

BILL ANALYSIS

Senate Research Center
79R4069 MXM-F

S.B. 684
By: Lucio
International Relations & Trade
3/8/2005
As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

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.

As proposed, S.B. 684 provides certain counties, those within 50 miles of the Texas Mexico border region, with the necessary tools to regulate development, in a limited capacity, via basic ordinance-making authority. This bill balances the needs for boarder county regulatory power with the authority granted to municipalities. The bill provides a mechanism by which municipalities, under certain circumstances, may regulate in a limited capacity extraterritorial jurisdictions and limits the new regulatory authority to regulations pertaining to maximum densities, height and locations of buildings. Counties will not be authorized to regulate tracts that have been appraised as agricultural land, open-space land, or commercial property that is uninhabitable.

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 Chapter 242, Local Government Code, by adding Subchapter B, as follows:

SUBCHAPTER B. DEVELOPMENT REGULATIONS IN CERTAIN COUNTIES AND MUNICIPALITIES

Sec. 242.051. **APPLICABILITY.** Provides that this subchapter applies only to certain types of locations.

Sec. 242.052. **REGULATORY AUTHORITY.** (a) Authorizes the commissioners court of a county to which this subchapter applies, by order, to regulate residential land development in the unincorporated area of the county. Authorizes the governing body of a municipality to which this subchapter applies, by ordinance, to regulate residential land development in the municipality's extraterritorial jurisdiction. Authorizes, by this authority, the commissioners court or governing body to prevent proliferation of colonias by adopting certain types of regulations.

(b) Prohibits the commissioners court or governing body from regulating land development on a tract under certain authority if that tract of land is appraised as agricultural or open-space land by the appraisal district.

(c) Provides that authority granted under this section does not authorize the commissioners court or governing body to adopt an order regulating commercial property that is uninhabitable.

Sec. 242.053. **BUILDING PERMITS.** (a) Requires the county or municipality, as appropriate, to issue a building permit if the person submitting the application for the permit submits certain items.

(b) Authorizes the county or municipality to charge a reasonable building permit fee.

(c) Requires the county or municipality to deposit fees collected under this section in an account in its general fund and to dedicate the fees to the building permit program. Authorizes the funds in the account to be used only for the purpose of administering the building permit program.

Sec. 242.054. MUNICIPAL ORDINANCE PREVAILS OVER COUNTY ORDER. Provides that if an order adopted by the county under this subchapter conflicts with an ordinance of a municipality, the municipal ordinance prevails within the municipality's jurisdiction to the extent of the conflict.

Sec. 242.055. EXISTING AUTHORITY UNAFFECTED. Provides that the authority granted by this subchapter does not affect the authority of the commissioners court or governing body to adopt an order or ordinance under other law.

Sec. 242.056. INJUNCTION. 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 this subchapter from continuing or occurring.

Sec. 242.057. PENALTY; EXCEPTION. Provides that a person commits an offense if the person violates a restriction or prohibition imposed by an order or ordinance adopted under this subchapter. Provides that an offense under this section is a Class C misdemeanor. Sets forth certain exemptions to the application of this section.

SECTION 2. Amends the heading to Chapter 242, Local Government Code, to read as follows:

CHAPTER 242. AUTHORITY OF MUNICIPALITY AND COUNTY TO REGULATE
SUBDIVISIONS AND PROPERTY DEVELOPMENT

SECTION 3. Amends Chapter 242, Local Government Code, by designating Sections 242.001-242.002, as Subchapter A, and adding a heading for Subchapter A to read as follows:

SUBCHAPTER A. AUTHORITY TO REGULATE SUBDIVISIONS IN AND OUTSIDE
MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION

SECTION 4. Effective date: upon passage or September 1, 2005.