

By: Baxter

H.B. No. 2236

A BILL TO BE ENTITLED

AN ACT

relating to restrictions on the imposition of permit fees by political subdivisions.

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

SECTION 1. Subtitle C, Title 7, Local Government Code, is amended by adding Chapter 247 to read as follows:

CHAPTER 247. FEES FOR LOCAL PERMITS

Sec. 247.001. DEFINITIONS. In this chapter:

(1) "Permit" means a license, certificate, approval, registration, consent, or other form of authorization required by law, rule, regulation, order, or ordinance that a person must obtain to perform an action or initiate, continue, or complete a project related to residential construction or development.

(2) "Permit fee" means an assessment, fee, cost, or charge imposed by a political subdivision on a person seeking to obtain a permit.

(3) "Political subdivision" means a political subdivision of this state, including a county or municipality. The term does not include a school district.

(4) "Regulatory agency" means the governing body or a department, division, or other agency of a political subdivision acting in the political subdivision's capacity of processing, approving, or issuing a permit.

Sec. 247.002. LIMITATION ON AUTHORITY TO IMPOSE PERMIT FEE.

1 (a) A regulatory agency may impose a permit fee only if the agency
2 complies with this chapter and only in the amount necessary to
3 compensate the regulatory agency for the actual costs to review,
4 process, and issue the permit for which the fee is imposed.

5 (b) A fee collected by a regulatory agency for a permit may
6 not be used for a purpose other than to pay the costs of reviewing,
7 processing, and issuing the permit.

8 Sec. 247.003. ANNUAL BUDGET AND ACCOUNTING. (a) Before
9 January 1 of each year, a regulatory agency shall adopt a budget for
10 each permit fee that:

11 (1) lists expenses for which the permit fee may be
12 used; and

13 (2) estimates the revenue that the regulatory agency
14 will collect from the permit fee.

15 (b) As soon as practicable after December 31 of each year,
16 the regulatory agency shall conduct an audit of the permit fees
17 collected and the costs of reviewing, processing, and issuing the
18 permits for which fees were imposed in the preceding calendar year.
19 The audit shall identify a surplus or deficit in the budget for each
20 permit fee.

21 Sec. 247.004. LIMITATION ON INCREASE IN PERMIT FEES. (a) A
22 regulatory agency may increase a permit fee only if the political
23 subdivision holds two public hearings on the matter at which
24 interested parties and residents of the political subdivision have
25 an opportunity to be heard. The second hearing may not be held
26 before the 15th day after the date on which the first hearing is
27 held.

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

9 (c) The regulatory agency proposing a permit fee increase
10 must make available to the public, not later than the 30th day
11 before the first hearing, a study that:

12 (1) is conducted by an independent person who holds a
13 license under the laws of this state in a professional field
14 concerning the permit; and

15 (2) conclusively demonstrates that an increase in the
16 permit fee is necessary to offset an increase to the reasonable cost
17 incurred by the regulatory agency in reviewing, processing, or
18 issuing the permit.

19 (d) An increase in a permit fee may not take effect before
20 the 30th day after the date on which the regulatory agency approves
21 the increase.

22 (e) A regulatory agency may not increase a permit fee before
23 the fifth anniversary of the effective date of the previous
24 increase of the permit fee.

25 Sec. 247.005. ENFORCEMENT. (a) Any person may notify the
26 attorney general of a violation of this chapter. If the attorney
27 general determines that a regulatory agency has violated any

1 provision of this chapter, the attorney general shall order the
2 regulatory agency to immediately reimburse each person who paid any
3 fee imposed by the regulatory agency in violation of this chapter.

4 (b) A person affected by the permit fee may bring an action
5 in district court against a regulatory agency for a violation of
6 this chapter. A person is not required to notify the attorney
7 general under Subsection (a) before a person may file an action
8 under this subsection.

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

12 SECTION 2. (a) A regulatory agency shall adopt a budget for
13 each permit fee imposed by the agency, as required by Section
14 247.003(a), Local Government Code, as added by this Act, before
15 January 1, 2006.

16 (b) A regulatory agency shall conduct audits, as required by
17 Section 247.003(b), Local Government Code, as added by this Act,
18 beginning as soon as practicable after December 31, 2006.

19 SECTION 3. This Act takes effect September 1, 2005.