

By: Deuell

S.B. No. 1296

A BILL TO BE ENTITLED

AN ACT

relating to the regulatory authority of certain counties in certain unincorporated areas of the counties; providing a penalty.

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

SECTION 1. Chapter 232, Local Government Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. LAND USE REGULATIONS IN CERTAIN COUNTIES

Sec. 232.151. DEFINITIONS. In this subchapter:

(1) "Major metropolitan county" means a county in which three or more municipalities, each with a population of more than 175,000, are predominantly located.

(2) "Nonurban county" means a county that has a population of less than 100,000 and that had a percentage change in its population growth, according to the two most recent federal decennial censuses, of less than 50 percent.

Sec. 232.152. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a nonurban county located adjacent to a major metropolitan county.

Sec. 232.153. AREAS SUBJECT TO REGULATION. (a) This subchapter applies only to the unincorporated area of a county that is within three miles of:

(1) a lake; or

(2) the corporate boundaries of a municipality.

(b) A county may not exercise its authority under this

1 subchapter in the area described by Subsection (a)(2) unless:

2 (1) the municipality requests, by petition, that the
3 commissioners court of the county exercise the authority; and

4 (2) the county and municipality make an interlocal
5 agreement under which those entities agree to the county's exercise
6 of authority.

7 Sec. 232.154. DEVELOPMENT REGULATIONS. The commissioners
8 court of a county may by order:

9 (1) regulate the percentage of a lot that may be
10 occupied or developed, including requiring a minimum amount of open
11 space or imposing a limit on the amount of impervious cover for
12 recharge or runoff purposes;

13 (2) regulate population density;

14 (3) regulate the size of buildings;

15 (4) regulate the location, design, construction,
16 extension, and size of streets and roads, including requiring
17 improvements to roadways serving a subdivision;

18 (5) regulate the location, design, construction,
19 extension, size, and installation of water and wastewater
20 facilities, including the requirements for connecting to a
21 centralized water or wastewater system;

22 (6) regulate the location, design, construction,
23 extension, size, and installation of drainage facilities and other
24 required public facilities;

25 (7) regulate the location, design, and construction of
26 parks, playgrounds, and recreational areas;

27 (8) regulate the abatement of harm resulting from

1 inadequate water or wastewater facilities;

2 (9) require that a subdivision have a minimum fire
3 suppression system, including the use of fire hydrants, storage
4 tanks, or ponds;

5 (10) impose impact fees under Chapter 395; or

6 (11) adopt any other regulation necessary to regulate
7 or manage land development.

8 Sec. 232.155. AUTHORITY TO REGULATE NOISE. (a) The
9 commissioners court of the county by order may regulate as
10 permitted by this subchapter sound levels to promote the public
11 health, safety, or welfare.

12 (b) The regulations may prohibit any act that produces a
13 sound that a reasonable person would find objectionable. In
14 determining whether a sound is objectionable to a reasonable
15 person, the following factors may be considered:

16 (1) the time of day the sound is produced;

17 (2) the proximity of the production of the sound to
18 residential property;

19 (3) whether the sound is recurrent, intermittent, or
20 constant;

21 (4) the volume and intensity of the sound;

22 (5) whether the sound has been enhanced in volume or
23 range by electronic or mechanical means; and

24 (6) whether the sound may be controlled without
25 unreasonable effort or expense to the producer of the sound.

26 (c) The commissioners court of the county by order may
27 establish an exemption to a regulation adopted under this section

1 if the court determines that the public interest justifies the
2 exemption.

3 Sec. 232.156. COMPLIANCE WITH COUNTY PLAN. Development
4 regulations must be:

5 (1) adopted in accordance with a county plan for
6 growth and development of the county; and

7 (2) coordinated with the comprehensive plans of
8 municipalities located in the county.

9 Sec. 232.157. DISTRICTS. (a) The commissioners court may
10 divide the unincorporated area of the county into districts of a
11 number, shape, and size the court considers best for carrying out
12 this subchapter.

13 (b) Regulations adopted under this subchapter may vary from
14 district to district.

15 Sec. 232.158. PROCEDURE GOVERNING ADOPTION OF REGULATIONS
16 AND DISTRICT BOUNDARIES. (a) A regulation adopted under this
17 subchapter is not effective until it is adopted by the
18 commissioners court after a public hearing. Before the 15th day
19 before the date of the hearing, the commissioners court must
20 publish notice of the hearing in a newspaper of general circulation
21 in the county.

22 (b) The commissioners court may establish or amend a
23 regulation only by an order passed by a majority vote of the full
24 membership of the court.

25 Sec. 232.159. DEVELOPMENT COMMISSION. (a) The
26 commissioners court may appoint a development commission to assist
27 in the implementation and enforcement of development regulations

1 adopted under Section 232.154.

2 (b) The development commission consists of:

3 (1) three residents of the affected precincts who own
4 land in the county, appointed by the county judge of the county;

5 (2) one resident of each commissioners precinct,
6 appointed by the commissioners court; and

7 (3) two persons each of whom resides in a different
8 municipality within the county, appointed by the commissioners
9 court.

