

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

May 22, 2003

TO: Honorable Frank Madla, Chair, Senate Committee on Intergovernmental Relations

FROM: John Keel, Director, Legislative Budget Board

IN RE: HB1204 by Baxter (Relating to the authority of municipalities and counties to regulate subdivisions and certain development in a municipality's extraterritorial jurisdiction.),
Committee Report 2nd House, Substituted

No fiscal implication to the State is anticipated.

The bill would authorize a county that has elected to do so by an order adopted by the commissioners court to operate under Subchapter B of Section 232, Local Government Code, which relates to platting requirements in a county near an international border. Counties operating under Subchapter B would be required to meet minimum state standards relating to Chapter 16, Water Code, regardless of any limitations within Chapter 16.

The bill would add to the requirements of a county with regard to regulating a subdivision, that the county commissioners court, for each subdivision, must adopt reasonable specifications that provide for drainage in the subdivision that provides efficient management of stormwater runoff and coordinates subdivision drainage with the general storm drainage pattern for the area.

The commissioners court would be authorized to require certain plat applications to include a statement prepared by a Texas-licensed engineer or geoscientist certifying that adequate groundwater is available for the subdivision. The Texas Commission on Environmental Quality (TCEQ) would be required to establish the form and content of the certification.

A person who purchases a lot after September 1, 2003 in a subdivision for residential purposes that does not have water and sewer services as required by Subchapter B, would be authorized to file suit.

According to the TCEQ, the responsibilities set out in the bill for the agency could be absorbed using existing resources. Setting additional requirements for subdivisions would not result in significant costs for local government.

The bill would amend the Local Government Code to authorize a county commissioners court to hold an election in its unincorporated area to seek voter approval for the commissioners court to regulate land development in the unincorporated area of the county. If a county is authorized to regulate land development, the county would be allowed to collect impact fees for new development starting one year after the fee is adopted or for land platted upon recordation of a subdivision or other plat.

A county would incur election costs in seeking authorization to regulate land development in the unincorporated area of the county. If authorized to regulate land development, the county's costs for imposing and enforcing regulations would be offset by impact fees.

The bill would also require counties and municipalities that were required to enter into an agreement regarding regulating subdivisions and certain development in a municipality's extraterritorial jurisdiction (ETJ), but have not done so by January 1, 2004, to enter into arbitration to reach an agreement. The bill defines the procedures that must be followed in seeking arbitration and what must be included in the agreement. Further, the county and municipality would be required to certify that the agreement meets the criteria established in the bill. If a regulation adopted during arbitration

conflicts with a metropolitan planning organization proposal or plan for future roads, the planning organization would prevail. The county and the municipality would be equally liable for the costs of arbitration.

The provisions of the bill that would require arbitration if an agreement has not already been reached would result in the county and municipality sharing the cost of arbitration. The fiscal impact of the agreement reached would vary, depending on the provisions included, but it is anticipated that an attempt to have a mutually beneficial agreement would keep the fiscal impact insignificant. It is also anticipated that the shared cost of arbitration would be insignificant.

If a municipality is currently regulating plats and related permits in the ETJ and, during arbitration or as a result of arbitration, the county assumes those responsibilities, associated costs and revenue would shift from the municipality to the county.

Local Government Impact

It is anticipated that most of the provisions of the bill would have an insignificant fiscal impact on units of local government. The fiscal impact of provisions relating to arbitration would vary depending on the agreement reached between the applicable county and municipality.

Source Agencies:

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