

BILL ANALYSIS

C.S.S.B. 684

By: Lucio
Border and International Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law counties do not have the authority to adopt zoning ordinances or building codes. This lack of county regulatory power is among the primary reasons why substandard housing flourished in colonias throughout the Texas-Mexico border region.

The committee substitute to Senate Bill 684 authorizes certain counties to regulate residential land development in the unincorporated areas of the county and municipalities within those counties to regulate residential land development in the extraterritorial jurisdiction of the municipality. The bill subjects violators of the land development restrictions imposed by a county or municipality in the applicable areas to a Class C misdemeanor.

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

SECTION 1 Amends Chapter 242, Local Government Code, by adding Subchapter B, granting certain counties and municipalities limited authority to regulate land development.

The subchapter applies only to a county with a total area of less than 6,000 square miles that includes territory located within 50 miles of an international border or a municipality located in that county if the county does not exercise in the municipality's extraterritorial jurisdiction the authority described by Subchapter B, Chapter 242, Local Government Code, and the county by resolution authorizes the municipality to exercise in the municipality's extraterritorial jurisdiction the authority described by said subchapter.

The commissioners court of a county to which Subchapter B, Chapter 242, Local Government Code, applies may, by order, regulate residential land development in the unincorporated area of the county. The governing body of a municipality to which said subchapter applies may, by ordinance, regulate residential land development in the municipality's extraterritorial jurisdiction. Allows the commissioners court or governing body to adopt building codes to promote safe and uniform building, plumbing, and electrical standards adopt regulations relating to:

- maximum densities, including the size of lots;
- the design and structure and number of buildings on a lot or a tract;
- the location of buildings and other structures on a lot or tract; and
- plans for utility development and extension, environmental effect, capacity planning, and a financial analysis of the plans.

If a tract of land is appraised as agricultural or open-space land by the appraisal district, the commissioners court or governing body may not regulate land development by adopting building codes to promote safe and uniform building, plumbing, and electrical standards or by adopting regulations relating to the design and structure, number, and location of buildings on a lot or a tract.

Authority granted under Section 242.051, Local Government Code, does not authorize the commissioners court or governing body to adopt an order regulating commercial property that is uninhabitable or an order that limits or otherwise impairs the rights of individuals or entities in the exploration, development, or production of oil, gas, or other minerals.

Requires the county or municipality, as appropriate, to issue a building permit if the person submitting the application for the permit files information relating to the location and building plans of the residence, and complies with the applicable regulations relating to the issuance of the permit. Allows the county or municipality to charge a reasonable building permit fee. The county or municipality shall deposit the fees in an account in its general fund and dedicate the fees to the building permit program. The funds may be used only for the purpose of administering the building permit program.

If an order adopted by the county under Subchapter B, Chapter 242, Local Government Code, conflicts with an ordinance of a municipality, then the municipal ordinance prevails within the municipality's jurisdiction to the extent of the conflict. The authority granted by Subchapter B, Chapter 242, Local Government Code, does not affect the authority of the commissioners court or governing body to adopt an order or ordinance under other law.

Entitles the county or municipality, in a suit brought in the district court by the appropriate attorney representing the county or municipality, to appropriate injunctive relief to prevent the violation or threatened violation of the entity's order or ordinance adopted under Subchapter B, Chapter 242, Local Government Code, from continuing or occurring.

A person commits an offense if the person violates a restriction or prohibition imposed by an order or ordinance adopted under Subchapter B, Chapter 242, Local Government Code. Such an offense is a Class C misdemeanor. A person is exempt from the application of the penalty if:

- the person is an owner-occupant of a residential dwelling that is classified by the Department of Housing and Community Affairs as a low-income household;
- the dwelling was constructed before the effective date of Subchapter B, Chapter 242, Local Government Code;
- the violation related to a building standard or building code for that dwelling; and
- the county or municipality, as appropriate, did not make available to the person a grant or loan in an amount sufficient to cure the violation or made available to the person a loan that was sufficient to cure the violation but that caused the housing expenses of the person to exceed 30 percent of the person's net income.

SECTION 2 Amends the heading to Chapter 242, Local Government Code, to read: "AUTHORITY OF MUNICIPALITY AND COUNTY TO REGULATE SUBDIVISIONS AND PROPERTY DEVELOPMENT."

SECTION 3 Amends Chapter 242, Local Government Code, by designating Sections 242.001, 242.0015, and 242.002 as Subchapter A, and adding a new heading for Subchapter A, to read "AUTHORITY TO REGULATE SUBDIVISIONS IN AND OUTSIDE MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION"

SECTION 4 The bill takes effect immediately if it receives a vote of two-thirds of all members elected to each house. Otherwise, the bill takes effect September 1, 2005.

EFFECTIVE DATE

The bill takes effect immediately if it receives a vote of two-thirds of all members elected to each house. Otherwise, the bill takes effect September 1, 2005.

C.S.S.B. 684 79(R)

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute amends the original version by applying the new Subchapter B, Chapter 242, Local Government Code, to a county with a total area of less than 6,000 square miles that includes territory located within 50 miles of an international border or a municipality located in that county if the county does not exercise in the municipality's extraterritorial jurisdiction the authority described by the subchapter and the county by resolution authorizes the municipality to exercise in the municipality's extraterritorial jurisdiction the authority described by the subchapter. The original version did not contain a limit on the size of a county.