

By: Talton

H.B. No. 1835

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the apportionment of municipal infrastructure costs in
3 regard to certain property development projects.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter Z, Chapter 212, Local Government
6 Code, is amended by adding Section 212.904 to read as follows:

7 Sec. 212.904. APPORTIONMENT OF MUNICIPAL INFRASTRUCTURE
8 COSTS. (a) If a municipality requires as a condition of approval
9 for a property development project that the developer bear a
10 portion of the costs of municipal infrastructure improvements by
11 the making of dedications, the payment of fees, and/or the payment
12 of construction costs, the developer's portion of the costs may not
13 exceed the amount required for infrastructure improvements that are
14 roughly proportionate to the proposed development as approved by a
15 professional engineer who holds a license issued under Chapter
16 1001, Occupations Code, and is retained by the municipality.

17 (b) A developer who disputes the determination made under
18 Subsection (a) may appeal to the governing body of the
19 municipality. At the appeal, the developer may present evidence
20 and testimony under procedures adopted by the governing body.
21 After hearing any testimony and reviewing the evidence, the
22 governing body shall make the applicable determination within 30
23 days following the final submission of any testimony or evidence by
24 the developer.

1 (c) A developer may appeal the determination of the
2 governing body to a county or district court of the county in which
3 the development project is located within 30 days of the final
4 determination by the governing body.

5 (d) A municipality may not require a developer to waive the
6 right of appeal authorized by this section as a condition of
7 approval for a development project.

8 (e) The prevailing party in an appeal under this section is
9 entitled to applicable costs and to reasonable attorney's fees,
10 including expert witness fees. For the purpose of this section, the
11 term "prevailing party" means the party that:

12 (1) prevailed in a final determination by the
13 governing body where the developer has not taken appeal as provided
14 under Subsection (c);

15 (2) prevailed in a judgment on the merits or a
16 court-ordered consent decree that creates a material alteration of
17 the legal relationship of the parties; or

18 (3) brought about a voluntary change in the
19 municipality's conduct.

20 (f) This section does not diminish the authority or modify
21 the procedures specified by Chapter 395.

22 SECTION 2. The change in law made by this Act applies only
23 to municipal approval of a development project that occurs on or
24 after the effective date of this Act.

25 SECTION 3. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

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- 1 Act does not receive the vote necessary for immediate effect, this
- 2 Act takes effect September 1, 2005.