

BILL ANALYSIS

C.S.H.B. 3079
By: Hilderbran
Urban Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Governmental entities are requesting voters to approve a tax for the purpose of acquiring real property, conservation easements, or other interests in real property to provide a watershed protection and preservation project, an open space preservation program intended to protect water, or improvements to a municipal park and recreation system. Governmental entities are using Chapter 334 of the Local Government Code as the vehicle to impose such taxes.

Chapter 334 requires that voters vote on the specific use of the tax and lists the different types of uses for the tax. Once the governmental entities acquire the property designated by the voters to be protected, the governmental entities are using the real property to erect infrastructure (i.e. Water Mains, Sewer Mains, Electrical Towers, Cell Phone Towers, Electrical Substations, and Water and Wastewater Treatment Facilities) that is not related to the use approved by the voters.

If a municipality wants to use land purchased with Chapter 334 funds, the municipality must go back to the voters through an election and inform the voters of the unrelated infrastructure project to be erected on the land.

The proposed complete committee substitute for House Bill No. 3079 relates to the development of unrelated infrastructure on certain venue projects.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill would not expressly grant any additional rulemaking authority to a State officer, department, agency, or institution.

SUMMARY ANALYSIS

The proposed substitute for House Bill No. 3079 adds Subchapter L to Chapter 334 of the Local Government Code. Section 334.451 adds (3) (A) and (B) solely to enhance the public purpose for which the property was acquired or for the development project authorized by a conservation easement. Section 334.452 makes the section applicable to home-rule municipalities with a population less than 1.9 million that own a water and electric utility, each of which are governed by a board of directors not composed exclusively of members of the governmental body.

Section 334.453 requires a municipality to hold an election if it plans to construct, operate, or maintain unrelated infrastructure on property acquired for an approved venue project. Section 334.454 provides for the required election by the municipality if it plans to use unrelated infrastructure on land acquired for an approved venue project, requires that notice of the election be in a newspaper of general circulation, and that the ballot be published with specific language describing the unrelated infrastructure project.

Section 334.455 provides a remedy for landowners affected by the unrelated infrastructure project of injunctive relief, declaratory judgment, mandamus. It allows the county and district attorneys, Attorney General, taxpayers, and landowners to enforce the Section through suit and waives sovereign immunity from suit and liability for a municipality that violates this section. Amends Chapter 26, Parks & Wildlife Code, by adding Section 26.006 applying Subchapter L, Chapter 334, Local Government Code to the construction, operation and maintenance of unrelated infrastructure:

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(1) as part of an approved venue project;

(2) designated or used as a park, recreation area, scientific area, wildlife refuge, or historic site.

SECTION 3 applies the Act to an action that is subject to litigation in which a judgment has been issued and the judgment is subject to modification, reversal or appeal; or a final judgment has not been entered.

EFFECTIVE DATE

The Act would become effective immediately upon a two-thirds vote of both chambers. Otherwise, the bill would become effective on the default date of September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

In the proposed substitute for House Bill No. 3079, Section 334.451 adds (3) (A) and (B) solely to enhance the public purpose for which the property was acquired or for the development project authorized by a conservation easement.

Section 334.452 is changed by adding the heading “APPLICABILITY” and amending the Section by making this chapter applicable to a home-rule municipality with a population less than 1.9 million that owns both a water utility and an electric utility, each of which is governed by a board of trustees not exclusively composed of members of the utility’s governing body.

Sections 334.453 through Section 334.454 are renumbered from how they appeared in the original bill.

Section 334.454 is modified to read as Section 334.453 in the original bill.

Section 334.455 is added and former Section 334.454 is incorporated into that Section.

Section 334.455 is modified by deleting Sec. 334.454 (a)(4) of the original bill, a board of trustees appointed under Section 1502.070, Government Code, and renumbering the remaining subsections.

SECTION 2 remains the same as before.

SECTION 3 is modified by amending the section to read that the Act applies to an action that is subject to litigation in which a judgment has been issued and the judgment is subject to modification, reversal or appeal; or a final judgment has not been entered.