

BILL ANALYSIS

Senate Research Center

S.B. 1774
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S/C on Emerging Technologies & Economic Dev.
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, governmental entities request from voters the authority to establish a tax under Chapter 334 (Sports and Community Venues), Local Government Code, to acquire real property, conservation easements, or other interests in real property. The purpose of this procedure is to protect open space or natural resources in high population growth areas. Chapter 334, Local Government Code, requires a vote on the specific use of the tax and lists the different types of uses for the tax. Specifically Section 334.001(d)(4) (relating to the definition of "venue"), Local Government Code, allows governmental entities to use the tax adopted by the voters, if the voters specifically call for it in the proposition adopting the tax, to acquire real property to protect open space or natural resources. However, the current problem is that once the governmental entities acquire the property designated by the voters to be open space or natural resources, these entities are placing major infrastructure not related to the use approved by the voters upon the property.

As proposed, S.B. 1774 adds a new section to Chapter 334, Local Government Code, to specify the types of infrastructure that can be used within real property acquired by a government entity for the purposes specified in that chapter.

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 Subchapter C, Chapter 334, Local Government Code, by adding Section 334.046, as follows:

Sec. 334.046. RELATED USES. (a) Provides that this section applies only to a venue as defined by Section 334.001(4)(D) or (F).

(b) Prohibits real property or an interest in real property acquired by or on behalf of a municipality or county for a venue from being used to establish, construct, operate, or maintain infrastructure, other than drainage infrastructure, unless the infrastructure is directly required and designed to be used solely for certain purposes.

(c) Provides that this section does not prevent the governing body of a municipality or county or an agency, board, department, or commission of the municipality or county from establishing, constructing, operating, or maintaining related infrastructure that is sized, designed, and directly required to serve the approved venue project property.

(d) Authorizes the governing body of a municipality or county to sell, lease, or otherwise convey real property or an interest in real property as provided by Section 334.041(b) to an agency, board, department, or commission of the municipality or county to establish, construct, operate, or maintain infrastructure only if the infrastructure is related to the venue project and enhances the use, value, or appeal of the venue or areas adjacent to the venue. Provides that Section 334.041(b) does not authorize the governing body of a municipality or county to

authorize an agency, board, department, or commission of the municipality or county to establish, construct, operate, or maintain infrastructure or easements for infrastructure, other than drainage infrastructure, that is unrelated to carrying out the purposes of the venue project as described in the ballot proposition approving the project.

(e) Authorizes a municipality or county or an agency, board, department, or commission of the municipality or county to use real property or an interest in real property acquired for an approved venue project only for a purpose described by the ballot proposition submitted at the election under Section 334.024 until certain conditions are satisfied.

(f) Authorizes the governing body of a municipality or county to file a declaratory judgment action in Travis County for the determination of whether real property or an interest in real property is no longer capable of fulfilling the original purposes of a venue project as defined in the ballot proposition approving the project. Provides that a district court of Travis County has original jurisdiction for making the determination under this subsection. Provides that the district court's determination under this subsection is final.

(g) Requires the governing body of a municipality or county to publish a notice in a newspaper of general circulation in the county in which the property is located not later than the 45th day before the date of a hearing in the declaratory judgment action. Sets forth the language that the notice must include.

(h) Prohibits an action for the declaratory judgment from being initiated within 24 months after the date a similar action relating to the same venue project property has been finally determined.

(i) Provides that an owner of real property located adjacent to the approved venue project property or a taxpayer of the municipality or county has standing to intervene as a party to the declaratory action on or before the 30th day after the date on which notice is published under Subsection (g).

(j) Authorizes an action to enforce this section or enjoin a violation of this section to be brought by certain persons.

(k) Provides that the sovereign immunity of a municipality or county against suit and liability is specifically and expressly waived with respect to a suit brought by a person identified by Subsection (j) against the municipality or county for the purpose of enforcing this section.

(l) Authorizes a suit to enforce this section to be brought for injunctive relief, mandamus, declaratory judgment, specific performance of the approved ballot proposition or the ordinance or order implementing the project, and court costs, attorney's fees, and related expenses. Entitles a plaintiff who prevails in an action brought to enforce this section to certain orders, costs, and expenses.

(m) Requires a municipality or county to comply with this section to exercise jurisdiction over approved venue project property in a manner inconsistent with the purpose of the venue project as described by the ballot proposition submitted at the election to approve the project.

(n) Provides that, if this section conflicts with another state statute or an ordinance or order of a municipality or county, this section controls.

SECTION 2. Effective date: upon passage or September 1, 2007.