242.001, Local Government  
7 Code, is amended to read as follows:

8 Sec. 242.001. REGULATION OF SUBDIVISIONS IN  
9 EXTRATERRITORIAL JURISDICTION GENERALLY.

10 SECTION 2. (a) Section 242.001(a), Local Government Code,  
11 as amended by Chapters 736 and 1028, Acts of the 77th Legislature,  
12 Regular Session, 2001, is reenacted and amended to read as follows:

13 (a) This section applies only to a county operating under  
14 Sections 232.001-232.005 or Subchapter B, C, or E, Chapter 232, and  
15 a municipality that has extraterritorial jurisdiction in that  
16 county. Subsections (b)-(g) [~~(b)-(e)~~] do not apply:

17 (1) within a county that contains extraterritorial  
18 jurisdiction of a municipality with a population of 1.9 million or  
19 more; or

20 (2) within a county within 50 miles of an  
21 international border, or to which Subchapter C, Chapter 232,  
22 applies.

23 (b) This section takes effect only if House Bill No. 1197,  
24 Acts of the 78th Legislature, Regular Session, 2003, does not

1 become law. If that bill becomes law, this section has no effect.

2 SECTION 3. (a) Section 242.001(a), Local Government Code,  
3 as amended by Chapters 736 and 1028, Acts of the 77th Legislature,  
4 Regular Session, 2001, is reenacted and amended to read as follows:

5 (a) This section applies only to a county operating under  
6 Sections 232.001-232.005 or Subchapter B, C, or E, Chapter 232, and  
7 a municipality that has extraterritorial jurisdiction in that  
8 county. Subsections (b)-(g) [~~(b)-(e)~~] do not apply:

9 (1) within a county that contains extraterritorial  
10 jurisdiction of a municipality with a population of 1.9 million or  
11 more; [~~or~~]

12 (2) within a county within 50 miles of an  
13 international border, or to which Subchapter C, Chapter 232,  
14 applies; or

15 (3) to a tract of land subject to a development  
16 agreement under Subchapter G, Chapter 212, or other provisions of  
17 this code.

18 (b) This section takes effect only if House Bill No. 1197,  
19 Acts of the 78th Legislature, Regular Session, 2003, becomes law.  
20 If that bill does not become law, this section has no effect.

21 SECTION 4. Section 242.001, Local Government Code, is  
22 amended by reenacting and amending Subsection (c), as amended by  
23 Chapters 736 and 1028, Acts of the 77th Legislature, Regular  
24 Session, 2001, and by amending Subsections (d), (f), and (g) and  
25 adding Subsection (h) to read as follows:

26 (c) Except as provided by Subsections (d)(3) and (4), a  
27 municipality and a county may not both regulate subdivisions and

1 approve related permits in the extraterritorial jurisdiction of a  
2 municipality after an agreement under Subsection (d) is executed.  
3 The municipality and the county shall enter into a written  
4 agreement that identifies the governmental entity authorized to  
5 regulate subdivision plats and approve related permits in the  
6 extraterritorial jurisdiction. For a municipality in existence on  
7 September 1, 2001, the municipality and county shall enter into a  
8 written agreement under this subsection on or before April 1, 2002.  
9 For a municipality incorporated after September 1, 2001, the  
10 municipality and county shall enter into a written agreement under  
11 this subsection not later than the 120th day after the date the  
12 municipality incorporates. On reaching an agreement, the  
13 municipality and county shall certify that the agreement complies  
14 with the requirements of this chapter. The municipality and the  
15 county shall adopt the agreement by order, ordinance, or  
16 resolution. The agreement must be amended by the municipality and  
17 the county if necessary to take into account an expansion or  
18 reduction in the extraterritorial jurisdiction of the  
19 municipality. The municipality shall notify the county of any  
20 expansion or reduction in the municipality's extraterritorial  
21 jurisdiction. Any expansion or reduction in the municipality's  
22 extraterritorial jurisdiction that affects property that is  
23 subject to a preliminary or final plat, a plat application, or an  
24 application for a related permit filed with the municipality or the  
25 county or that was previously approved under Section 212.009 or  
26 Chapter 232 does not affect any rights accrued under Chapter 245.  
27 The approval of the plat, ~~or~~ any permit, a plat application, or an

1 application for a related permit remains effective as provided by  
2 Chapter 245 regardless of the change in designation as  
3 extraterritorial jurisdiction of the municipality.

