

By: Armbrister

S.B. No. 1362

A BILL TO BE ENTITLED

AN ACT

1
2 relating to certain land use restrictions by counties and
3 municipalities.

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

5 SECTION 1. Section 212.003(a), Local Government Code, is
6 amended to read as follows:

7 (a) The governing body of a municipality by ordinance may
8 extend to the extraterritorial jurisdiction of the municipality the
9 application of municipal ordinances adopted under Section 212.002
10 and other municipal ordinances relating to access to public roads
11 or the pumping, extraction, and use of groundwater by persons other
12 than retail public utilities, as defined by Section 13.002, Water
13 Code, for the purpose of preventing the use or contact with
14 groundwater that presents an actual or potential threat to human
15 health. However, notwithstanding any other ~~[unless otherwise~~
16 ~~authorized by]~~ state law, in its extraterritorial jurisdiction a
17 municipality shall not regulate:

18 (1) the use of any building or property for business,
19 industrial, residential, or other purposes;

20 (2) the bulk, height, or number of buildings
21 constructed on a particular tract of land;

22 (3) the size of a building that can be constructed on a
23 particular tract of land, including without limitation any
24 restriction on the ratio of building floor space to the land square

1 footage;

2 (4) the density or number of lots or buildings,
3 including residential units, that can be built per acre of land;
4 [~~or~~]

5 (5) the size, type, or method of construction of a
6 water or wastewater facility that can be constructed to serve a
7 developed tract of land if:

8 (A) the facility meets the minimum standards
9 established for water or wastewater facilities by state and federal
10 regulatory entities; and

11 (B) the developed tract of land is:

12 (i) located in a county with a population of
13 2.8 million or more; and

14 (ii) served by:

15 (a) on-site septic systems
16 constructed before September 1, 2001, that fail to provide adequate
17 services; or

18 (b) on-site water wells constructed
19 before September 1, 2001, that fail to provide an adequate supply of
20 safe drinking water; or

21 (6) the amount of impervious cover that may be placed
22 or constructed on a particular tract of land.

23 SECTION 2. Section 232.101(b), Local Government Code, is
24 amended to read as follows:

25 (b) Notwithstanding any other [~~Unless otherwise authorized~~
26 ~~by~~] state law, a commissioners court shall not regulate under this
27 section:

1 (1) the use of any building or property for business,
2 industrial, residential, or other purposes;

3 (2) the bulk, height, or number of buildings
4 constructed on a particular tract of land;

5 (3) the size of a building that can be constructed on a
6 particular tract of land, including without limitation and
7 restriction on the ratio of building floor space to the land square
8 footage; ~~[or]~~

9 (4) the density or number of lots or buildings,
10 including residential units, that can be built per acre of land; or

11 (5) the amount of impervious cover that may be placed
12 or constructed on a particular tract of land.

13 SECTION 3. Section 401.002(c), Local Government Code, is
14 amended to read as follows:

15 (c) The authority granted by this section may be exercised
16 ~~[inside the municipality's boundaries or inside the municipality's~~
17 ~~extraterritorial jurisdiction or outside the municipality's~~
18 ~~extraterritorial jurisdiction]~~ only if required to meet other state
19 or federal requirements. ~~[The authority granted by this section~~
20 ~~for the protection of recharge, recharge areas, or recharge~~
21 ~~features of groundwater aquifers may be exercised outside the~~
22 ~~municipality's boundaries and within the extraterritorial~~
23 ~~jurisdiction provided the municipality exercising such authority~~
24 ~~has a population greater than 750,000 and the groundwater~~
25 ~~constitutes more than 75 percent of the municipality's source of~~
26 ~~water supply.]~~

27 SECTION 4. This Act takes effect immediately if it receives

S.B. No. 1362

1 a vote of two-thirds of all the members elected to each house, as
2 provided by Section 39, Article III, Texas Constitution. If this
3 Act does not receive the vote necessary for immediate effect, this
4 Act takes effect September 1, 2005.