

1-1 By: Wentworth S.B. No. 768
1-2 (In the Senate - Filed February 25, 2005; March 10, 2005,
1-3 read first time and referred to Committee on Intergovernmental
1-4 Relations; April 26, 2005, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;
1-6 April 26, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 768 By: Wentworth

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the authority of counties to regulate the use of outdoor
1-11 lighting; providing a penalty.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 232.003, Local Government Code, is
1-14 amended to read as follows:

1-15 Sec. 232.003. SUBDIVISION REQUIREMENTS. By an order
1-16 adopted and entered in the minutes of the commissioners court, and
1-17 after a notice is published in a newspaper of general circulation in
1-18 the county, the commissioners court may:

1-19 (1) require a right-of-way on a street or road that
1-20 functions as a main artery in a subdivision, of a width of not less
1-21 than 50 feet or more than 100 feet;

1-22 (2) require a right-of-way on any other street or road
1-23 in a subdivision of not less than 40 feet or more than 70 feet;

1-24 (3) require that the shoulder-to-shoulder width on
1-25 collectors or main arteries within the right-of-way be not less
1-26 than 32 feet or more than 56 feet, and that the shoulder-to-shoulder
1-27 width on any other street or road be not less than 25 feet or more
1-28 than 35 feet;

1-29 (4) adopt, based on the amount and kind of travel over
1-30 each street or road in a subdivision, reasonable specifications
1-31 relating to the construction of each street or road;

1-32 (5) adopt reasonable specifications to provide
1-33 adequate drainage for each street or road in a subdivision in
1-34 accordance with standard engineering practices;

1-35 (6) require that each purchase contract made between a
1-36 subdivider and a purchaser of land in the subdivision contain a
1-37 statement describing the extent to which water will be made
1-38 available to the subdivision and, if it will be made available, how
1-39 and when;

1-40 (7) require that the owner of the tract to be
1-41 subdivided execute a good and sufficient bond in the manner
1-42 provided by Section 232.004;

1-43 (8) adopt reasonable specifications that provide for
1-44 drainage in the subdivision to:

1-45 (A) efficiently manage the flow of stormwater
1-46 runoff in the subdivision; and

1-47 (B) coordinate subdivision drainage with the
1-48 general storm drainage pattern for the area; ~~and~~

1-49 (9) require lot and block monumentation to be set by a
1-50 registered professional surveyor before recordation of the plat;
1-51 and

1-52 (10) adopt reasonable specifications applicable in
1-53 the subdivision to minimize the negative effects of outdoor
1-54 lighting.

1-55 SECTION 2. Chapter 240, Local Government Code, is amended
1-56 by adding Subchapter C to read as follows:

1-57 SUBCHAPTER C. OUTDOOR LIGHTING GENERALLY

1-58 Sec. 240.051. DEFINITIONS. In this subchapter:

1-59 (1) "Outdoor lighting" and "person" have the meanings
1-60 assigned by Section 240.031.

1-61 (2) "Utility" means a person that provides to the
1-62 public gas, light, power, telephone, sewage, or water service.

1-63 Sec. 240.052. COUNTY REGULATORY AUTHORITY; ADOPTION OF

2-1 ORDERS. (a) The commissioners court of a county may adopt orders
2-2 regulating the installation and use of outdoor lighting in any
2-3 unincorporated territory of the county.

2-4 (b) The orders must be designed to protect against the use
2-5 of outdoor lighting in a manner that causes excessive glare, light
2-6 trespass, skyglow, environmental concerns, or any other negative
2-7 effect on public safety or the ability of another person to use and
2-8 enjoy the person's private property.

2-9 (c) In the orders, the commissioners court may:

2-10 (1) require that a permit be obtained from the county
2-11 before the installation and use of certain types of outdoor
2-12 lighting in a regulated area;

2-13 (2) establish a fee for the issuance of the permit;

2-14 (3) prohibit the use of certain types of outdoor
2-15 lighting;

2-16 (4) establish requirements for the shielding of
2-17 outdoor lighting; and

2-18 (5) regulate the times during which certain types of
2-19 outdoor lighting may be used.

2-20 (d) The commissioners court may adopt orders that provide
2-21 more stringent standards for certain areas of the county, as
2-22 determined appropriate by the commissioners court.

2-23 (e) The commissioners court may adopt an order under this
2-24 subchapter only after conducting a public hearing on the proposed
2-25 order. The court shall give at least two weeks' public notice of
2-26 the hearing.

2-27 Sec. 240.053. ENFORCEMENT; PENALTY. (a) A county or
2-28 district attorney may sue in the district court to enjoin a
2-29 violation of this subchapter.

2-30 (b) A person who knowingly violates an order adopted under
2-31 this subchapter commits an offense. An offense under this section
2-32 is a Class C misdemeanor.

2-33 (c) Both civil and criminal enforcement may be used against
2-34 the same conduct.

2-35 Sec. 240.054. APPLICABILITY OF SUBCHAPTER. The
2-36 commissioners court may not adopt an order under this subchapter
2-37 regulating the installation and use of outdoor lighting that was
2-38 installed or used before the effective date of the order and is:

2-39 (1) owned or maintained by a utility; or

2-40 (2) related to the operations of:

2-41 (A) an electric utility, power generation
2-42 company, or transmission and distribution utility, as those terms
2-43 are defined by Section 31.002, Utilities Code;

2-44 (B) a gas utility, as defined by Section 101.003
2-45 or 121.001, Utilities Code; or

2-46 (C) surface coal mining and reclamation
2-47 operations, as defined by Section 134.004, Natural Resources Code.

2-48 SECTION 3. This Act takes effect immediately if it receives
2-49 a vote of two-thirds of all the members elected to each house, as
2-50 provided by Section 39, Article III, Texas Constitution. If this
2-51 Act does not receive the vote necessary for immediate effect, this
2-52 Act takes effect September 1, 2005.

2-53 * * * * *