

By: Baxter

H.B. No. 1204

Substitute the following for H.B. No. 1204:

By: Van Arsdale

C.S.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. Section 242.001, Local Government Code, is
11 amended by reenacting and amending Subsection (a), as amended by
12 Chapters 736 and 1028, Acts of the 77th Legislature, Regular
13 Session, 2001, by reenacting Subsection (c), as amended by Chapters
14 736 and 1028, Acts of the 77th Legislature, Regular Session, 2001,
15 and by amending Subsections (d), (f), and (g) to read as follows:

16 (a) This section applies only to a county operating under
17 Sections 232.001-232.005 or Subchapter B, C, or E, Chapter 232, and
18 a municipality that has extraterritorial jurisdiction in that
19 county. Subsections (b)-(e) do not apply:

20 (1) within a county that contains extraterritorial
21 jurisdiction of a municipality with a population of 1.9 million or
22 more; or

23 (2) within a county within 50 miles of an
24 international border, or to which Subchapter C, Chapter 232,

1 applies.

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

1 jurisdiction of the municipality.

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

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

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

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

21 (4) the municipality and the county may enter into an
22 interlocal agreement that:

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

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

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

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

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

9 (f) This subsection applies only to a county and
10 municipality that are required to make an agreement under
11 Subsections (c) and (d) before the date the Act of the 78th
12 Legislature, Regular Session, 2003, amending this subsection takes
13 effect and that have not reached an agreement by that date. The
14 municipality and the county must enter into arbitration as provided
15 by Section 242.0015. If the arbitrator or arbitration panel, as
16 applicable, has not reached a decision in the 60-day period as
17 provided by Section 242.0015, the county has exclusive authority to
18 regulate plats and subdivisions in the extraterritorial
19 jurisdiction of the municipality in accordance with Chapter 232 and
20 other statutes applicable to counties. The county retains that
21 exclusive authority only until the arbitrator or arbitration panel
22 reaches a decision. [~~This subsection applies until an agreement is~~
23 ~~reached 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 adopted under this section relating to
12 plats and subdivisions of land or subdivision development conflicts
13 with a proposal or plan adopted by a metropolitan planning
14 organization, the proposal or plan of the metropolitan planning
15 organization prevails. [Subsection (f) applies to a county and
16 area to which Subsections (b)-(c) do not apply.]

17 SECTION 3. Chapter 242, Local Government Code, is amended
18 by adding Section 242.0015 to read as follows:

19 Sec. 242.0015. ARBITRATION REGARDING SUBDIVISION
20 REGULATION AGREEMENT. (a) This section applies only to a county
21 and a municipality that are required to make an agreement as
22 described under Section 242.001(f). If a county and a municipality
23 do not reach an agreement before the date the Act of the 78th
24 Legislature, Regular Session, 2003, amending that subsection takes
25 effect, the parties must arbitrate the disputed issues. A party may
26 not refuse to participate in arbitration requested under this
27 section.

1 (b) The county and the municipality must agree on an
2 individual to serve as arbitrator. If the county and the
3 municipality cannot agree on an individual to serve as arbitrator,
4 the county and the municipality shall each select an arbitrator and
5 the arbitrators selected shall select a third arbitrator.

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

8 (d) Not later than the 30th day after the effective date of
9 this section, the arbitrator or arbitration panel, as applicable,
10 must be selected.

11 (e) The authority of the arbitrator or arbitration panel is
12 limited to issuing a decision relating only to the authority of the
13 county or municipality to regulate plats, subdivisions, or
14 development plans.

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

17 (g) The prevailing party of an arbitration conducted under
18 this section relating to regulation of infrastructure in the
19 subdivision is responsible for maintaining the aspect of the
20 infrastructure that is covered by the regulation.

21 (h) The arbitrator or arbitration panel, as applicable,
22 shall render a decision under this section not later than the 60th
23 day after the date the arbitrator or arbitration panel is selected.
24 If after a good faith effort the arbitrator or panel has not reached
25 a decision as provided under this subsection, the arbitrator or
26 panel shall continue to arbitrate the matter until the arbitrator
27 or panel reaches a decision.

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

3 (j) This section expires September 1, 2005.

4 SECTION 4. Subchapter A, Chapter 212, Local Government
5 Code, is amended by adding Section 212.0025 to read as follows:

6 Sec. 212.0025. CHAPTER-WIDE PROVISION RELATING TO
7 REGULATION OF PLATS AND SUBDIVISIONS IN EXTRATERRITORIAL
8 JURISDICTION. The authority of a municipality under this chapter
9 relating to the regulation of plats or subdivisions in the
10 municipality's extraterritorial jurisdiction is subject to any
11 applicable limitation prescribed by an agreement under Section
12 242.001.

13 SECTION 5. Subchapter A, Chapter 232, Local Government
14 Code, is amended by adding Section 232.0013 to read as follows:

15 Sec. 232.0013. CHAPTER-WIDE PROVISION RELATING TO
16 REGULATION OF PLATS AND SUBDIVISIONS IN EXTRATERRITORIAL
17 JURISDICTION. The authority of a county under this chapter
18 relating to the regulation of plats or subdivisions in the
19 extraterritorial jurisdiction of a municipality is subject to any
20 applicable limitation prescribed by an agreement under Section
21 242.001 or by Section 242.002.

22 SECTION 6. Section 232.0015(b), Local Government Code, is
23 amended to read as follows:

24 (b) Except as provided by Section 232.0013, this ~~This~~
25 subchapter does not apply to a subdivision of land to which
26 Subchapter B applies.

27 SECTION 7. If any provision of this Act or its application

1 to any county, municipality, or circumstance is held invalid, the
2 invalidity does not affect other provisions or applications of this
3 Act that can be given effect without the invalid provision or
4 application, and to this end the provisions of this Act are declared
5 to be severable.

6 SECTION 8. The changes in law made by this Act to Chapters
7 212, 232, and 242, Local Government Code, apply only to a
8 development agreement or subdivision plat that is filed on or after
9 the effective date of this Act, and to the subdivision covered by
10 the plat. A development agreement or subdivision plat that is filed
11 before the effective date of this Act, and the subdivision covered
12 by the plat, are governed by the law in effect immediately preceding
13 that date, and the former law is continued in effect for that
14 purpose.

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