

BILL ANALYSIS

H.B. 4068
By: Guillen
Natural Resources
Committee Report (Amended)

BACKGROUND AND PURPOSE

Nearly all of Zapata County is situated within the watershed that drains into the International Falcon Reservoir. Not only does Falcon provide water to a part of the state in which water is historically in short supply, but the reservoir also provides lake recreation and sports opportunities for residents of two counties. In addition to local use of the lake for recreation, Falcon is an appealing destination for tourists and sports enthusiasts from every part of the state and beyond. Zapata County has waged a concerted, well-planned, and successful economic development effort to leverage and expand the amenities of Falcon Reservoir. In addition to sports and recreation opportunities, Zapata County enjoys a diverse and unique ecology that, along with the variety of birds and other wildlife, creates an appealing destination for ecotourism.

H.B. 4068 is a local bill that will provide Zapata County with the means to responsibly manage its current growth in its unincorporated areas and give the county the ability to plan for future growth in these areas. H.B. 4068 will amend the Local Government Code to establish development regulations in Zapata County.

RULEMAKING AUTHORITY

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

ANALYSIS

SECTION 1: Chapter 231, Local Government Code, is amended by adding Subchapter L as follows:

SUBCHAPTER L. DEVELOPMENT REGULATIONS IN ZAPATA COUNTY

Sec. 231.251. LEGISLATIVE FINDINGS; PURPOSE.

- (a) The legislature finds that:
 - (1) a substantial majority of Zapata County is located within the watershed that drains into the International Falcon Reservoir;
 - (2) the area that surrounds the International Falcon Reservoir in Zapata County is experiencing growth in population as a result of land development and will be frequented for residential and recreational purposes by residents from every part of the state;
 - (3) orderly development of the area and the watershed is of concern to the entire state; and
 - (4) without adequate development regulations, the area and the watershed have been and will continue to be developed in ways that:
 - (A) endanger and interfere with the proper use of the area and the watershed for residential and recreational purposes; and
 - (B) are detrimental to the public health, safety, morals, and general welfare.
- (b) The powers granted under this subchapter are for the purpose of:
 - (1) promoting the public health, safety, peace, morals, and general welfare;
 - (2) encouraging recreation; and

H.B. 4068 80(R)

- (3) safeguarding and preventing the pollution of the state's rivers and lakes.

Sec. 231.252. AREAS SUBJECT TO REGULATION. This subchapter applies only to the unincorporated areas of Zapata County.

Sec. 231.253. DEVELOPMENT REGULATIONS GENERALLY. Authorizes the Commissioners Court of Zapata County to regulate:

- (1) the percentage of a lot that may be occupied or developed;
- (2) population density;
- (3) the size of buildings;
- (4) the location, design, construction, extension, and size of streets and roads;
- (5) the location, design, construction, extension, size, and installation of water and wastewater facilities, including the requirements for connecting to a centralized water or wastewater system;
- (6) the location, design, construction, extension, size, and installation of drainage facilities and other required public facilities;
- (7) the location, design, and construction of parks, playgrounds, and recreational areas; and
- (8) the abatement of harm resulting from inadequate water or wastewater facilities.

Sec. 231.254. COMPLIANCE WITH COUNTY PLAN. Provides that development regulations be:

- (1) adopted in accordance with a county plan for growth and development of the county; and
- (2) coordinated with the comprehensive plans of municipalities located in the county.

Sec. 231.255. DISTRICTS.

(a) Authorizes the commissioners court to divide the unincorporated area of the county into districts of a number, shape, and size the court considers best for carrying out this subchapter.

(b) Provides that development regulations may vary from district to district.

Sec. 231.256. PROCEDURE GOVERNING ADOPTION OF REGULATIONS AND DISTRICT BOUNDARIES.

(a) Provides that a development regulation adopted under this subchapter is not effective until it is adopted by the commissioners court after a public hearing. Before the 15th day before the date of the hearing, the commissioners court must publish notice of the hearing in a newspaper of general circulation in the county.

(b) Authorizes the commissioners court to establish or amend a development regulation only by an order passed by a majority vote of the full membership of the court.

Sec. 231.257. DEVELOPMENT COMMISSION.

(a) Authorizes the commissioners court to appoint a development commission to assist in the implementation and enforcement of development regulations adopted under this subchapter.

(b) Provides that the development commission consist of an ex officio chairman who must be a public official in Zapata County and four additional members.

(c) Provides that the development commission is advisory only and is authorized to recommend appropriate development regulations for the county.

(d) Provides that the members of the development commission are subject to the same requirements relating to conflicts of interest that are applicable to the commissioners court under Chapter 171.

Sec. 231.258. SPECIAL EXCEPTION.

(a) Provides that a person aggrieved by a development regulation adopted under this subchapter may petition the commissioners court or the development commission, if the commissioners court has established a development commission, for a special exception to a development regulation adopted by the commissioners court.

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

Sec. 231.259. ENFORCEMENT; PENALTY.

(a) Authorizes the commissioners court to adopt orders to enforce this subchapter or an order or development regulation adopted under this subchapter.

