

BILL ANALYSIS

Senate Research Center
79R8517 ATP- F

S.B. 1346
By: Janek
Intergovernmental Relations
4/22/2005
As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

This bill relates to the fees that are assessed by a regulatory agency. As proposed, S.B. 1346 authorizes a regulatory agency to impose a permit fee set only in the amount that is necessary to cover the cost of processing the permit application and granting that permit. Revenue collected from the permit fee may not be used for any other purposes.

Once a year a regulatory agency that charges a permit fee will adopt a budget which details expenses covered through the process of reviewing and granting regulatory permits, and the expected revenue that the agency anticipates collecting over the course of the budget year.

Each year the regulatory agency will also conduct an audit to assess whether there was a surplus or deficit in the budget from the collection of permit fee revenue.

Before increasing the price of a permit fee, a regulatory agency must first host two public hearings to discuss the matter, which are at least 15 days apart. The agency must publish a notice of each hearing at least 30 days in advance of the scheduled hearing.

S.B. 1346 also requires the regulatory agency to make available 30 days before the first hearing a study that is conducted by a licensed professional and outlines how an increase in the price of the fee is necessary in order to cover the agency's cost of processing and issuing that particular permit.

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 Subchapter C, Title 7, Local Government Code, by adding Chapter 247, as follows:

CHAPTER 247. FEES FOR LOCAL PERMITS

Sec. 247.001. DEFINITIONS. Defines "permit," "permit fee," "political subdivision," and "regulatory agency."

Sec. 247.002. LIMITATION ON AUTHORITY TO IMPOSE PERMIT FEE. (a) Authorizes a regulatory agency to impose a permit fee only if the agency complies with this chapter and only in the amount necessary to compensate the regulatory agency for the actual costs to review, process, and issue the permit for which the fee is imposed.

(b) Prohibits a fee collected by a regulatory agency from being used for a purpose other than to pay the costs of reviewing, processing, and issuing the permit.

Sec. 247.003. ANNUAL BUDGET AND ACCOUNTING. (a) Requires a regulatory agency, before January 1 of each year, to adopt a budget for each permit fee that meets certain criteria.

(b) Requires a regulatory agency, as soon as practicable after December 31 of each year, to conduct an audit of the permit fees collected and the costs of reviewing, processing, and issuing the permits for which fees were imposed in the preceding calendar year. Requires the audit to identify a surplus or deficit in the budget for each permit fee.

Sec. 247.004. LIMITATION ON INCREASE IN PERMIT FEES. (a) Authorizes a regulatory agency to increase a permit fee only if the political subdivision holds two public hearings on the matter at which interested parties and residents of the political subdivision have an opportunity to be heard. Prohibits the second hearing from being held before the 15th day after the date on which the first hearing is held.

(b) Requires the regulatory agency, before the 30th day before the date of each hearing, to publish notice of the time and place of each hearing in an official newspaper designated by the political subdivision or a newspaper of general circulation in the political subdivision or the county in which the political subdivision is located. Requires the political subdivision to also mail to any person who requests, in writing, notice of a public hearing on the increase of a permit fee.

(c) Requires the regulatory agency proposing a permit fee increase to make available to the public, not later than the 30th day before the first hearing, a study that meets certain criteria.

(d) Prohibits an increase in a permit fee from taking effect before the 30th day after the date on which the regulatory agency approves the increase.

(e) Prohibits a regulatory agency from increasing a permit fee before the fifth anniversary of the effective date of the previous increase of the permit fee.

Sec. 247.005. ENFORCEMENT. (a) Authorizes any person to notify the attorney general of a violation of this chapter. Requires the attorney general, if the attorney general determines that a regulatory agency has violated any provision of this chapter, to order the regulatory agency to immediately reimburse each person who paid any fee imposed by the regulatory agency in violation of this chapter.

(b) Authorizes a person affected by the permit fee to bring an action in district court against a regulatory agency for a violation of this chapter. Provides that a person is not required to notify the attorney general under Subsection (a) before a person is authorized to file an action under this subsection.

(c) Provides that a regulatory agency that violates this chapter is liable for attorney's fees incurred by a person in the enforcement of this chapter.

SECTION 2. (a) Requires a regulatory agency to adopt a budget for each permit fee imposed by the agency, as required by Section 247.003(a), Local Government Code, as added by this Act, before January 1, 2006.

(b) Requires a regulatory agency to conduct audits, as required by Section 247.003(b), Local Government Code, as added by this Act, beginning as soon as practicable after December 31, 2006.

SECTION 3. Effective date: September 1, 2005.