

BILL ANALYSIS

Senate Research Center
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S.B. 574
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Intergovernmental Relations
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As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The current statutes related to "vested rights" were created to protect the private property and developmental rights of landowners from the application of retroactive rulemaking by cities and other governmental entities. Despite the clear intent of the language found in Chapter 245 to prevent punitive retroactive rulemaking by cities that is oftentimes intended to restrict, or even stop development, there has been a troubling rise in cities' attempts to circumvent the original intent of the statute.

As proposed, S.B. 574 amends the existing exemptions to clarify that zoning regulations or other land use regulations, annexation regulations, or regulations to prevent the imminent destruction of property or injury to persons affecting "landscaping or tree preservation" or "open space or park dedication" are not exempt from the application of the Act. It also removes the exemption for permit development fees from the code and makes clarifying and updating changes in regard to the language on dormant projects. Finally, the bill clarifies that political subdivisions are not immune from suit for enforcement of Chapter 245.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

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

Sec. 245.004. EXEMPTIONS. Provides that this chapter does not apply to municipal zoning regulations that do not affect landscaping or tree preservation, open space or park dedication. Makes conforming changes and redesignates existing Subdivisions (6)-(11) as to Subdivisions (6)-(10). Deletes existing text related to fees imposed in conjunction with development permits.

Sec. 245.005. DORMANT PROJECTS. Authorizes a regulatory agency to enact an ordinance, rule, or regulation that places an expiration date on a permit if no progress has been made towards completion of the project. Requires any ordinance, rule, or regulation enacted pursuant to this section, notwithstanding any other provision of this chapter, to place an expiration date on a permit of no earlier than the fifth anniversary of the date permit application was filed, rather than the effective date. Requires the progress towards completion of the project to include any one of certain actions.

Sec. 245.006. ENFORCEMENT OF CHAPTER. (a) Creates this subsection from existing text.

(b) Provides that a political subdivision's immunity from suit is waived in regard to an action under this chapter.

SECTION 2. Make application of this Act prospective.

SECTION 3. Effective date: September 1, 2005.