(b) Provides that a person commits an offense if the person violates this subchapter or an order or development regulation adopted under this subchapter. An offense under this subsection is a misdemeanor punishable by a fine of not less than \$500 or more than \$1,000. Each day that a violation occurs constitutes a separate offense. Requires the trial be in the district court.

Sec. 231.260. COOPERATION WITH MUNICIPALITIES. The commissioners court by order may enter into agreements with any municipality located in the county to assist in the implementation and enforcement of development regulations adopted under this subchapter.

Sec. 231.261. CONFLICT WITH OTHER LAWS. If a development regulation adopted under this subchapter imposes higher standards than those required under another statute or local order or regulation, the regulation adopted under this subchapter controls. If the other statute or local order or regulation imposes higher standards, that statute, order, or regulation controls.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

EXPLANATION OF AMENDMENTS

Committee Amendment No. 1 to H.B. No. 4068 strikes all below the enacting clause and substitutes the following:

SECTION 1. Chapter 231, Local Government Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. ZONING AROUND FALCON LAKE

Sec. 231.251. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

- (1) the area that surrounds Falcon Lake in Zapata County is frequented for recreational purposes by residents from every part of the state;
- (2) orderly development and use of the area is of concern to the entire state; and
- (3) buildings in the area that are frequented for resort or recreational purposes tend to become congested and to be used in ways that interfere with the proper use of the area as a place of recreation to the detriment of the public health, safety, morals, and general welfare.

(b) The powers granted under this subchapter are for the purpose of promoting the public health, safety, peace, morals, and general welfare and encouraging the recreational use of county land.

Sec. 231.252. AREAS SUBJECT TO REGULATION. This subchapter applies only to the unincorporated area of Zapata County located within 25,000 feet of:

- (1) the project boundary line for Falcon Lake; and
- (2) the Rio Grande river.

Sec. 231.253. FALCON LAKE PLANNING COMMISSION. (a) A lake planning commission is established for the area subject to this subchapter. The commission is comprised of:

- (1) four residents of Zapata County, with one resident from each of the county commissioner precincts, appointed by that precinct's commissioner; and
- (2) a person, who shall serve as the commission's presiding officer, appointed by the county judge of Zapata County.

(b) Except as provided by Subsection (c), the members of the commission shall be appointed for two year terms that expire February 1 of each odd-numbered year.

(c) The terms of the initial members of the commission expire on February 1st of the first February in an odd-numbered year following their appointment.

(d) The commissioners court of Zapata County may employ staff for the commission to use in performing the commission's functions.

Sec. 231.254. COMMISSION STUDY & REPORT; HEARING. (a) At the request of the commissioners court of Zapata County, the commission shall, or on the lake planning commission's own initiative, the commission may, conduct studies of the area subject to this subchapter and prepare reports to advise the commissioner's court about matters affecting that area, including any need for zoning regulations in that area.

(b) Before the commission may prepare a report, the commission must hold a public hearing in which members of the public may offer testimony regarding any subject to be included in the commission's report. The commission shall provide notice of the hearing as required by the commissioner's court.

Sec. 231.255. ZONING REGULATIONS. After receiving a report from the lake planning commission under Section 231.254, the commissioner's court of Zapata County may adopt zoning regulations for the area subject to this subchapter and in accordance with the report that regulate:

- (1) the height, number of stories, and size of buildings and other structures;
- (2) the percentage of a lot that may be occupied;
- (3) the size of yards, courts, and other open spaces;
- (4) population density;
- (5) the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes; and
- (6) the placement of water and sewage facilities, parks, and other public requirements.

Sec. 231.256. DISTRICTS. (a) The commissioners court may divide the area in the county that is subject to this subchapter into districts of a number, shape, and size the court considers best for carrying out this subchapter. Within each district, the commissioners court may regulate the erection, construction, reconstruction, alteration, repair, or use of buildings, other structures, or land.

(b) The zoning regulations must be uniform for each class or kind of building in a district, but the regulations may vary from district to district. The regulations shall be adopted with reasonable consideration, among other things, for the character of each district and its peculiar suitability for particular uses, with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the area.

Sec. 231.257. ENFORCEMENT; PENALTY; REMEDIES. (a) The commissioners court may adopt orders to enforce this subchapter, any order adopted under this subchapter, or a zoning regulation.

(b) A person commits an offense if the person violates this subchapter, an order adopted under this subchapter, or a zoning regulation. An offense under this subsection is a misdemeanor, punishable by fine, imprisonment, or both, as provided by the commissioners court. The commissioners court may also provide civil penalties for a violation.

(c) If a building or other structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if a building, other structure, or land is used in violation of this

subchapter, an order adopted under this subchapter, or a zoning regulation, the appropriate county authority, in addition to other remedies, may institute appropriate action to:

(1) prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;

(2) restrain, correct, or abate the violation;

(3) prevent the occupancy of the building, structure, or land; or

(4) prevent any illegal act, conduct, business, or use on or about the premises.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.