

BILL ANALYSIS

Senate Research Center
80R1756 MXM-F

S.B. 408
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International Relations and Trade
3/1/2007
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, counties do not have the authority to adopt zoning ordinances or building codes. This lack of county regulatory power is among the primary reasons why substandard housing has flourished in colonias throughout the Texas-Mexico border region.

As proposed, S.B. 408 authorizes certain counties to regulate residential land development in the unincorporated areas of the county and municipalities within those counties in order to regulate residential land development in the unincorporated area of the county and the extraterritorial jurisdiction of the municipality. This bill provides that violators of the land development restrictions imposed by a county or municipality commit a Class C misdemeanor.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 242, Local Government Code, by adding Subchapter B, as follows:

SUBCHAPTER B. DEVELOPMENT REGULATIONS IN CERTAIN COUNTIES AND MUNICIPALITIES

Sec. 242.051. **APPLICABILITY.** Provides that this subchapter applies only to certain counties and municipalities.

Sec. 242.052. **REGULATORY AUTHORITY.** (a) Authorizes the commissioners court of a county (court) to which this subchapter applies to regulate, by order, residential land development in the unincorporated area of the county. Authorizes the governing body of a municipality (body) to which this subchapter applies to regulate, by ordinance, residential land development in the municipality's extraterritorial jurisdiction. Authorizes the court or body, by this authority, to prevent the proliferation of colonias by adopting certain regulations and building codes.

(b) Prohibits the court or body from regulating land development on a tract of land under the authority granted by Subsection (a)(1)(B), (a)(1)(C), or (a)(2), if that tract is appraised as agricultural or open-space land by the appraisal district.

(c) Provides that the authority granted under this section does not authorize the court or body to adopt an order regulating commercial property that is uninhabitable.

(d) Provides that the authority granted under this section does not authorize the court or body to adopt an order that limits or otherwise impairs the rights of individuals or entities in the exploration, development, or production of oil, gas, or other minerals.

Sec. 242.053. **BUILDING PERMITS.** Requires the county or municipality to issue a building permit to persons that meet certain criteria in submitting an application for a

building permit. Authorizes the county or municipality to charge a reasonable building permit fee and requires them to deposit the fees in its general fund and dedicate the fees to the building permit program. Prohibits the funds from being used for any purpose other than administering the building permit program.

Sec. 242.054. MUNICIPAL ORDINANCE PREVAILS OVER COUNTY ORDER. Provides that a municipal ordinance prevails within the municipality's jurisdiction to the extent of a conflict that occurs with an order adopted by the county under this subchapter.

Sec. 242.055. EXISTING AUTHORITY UNAFFECTED. Provides that the authority granted by this subchapter does not affect the authority of the court or body to adopt an order or ordinance under other law.

Sec. 242.056. INJUNCTION. Entitles the county or municipality to appropriate injunctive relief, in a suit brought by the appropriate attorney representing the county or municipality in the district court, to prevent the violation or threatened violation of the entity's order or ordinance adopted under this subchapter from continuing or occurring.

Sec. 242.057. PENALTY; EXCEPTION. Establishes that a person commits a Class C misdemeanor if the person violates a restriction or prohibition imposed by an order or ordinance adopted under this subchapter. Provides exceptions to the application of this section.

SECTION 2. Amends the heading to Chapter 242, Local Government Code, to read as follows:

CHAPTER 242. AUTHORITY OF MUNICIPALITY AND COUNTY TO REGULATE
SUBDIVISIONS AND PROPERTY DEVELOPMENT

SECTION 3. Amends Chapter 242, Local Government Code, by designating Sections 242.001, 242.0015, and 242.002 as Subchapter A and adding a heading for Subchapter A to read as follows:

SUBCHAPTER A. AUTHORITY TO REGULATE SUBDIVISIONS IN AND OUTSIDE
MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION

SECTION 4. Effective date: upon passage or September 1, 2007.