

BILL ANALYSIS

S.B. 1238
By: Madla
Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Counties have the authority to approve plats for developments in unincorporated areas, including the dedication of drainage easements as necessary to safely and effectively manage storm water. County efforts to provide for the public safety by establishing a system of infrastructure for management can be frustrated by the property owners, who do not improve their easement as agreed, fill or otherwise block the easement, or do not maintain the improved easements. For example, a drainage channel dedicated through easement may become clogged with debris, sediment, and/or vegetation. Currently, without landowner approval the county does not have the authority to access, maintain, or improve the county infrastructure dedicated during the platting process.

Current law does not recognize a blocked, non-maintained, or unimproved drainage easement as a public nuisance. As proposed, the bill redefines public nuisance to include blocked, non-maintained, or unimproved drainage easements. The bill allows counties to have access to maintain and improve drainage easements that have been dedicated to the public as part of the floodwater management system but have not been maintained or improved by the property owner. The bill makes it easier for counties to reduce and prevent flooding due to blocked or non-functioning drainage ways.

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

This bill redefines "public nuisance" to include failure to properly maintain a drainage easement by allowing the easement to become blocked, filling, clogging, or violating an agreement to improve the drainage easement.

EFFECTIVE DATE

September 1, 2005.