

AN ACT

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

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

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

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

(b) A developer who disputes the determination made under Subsection (a) may appeal to the governing body of the municipality. At the appeal, the developer may present evidence and testimony under procedures adopted by the governing body. After hearing any testimony and reviewing the evidence, the governing body shall make the applicable determination within 30 days following the final submission of any testimony or evidence by 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) A developer who prevails in an appeal under this section
9 is entitled to applicable costs and to reasonable attorney's fees,
10 including expert witness fees.

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

13 SECTION 2. The change in law made by this Act applies to the
14 approval of a development project that is not finally adjudicated
15 before the effective date of this Act.

16 SECTION 3. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2005.

President of the Senate

Speaker of the House

I certify that H.B. No. 1835 was passed by the House on April 27, 2005, by the following vote: Yeas 147, Nays 0, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 1835 on May 23, 2005, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 1835 on May 29, 2005, by the following vote: Yeas 142, Nays 0, 2 present, not voting.

Chief Clerk of the House

H.B. No. 1835

I certify that H.B. No. 1835 was passed by the Senate, with amendments, on May 20, 2005, by the following vote: Yeas 30, Nays 1; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 1835 on May 28, 2005, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor