

By: Shapiro, Eltife, Seliger

S.B. No. 848

Substitute the following for S.B. No. 848:

By: Cook of Colorado

C.S.S.B. No. 848

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the approval of certain permit applications by local
3 governments.

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

5 SECTION 1. Subdivision (1), Section 245.001, Local
6 Government Code, is amended to read as follows:

7 (1) "Permit" means a license, certificate, approval,
8 registration, consent, permit, contract or other agreement for
9 construction related to, or provision of, service from a utility
10 owned, operated, or controlled by a regulatory agency, or other
11 form of authorization required by law, rule, regulation, order, or
12 ordinance that a person must obtain to perform an action or
13 initiate, continue, or complete a project for which the permit is
14 sought.

15 SECTION 2. Section 245.002, Local Government Code, is
16 amended by amending Subsection (a) and adding Subsections (a-1) and
17 (e)-(g) to read as follows:

18 (a) Each regulatory agency shall consider the approval,
19 disapproval, or conditional approval of an application for a permit
20 solely on the basis of any orders, regulations, ordinances, rules,
21 expiration dates, or other properly adopted requirements in effect
22 at the time:

23 (1) the original application for the permit is filed
24 for review for any purpose, including review for administrative

1 completeness; or

2 (2) a plan for development of real property is filed
3 with a regulatory agency.

4 (a-1) Rights to which a permit applicant is entitled under
5 this chapter accrue on the filing of an original application or plan
6 for development that gives the regulatory agency fair notice of the
7 project and the nature of the permit sought. An application or plan
8 is considered filed on the date the applicant delivers the
9 application or plan to the regulatory agency or deposits the
10 application or plan with the United States Postal Service by
11 certified mail addressed to the regulatory agency. A certified
12 mail receipt obtained by the applicant at the time of deposit is
13 prima facie evidence of the date the application or plan was
14 deposited with the United States Postal Service.

15 (e) A regulatory agency may provide that a permit
16 application expires on or after the 45th day after the date the
17 application is filed if:

18 (1) the applicant fails to provide documents or other
19 information necessary to comply with the agency's technical
20 requirements relating to the form and content of the permit
21 application;

22 (2) the agency provides to the applicant not later
23 than the 10th business day after the date the application is filed
24 written notice of the failure that specifies the necessary
25 documents or other information and the date the application will
26 expire if the documents or other information is not provided; and

27 (3) the applicant fails to provide the specified

1 documents or other information within the time provided in the
2 notice.

3 (f) This chapter does not prohibit a regulatory agency from
4 requiring compliance with technical requirements relating to the
5 form and content of an application in effect at the time the
6 application was filed even though the application is filed after
7 the date an applicant accrues rights under Subsection (a-1).

8 (g) Notwithstanding Section 245.003, the change in law made
9 to Subsection (a) and the addition of Subsections (a-1), (e), and
10 (f) by S.B. No. 848, Acts of the 79th Legislature, Regular Session,
11 2005, apply only to a project commenced on or after the effective
12 date of that Act.

13 SECTION 3. The change in law made by this Act to Section
14 245.001(1), Local Government Code, is subject to the applicability
15 provision of Section 245.003, Local Government Code.

16 SECTION 4. 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.