

BILL ANALYSIS

C.S.H.B. 2748

By: Pickett

Land & Resource Management
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current statutes related to "vested rights" were created to protect private property and developmental rights of landowners from the application of retroactive rulemaking by municipalities and other governmental entities. Despite clear language in Chapter 245 of the Local Government Code that prevents punitive and retroactive rulemaking, municipalities nevertheless restrict or stop development by circumventing the language and intent of the statute.

The purpose of C.S.H.B. 2748 is to include landscaping or tree preservation or open space or park dedication in the list of rights in which a permit holder can become vested. Permit development fees are also brought out of the exemption, thereby becoming a vested right based on the date for which the original application was submitted.

For dormant projects, the placement of an expiration date shall be no sooner than five years after the effective date of this chapter. C.S.H.B. 2748 changes the time frame to be no sooner than five years after the date the permit application was filed.

Finally, the bill clarifies that political subdivisions are not immune from suit in regard to an action under Chapter 245.

RULEMAKING AUTHORITY

It is the opinion of the committee that this bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

SECTION 1. *Amends Sections 245.004, 245.005, and 245.006, Local Government Code, as follows:*

Enumerates more vested rights for permit holders with respect to landscaping or tree preservation and open space or park dedication, as well as development permit fees.

Authorizes a regulatory agency to place an expiration date of not less than two years on a permit if no progress has been made towards completion of the project.

Prohibits a regulatory agency from placing an expiration date on a project not earlier than the fifth anniversary of the date the first permit application was filed if no progress has been made towards completion of the project.

Waives a political subdivision immunity from suit in regards to an action under this chapter.

SECTION 2. Act prospective and retroactive, in part.

SECTION 3. Effective Date.

EFFECTIVE DATE

September 1, 2005.

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COMPARISON OF ORIGINAL TO SUBSTITUTE

SECTION 1. Adds language that authorizes a regulatory agency to place an expiration date of not less than two years on a permit if no progress has been made towards completion of the project.

Adds language that prohibits a regulatory agency from placing an expiration date on a project not earlier than the fifth anniversary of the date the first permit application was filed if no progress has been made towards completion of the project.