

BILL ANALYSIS

Senate Research Center
79R1088 PAM-D

S.B. 1406
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Intergovernmental Relations
4/8/2005
As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, Chapter 212, Subchapter E, Local Government Code, authorizes municipalities to adopt moratoria on "property development" in circumstances where there is a clearly demonstrated shortage of "essential public facilities." The code prescribes public notice and hearing requirements, defines the length of a moratorium and conditions under which it may be renewed, and requires written justification to demonstrate the shortage of public facilities necessary for new development.

Because "property development" is defined in terms of "residential buildings," commercial development is excluded from the requirements for public notice, hearings, length, renewal, and conditions of moratoria. Therefore, current law is silent on moratoria for commercial development.

In some cases, these moratoria on commercial development have been adopted by what opponents to the moratoria contend are inadequate public notice, hearings, and justification. In most cases, the moratoria have been targeted at large-scale retail developments. Communities using moratoria in this way have used them to call a "time-out" on development in order to amend their city codes to address perceived problems associated with such development, including environmental, planning, and aesthetics issues. Opponents of this practice believe that it is unfair and deprives commercial developers of due process rights.

As proposed, S.B. 1406 extends to commercial development the moratoria requirements currently in place for residential development.

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 212.131, Local Government Code, by amending Subdivision (3) to redefine "property development" and adding Subdivision (4) to define "commercial property."

SECTION 2. Amends Section 212.132, Local Government Code, to provide that this subchapter applies to a moratorium imposed on property developed affecting not only residential property, but also commercial property, or both residential and commercial property.

SECTION 3. (a) Provides that this Act applies to a moratorium adopted on or after the effective date of this Act.

(b) Requires a municipality, if a moratorium affecting commercial property was adopted by the municipality before the effective date of this Act and, under the terms of the moratorium, remains in effect later than the 120th day after the effective date of this Act, to comply with Section 212.136, Local Government Code, to continue the moratorium in effect later than the 120th day after the effective date of this Act.

SECTION 4. Effective date: September 1, 2005.