4 (d) An agreement under Subsection (c) may grant the  
5 authority to regulate subdivision plats and approve related permits  
6 in the extraterritorial jurisdiction of a municipality as follows:

7 (1) the municipality may be granted exclusive  
8 jurisdiction to regulate subdivision plats and approve related  
9 permits in the extraterritorial jurisdiction and may regulate  
10 subdivisions under Subchapter A of Chapter 212 and other statutes  
11 applicable to municipalities;

12 (2) the county may be granted exclusive jurisdiction  
13 to regulate subdivision plats and approve related permits in the  
14 extraterritorial jurisdiction and may regulate subdivisions under  
15 Sections 232.001-232.005, Subchapter B or C, Chapter 232, and other  
16 statutes applicable to counties;

17 (3) the municipality and the county may apportion the  
18 area within the extraterritorial jurisdiction of the municipality  
19 with the municipality regulating subdivision plats and approving  
20 related permits in the area assigned to the municipality and the  
21 county regulating subdivision plats and approving related permits  
22 in the area assigned to the county; or

23 (4) the municipality and the county may enter into an  
24 interlocal agreement that:

25 (A) establishes one office that is authorized to:

26 (i) accept plat applications for tracts of  
27 land located in the extraterritorial jurisdiction;

1 (ii) collect municipal and county plat  
2 application fees in a lump-sum amount; and

3 (iii) provide applicants one response  
4 indicating approval or denial of the plat application; and

5 (B) establishes a single set of consolidated and  
6 consistent [~~set of~~] regulations related to plats, subdivision  
7 construction plans, and subdivisions of land as authorized by  
8 Chapter 212, Sections 232.001-232.005, Subchapters B and C, Chapter  
9 232, and other statutes applicable to municipalities and counties  
10 that will be enforced in the extraterritorial jurisdiction.

11 (f) If a certified agreement between a county and  
12 municipality as required by Subsection (c) is not in effect on or  
13 before January 1, 2004, the municipality and the county must enter  
14 into arbitration as provided by Section 242.0015. If the  
15 arbitrator or arbitration panel, as applicable, has not reached a  
16 decision in the 60-day period as provided by Section 242.0015, the  
17 county has exclusive authority to regulate plats and subdivisions  
18 and approve related permits in the extraterritorial jurisdiction of  
19 the municipality in accordance with Chapter 232 and other statutes  
20 applicable to counties. The county retains that exclusive  
21 authority only until the arbitrator or arbitration panel reaches a  
22 decision. [~~This subsection applies until an agreement is reached~~  
23 ~~under Subsection (d). For an area in a municipality's~~  
24 ~~extraterritorial jurisdiction, as defined by Section 212.001, a~~  
25 ~~plat may not be filed with the county clerk without the approval of~~  
26 ~~both the municipality and the county. If a municipal regulation and~~  
27 ~~a county regulation relating to plats and subdivisions of land~~

1 ~~conflict, the more stringent regulation prevails. However, if one~~  
2 ~~governmental entity requires a plat to be filed for the subdivision~~  
3 ~~of a particular tract of land in the extraterritorial jurisdiction~~  
4 ~~of the municipality and the other governmental entity does not~~  
5 ~~require the filing of a plat for that subdivision, the authority~~  
6 ~~responsible for approving plats for the governmental entity that~~  
7 ~~does not require the filing shall issue on request of the subdivider~~  
8 ~~a written certification stating that a plat is not required to be~~  
9 ~~filed for that subdivision of the land. The certification must be~~  
10 ~~attached to a plat required to be filed under this subsection.]~~

11 (g) If a regulation or agreement adopted under this section  
12 relating to plats and subdivisions of land or subdivision  
13 development establishes a plan for future roads that conflicts with  
14 a proposal or plan for future roads adopted by a metropolitan  
15 planning organization, the proposal or plan of the metropolitan  
16 planning organization prevails. [Subsection (f) applies to a  
17 county and area to which Subsections (b)-(c) do not apply.]

18 (h) This subsection applies only to a county to which  
19 Subsections (b)-(g) do not apply, except that this subsection does  
20 not apply to a county subject to Section 242.002. For an area in a  
21 municipality's extraterritorial jurisdiction, as defined by  
22 Section 212.001, a plat may not be filed with the county clerk  
23 without the approval of both the municipality and the county. If a  
24 municipal regulation and a county regulation relating to plats and  
25 subdivisions of land conflict, the more stringent regulation  
26 prevails. However, if one governmental entity requires a plat to be  
27 filed for the subdivision of a particular tract of land in the

1 extraterritorial jurisdiction of the municipality and the other  
2 governmental entity does not require the filing of a plat for that  
3 subdivision, the authority responsible for approving plats for the  
4 governmental entity that does not require the filing shall issue on  
5 request of the subdivider a written certification stating that a  
6 plat is not required to be filed for that subdivision of the land.  
7 The certification must be attached to a plat required to be filed  
8 under this subsection.

