

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 1, 2003

TO: Honorable Anna Mowery, Chair, House Committee on Land & Resource Management

FROM: John Keel, Director, Legislative Budget Board

IN RE: HB2178 by Mowery (Relating to the authority of the governing body of a municipality to change previously adopted zoning regulations.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would prohibit a municipality from changing a zoning classification if it would result in a diminution of more than 10 percent of the property's value unless the property owner waives the right to object, fails to file a written objection within 90 days of receiving notification of the planned zoning change, or reaches an agreement for compensation from the governing body. The bill includes procedures regarding a change of zoning classification and regarding a condemnation petition relating to zoning classification.

In court proceedings related to rezoning disputes, the governing body would be responsible for court costs if the property owner prevails and the property owner would be responsible for court costs if the governing body prevails. If a property owner prevails, rather than accepting a monetary judgment, the property owner may develop the property under the zoning rules that applied to the property before a change in zoning classification and would not be required to pay fees associated with the development, including application and impact fees and any pro rata changes.

The bill would take effect September 1, 2003 and apply to a suit or proceeding filed under Chapter 21, Property Code, that is pending in a trial or appellate court on that date.

The City of Amarillo, population 173,627 and land area of 89.86 square miles, stated that the city does not usually take action that would affect a property value by more than 10 percent; therefore, they do not expect a fiscal impact if the provisions of the bill are implemented.

The City of Castle Hills, population 4,202 and land area of 2.48 square miles, does not anticipate changing zoning classifications due to the limited amount of property within the city's jurisdiction.

The City of Mesquite, population 124,523 and land area of 43.42 square miles, identified as major cost factors the actual cost of paying for a diminution of more than 10 percent, the costs of appraisals to show that the diminution is less than 10 percent, and court costs to resolve a dispute over the appraised value of the property.

The City of Plainview, population 22,336 and land area of 13.78 square miles, estimates based on previous appraisals that the cost to appraise property to show whether the zoning reclassification would affect the property value by more than 10 percent would cost \$1,750 per appraisal. The city handles 10 to 15 rezoning requests per year. Assuming five cases per year may have the potential of diminishing property values, the city estimates an annual additional cost of \$8,750 just for the appraisals. The additional costs represent about 10 percent of the zoning department's budget and about 0.1 percent of the city's overall budget.

Each city that responded estimated that the costs in heavily populated cities would be even greater than for rural communities.

Local Government Impact

The fiscal impact would vary by municipality depending on the population density, land mass, business entities and growth, and any other factors that may lead to rezoning. There would be no fiscal impact if little or no rezoning occurs or if rezoning clearly does not diminish property values by more than 10 percent. If rezoning diminishes property value by more than 10 percent or if there is a dispute about the appraised value, the municipality would incur costs for an appraisal and possibly court costs and compensation to the property owner if the municipality loses the dispute.

Source Agencies:

LBB Staff: JK, CL, DLBa, JB