

BILL ANALYSIS

Senate Research Center

S.B. 848
By: Shapiro et al.
Intergovernmental Relations
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Enrolled

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The 76th Texas Legislature, Regular Session, 1999, enacted H.B. 1704, which prohibited retroactive rulemaking. The law, codified as Chapter 245, Local Government Code, states that the right to develop a project under existing regulations vests at the time the landowner files the first permit application.

S.B. 848 specifically defines and determines what "filed" means as it relates to city applications for land development permits.

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 Section 245.001(1), Local Government Code, to redefine "permit."

SECTION 2. Amends Section 245.002, Local Government Code, by amending Subsection (a) and adding Subsections (a-1), (e), (f), and (g), as follows:

(a) Requires each regulatory agency to consider the approval, disapproval, or conditional approval of an application for a permit solely on the basis of any orders, regulations, ordinances, rules, expiration dates, or other properly adopted requirements in effect at the time that the original application for the permit is filed for review for any purpose, including review for administrative completeness; or a plan for development of real property or plat application is filed with a regulatory agency.

(a-1) Sets forth that rights to which a permit applicant is entitled under this chapter accrue on the filing of an original application or plan for development or plat application that gives the regulatory agency fair notice of the project and the nature of the permit sought. Sets forth that an application or plan is considered filed on the date the applicant delivers the application or plan to the regulatory agency or deposits the application or plan with the United States Postal Service by certified mail addressed to the regulatory agency. Sets forth that a certified mail receipt obtained by the applicant at the time of deposit is prima facie evidence of the date the application or plan was deposited with the United States Postal Service.

(e) Authorizes a regulatory agency to provide that a permit application expires on or after the 45th day after the date the application is filed if certain conditions are met.

(f) Provides that this chapter does not prohibit a regulatory agency from requiring compliance with technical requirements relating to the form and content of an application in effect at the time the application was filed even though the application is filed after the date an applicant accrues rights under Subsection (a-1).

(g) Provides that, notwithstanding Section 245.003 (Applicability of Chapter), Local Government Code, the change in law made to Subsection (a), and the addition of Subsections (a-1), (e), and (f), by this Act, apply only to a project commenced on or after the effective date of this Act.

SECTION 3. Provides that the change in law made to Section 245.001(1) by this Act is subject to the applicability provision of Section 245.003 (Applicability of Chapter), Local Government Code.

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