10 (c) Except for initial members, a member of the development
11 commission is appointed for a two-year term expiring February 1 of
12 each odd-numbered year. Initial members serve terms expiring
13 February 1 of the first odd-numbered year following the date of
14 their appointment.

15 (d) The development commission annually shall elect a chair
16 and a vice chair from among its members.

17 (e) The commissioners court:

18 (1) shall employ staff for the use of the commission in
19 performing the commission's functions;

20 (2) may assign the development commission other duties
21 that the court considers appropriate and that are not inconsistent
22 with this section; and

23 (3) shall adopt rules governing the operations of the
24 development commission.

25 (f) The development commission is advisory only and may
26 recommend appropriate development regulations for the county.

27 (g) The members of the development commission are subject to

1 the same requirements relating to conflicts of interest that are
2 applicable to the commissioners court under Chapter 171.

3 Sec. 232.160. SPECIAL EXCEPTION. (a) A person aggrieved by
4 a development regulation adopted under Section 232.154 may petition
5 the commissioners court or the development commission, if the
6 commissioners court has established a development commission, for a
7 special exception to a development regulation adopted by the
8 commissioners court.

9 (b) The commissioners court shall adopt procedures
10 governing applications, notice, hearings, and other matters
11 relating to the grant of a special exception.

12 Sec. 232.161. ENFORCEMENT; PENALTY. (a) The commissioners
13 court may adopt orders to enforce this subchapter or an order or
14 regulation adopted under this subchapter.

15 (b) A person commits an offense if the person violates this
16 subchapter or an order or regulation adopted under this subchapter.
17 An offense under this subsection is a misdemeanor punishable by a
18 fine of not less than \$500 or more than \$1,000. Each day that a
19 violation occurs constitutes a separate offense, except that each
20 hour that a violation of a regulation adopted under Section 232.155
21 occurs constitutes a separate offense. Trial shall be in the
22 district court.

23 Sec. 232.162. COOPERATION WITH MUNICIPALITIES. The
24 commissioners court by order may enter into agreements with any
25 municipality located in the county to assist in the implementation
26 and enforcement of regulations adopted under this subchapter.

27 Sec. 232.163. CONFLICT WITH OTHER LAWS. If a regulation

1 adopted under this subchapter imposes higher standards than those
2 required under another statute or local order or regulation, the
3 regulation adopted under this subchapter controls. If the other
4 statute or local order or regulation imposes higher standards, that
5 statute, order, or regulation controls.

6 SECTION 2. Section 395.001(7), Local Government Code, is
7 amended to read as follows:

8 (7) "Political subdivision" means:

9 (A) a municipality;

10 (B) ~~[]~~ a district or authority created under
11 Article III, Section 52, or Article XVI, Section 59, of the Texas
12 Constitution;

13 (C) ~~[]~~ for the purposes set forth by Section
14 395.079, certain counties described by that section; or

15 (D) a county authorized to regulate land
16 development under Subchapter F, Chapter 232.

17 SECTION 3. Section 395.011(b), Local Government Code, is
18 amended to read as follows:

19 (b) Political subdivisions may enact or impose impact fees
20 on land within their ~~[corporate]~~ boundaries or extraterritorial
21 jurisdictions only by complying with this chapter, except that
22 impact fees may not be enacted or imposed in the extraterritorial
23 jurisdiction for roadway facilities.

24 SECTION 4. Sections 395.016(c) and (d), Local Government
25 Code, are amended to read as follows:

26 (c) This subsection applies only to impact fees adopted
27 after June 20, 1987. For new development which is platted in

1 accordance with Subchapter A, Chapter 212, or Subchapter A, Chapter
2 232, or the subdivision or platting procedures of any other [a]
3 political subdivision before the adoption of an impact fee, an
4 impact fee may not be collected on any service unit for which a
5 valid building permit is issued within one year after the date of
6 adoption of the impact fee.

7 (d) This subsection applies only to land platted in
8 accordance with Subchapter A, Chapter 212, or Subchapter A, Chapter
9 232, or the subdivision or platting procedures of any other [a]
10 political subdivision after adoption of an impact fee adopted after
11 June 20, 1987. The political subdivision shall assess the impact
12 fees before or at the time of recordation of a subdivision plat or
13 other plat under Subchapter A, Chapter 212, or Subchapter A,
14 Chapter 232, or the subdivision or platting ordinance or procedures
15 of any other political subdivision in the official records of the
16 county clerk of the county in which the tract is located. Except as
17 provided by Section 395.019, if the political subdivision has water
18 and wastewater capacity available:

19 (1) the political subdivision shall collect the fees
20 at the time the political subdivision issues a building permit;

21 (2) for land platted outside the corporate boundaries
22 of a municipality, the municipality shall collect the fees at the
23 time an application for an individual meter connection to the
24 municipality's water or wastewater system is filed; or

25 (3) a political subdivision that lacks authority to
26 issue building permits in the area where the impact fee applies
27 shall collect the fees at the time an application is filed for an

1 individual meter connection to the political subdivision's water or
2 wastewater system.

3 SECTION 5. The heading to Chapter 232, Local Government
4 Code, is amended to read as follows:

5 CHAPTER 232. COUNTY REGULATION OF SUBDIVISIONS

6 AND PROPERTY DEVELOPMENT

7 SECTION 6. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2005.