

BILL ANALYSIS

C.S.H.B. 2236
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Urban Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, many Texas political subdivisions (including cities and counties) require homebuilders or residential developers to obtain one or more permits before that homebuilder or developer may initiate residential development. These political subdivisions often charge fees for these permits, however, there are very few (if any) statutory requirements requiring political subdivisions to justify an increase in fees. The absence of any statutory requirements has led to significant fee increases over very short periods of time, despite no significant rise in the cost to issue a particular permit.

HB 2236 sets forth new provisions intended to impose reasonable limitations on the levels of permit fees imposed by political subdivisions on residential construction permits, as well as providing interested parties with more notice about when, and under what circumstances, any increases in these permit fees will be adopted.

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.

ANALYSIS

HB 2236 adds Chapter 247 to the Local Government Code to establish procedures for increasing permit fees on residential construction or development.

The bill establishes that a regulatory agency may impose a permit fee set only in the amount that is necessary to cover the cost of processing the permit application, granting that permit, and compensate the regulatory agency for the actual and attributable costs of infrastructure or improvements for which the fee is imposed. Revenue collected from the permit fee may not be used for any other purposes than described above. Once a year, a regulatory agency who charges a permit fee will adopt a budget which details expenses covered through the process of reviewing and granting regulatory permits as well as the expected revenue that agency anticipates collecting over the course of the budget year. Each year the regulatory agency will then conduct an audit to assess whether there was a surplus or deficit in the budget from the collection of permit fee revenue.

Adds that before increasing the price of a permit fee, a regulatory agency must first host two public hearings to discuss the matter and publish a notice of each hearing at least thirty days in advance of the scheduled meeting. It also must also make available thirty days before the first hearing a study that is conducted by the regulatory agency, which outlines how an increase in the price of the fee is necessary to cover the agency's cost of processing and issuing that particular permit. Increases in the price of a permit fee will not take effect until thirty days after the date of the approved increase and may not be increased before the first anniversary of the effective date of the previous increase in the permit fee.

Any person who suspects that an agency has violated these provisions may contact the Attorney General's office to request an investigation who then may initiate a proceeding in district court to compel performance of the requirements of this chapter. A person may also bring about their own action in district court. If a regulatory agency is found to be in violation of these provisions they must reimburse each person who paid the fee found to be in violation, and must cover any legal expenses incurred by a person or entity enforcing this chapter.

EFFECTIVE DATE

This Act takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute modifies the definitions of permit fee to specify that as it applies to this chapter, a permit fee does not include a fee that is required by state law or specified in state law. The substitute also modifies the definition of political subdivision to remove groundwater districts.

The substitute specifies that permit fees may be justified by political subdivisions by taking into account the amount to compensate the regulatory agency for the actual and attributable costs of infrastructure or improvements for which a fee is imposed in addition to that which the political subdivision could take into account in the original version of the bill.

The substitute adds language to specify that the bill cannot be construed to grant authority to a regulatory agency or political subdivision to impose a permit fee or other fee unless the authority has been conferred in other state law.

The substitute changes references to the first of the year in the original version of the bill to fiscal year and states that a fee may not be increased before the 1st anniversary of its last increase rather than the fifth anniversary of an increase.

The substitute allows a report demonstrating the need for a permit fee increase to be prepared by the regulatory agency rather than in the original that required the report to be made by a independent person.

Finally, the substitute authorizes the Attorney General to initiate a proceeding in district court to compel performance of this chapter and that the AG may seek an order from a district court directing the regulatory agency to reimburse persons who paid fees that are in violation of this chapter.