9 SECTION 5. Chapter 242, Local Government Code, is amended  
10 by adding Section 242.0015 to read as follows:

11 Sec. 242.0015. ARBITRATION REGARDING SUBDIVISION  
12 REGULATION AGREEMENT. (a) This section applies only to a county  
13 and a municipality that are required to make an agreement as  
14 described under Section 242.001(f). If a certified agreement  
15 between a county and municipality is not in effect on or before  
16 January 1, 2004, the parties must arbitrate the disputed issues. A  
17 party may not refuse to participate in arbitration requested under  
18 this section. An arbitration decision under this section is  
19 binding on the parties.

20 (b) The county and the municipality must agree on an  
21 individual to serve as arbitrator. If the county and the  
22 municipality cannot agree on an individual to serve as arbitrator,  
23 the county and the municipality shall each select an arbitrator and  
24 the arbitrators selected shall select a third arbitrator.

25 (c) The third arbitrator selected under Subsection (b)  
26 presides over the arbitration panel.

27 (d) Not later than the 30th day after the date the county and

1 the municipality are required to have an agreement in effect under  
2 Section 242.001(f), the arbitrator or arbitration panel, as  
3 applicable, must be selected.

4 (e) The authority of the arbitrator or arbitration panel is  
5 limited to issuing a decision relating only to the disputed issues  
6 between the county and the municipality regarding the authority of  
7 the county or municipality to regulate plats, subdivisions, or  
8 development plans.

9 (f) Each party is equally liable for the costs of an  
10 arbitration conducted under this section.

11 (g) The party whose regulatory standards prevail in an  
12 arbitration conducted under this section relating to regulation of  
13 infrastructure in the subdivision is responsible for maintaining  
14 the aspect of the infrastructure that is covered by the regulation.

15 (h) The arbitrator or arbitration panel, as applicable,  
16 shall render a decision under this section not later than the 60th  
17 day after the date the arbitrator or arbitration panel is selected.  
18 If after a good faith effort the arbitrator or panel has not reached  
19 a decision as provided under this subsection, the arbitrator or  
20 panel shall continue to arbitrate the matter until the arbitrator  
21 or panel reaches a decision.

22 (i) A municipality and a county may not arbitrate the  
23 subdivision of an individual plat under this section.

24 SECTION 6. Subchapter A, Chapter 212, Local Government  
25 Code, is amended by adding Section 212.0025 to read as follows:

26 Sec. 212.0025. CHAPTER-WIDE PROVISION RELATING TO  
27 REGULATION OF PLATS AND SUBDIVISIONS IN EXTRATERRITORIAL



1 JURISDICTION. The authority of a municipality under this chapter  
2 relating to the regulation of plats or subdivisions in the  
3 municipality's extraterritorial jurisdiction is subject to any  
4 applicable limitation prescribed by an agreement under Section  
5 242.001.

6 SECTION 7. Subchapter A, Chapter 232, Local Government  
7 Code, is amended by adding Section 232.0013 to read as follows:

8 Sec. 232.0013. CHAPTER-WIDE PROVISION RELATING TO  
9 REGULATION OF PLATS AND SUBDIVISIONS IN EXTRATERRITORIAL  
10 JURISDICTION. The authority of a county under this chapter  
11 relating to the regulation of plats or subdivisions in the  
12 extraterritorial jurisdiction of a municipality is subject to any  
13 applicable limitation prescribed by an agreement under Section  
14 242.001 or by Section 242.002.

15 SECTION 8. Section 232.0015(b), Local Government Code, is  
16 amended to read as follows:

17 (b) Except as provided by Section 232.0013, this [~~This~~]  
18 subchapter does not apply to a subdivision of land to which  
19 Subchapter B applies.

20 SECTION 9. If any provision of this Act or its application  
21 to any county, municipality, or circumstance is held invalid, the  
22 invalidity does not affect other provisions or applications of this  
23 Act that can be given effect without the invalid provision or  
24 application, and to this end the provisions of this Act are declared  
25 to be severable.

26 SECTION 10. The changes in law made by this Act to Chapters  
27 212, 232, and 242, Local Government Code, apply only to a

1 development agreement or subdivision plat that is filed on or after  
2 the effective date of this Act, and to the subdivision covered by  
3 the plat. A development agreement or subdivision plat that is filed  
4 before the effective date of this Act, and the subdivision covered  
5 by the plat, are governed by the law in effect immediately preceding  
6 that date, and the former law is continued in effect for that  
7 purpose.

8 SECTION 11. This Act takes effect immediately if it  
9 receives a vote of two-thirds of all the members elected to each  
10 house, as provided by Section 39, Article III, Texas Constitution.  
11 If this Act does not receive the vote necessary for immediate  
12 effect, this Act takes effect September 1, 2003.