

By: Hilderbran

H.B. No. 3079

Substitute the following for H.B. No. 3079:

By: Murphy

C.S.H.B. No. 3079

A BILL TO BE ENTITLED

AN ACT

relating to the development of unrelated infrastructure on certain venue projects.

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

SECTION 1. Chapter 334, Local Government Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. APPROVAL FOR CERTAIN VENUE PROJECTS

Sec. 334.451. DEFINITION. In this subchapter, "unrelated infrastructure" means infrastructure that is unrelated to an approved venue project. The term does not include:

(1) related infrastructure;

(2) drainage infrastructure; or

(3) infrastructure that is related only to the operation or improvement of the venue property for park, open space, or conservation easement program purposes if the infrastructure is sized and engineered:

(A) solely to enhance the public purpose for which the property was acquired; or

(B) for the development of a project authorized by the conservation easement.

Sec. 334.452. APPLICABILITY. This subchapter applies only to a home-rule municipality with a population of less than 1.9 million that owns a water and an electric utility, each of which is governed by a board of trustees not composed exclusively of members

1 of the municipality's governing body.

2 Sec. 334.453. ELECTION REQUIRED. Unless authorized at an  
3 election held in a home-rule municipality, the municipality, or an  
4 entity owned by the municipality, may not construct, operate, or  
5 maintain unrelated infrastructure on property that the  
6 municipality acquired as part of an approved venue project for:

7 (1) park purposes, regardless of whether the property  
8 is actively being used as a park;

9 (2) a municipal parks and recreation system;

10 (3) improvements or additions to a municipal parks and  
11 recreation system;

12 (4) a watershed protection and preservation project;

13 (5) a recharge, recharge area, or recharge feature  
14 protection project;

15 (6) a conservation easement; or

16 (7) an open-space preservation program intended to  
17 protect water.

18 Sec. 334.454. ELECTION. (a) A municipality may order an  
19 election to authorize the use of property described by Section  
20 334.453 for unrelated infrastructure.

21 (b) Notice of an election held under this subchapter must be  
22 published in a newspaper of general circulation in each county  
23 where the property is located not later than the 30th day before the  
24 date of the election.

25 (c) The ballot for an election held under this subchapter  
26 shall provide for voting for or against the following proposition:  
27 "Authorizing (insert name of municipality) to construct, operate,

1 and maintain (insert description of unrelated infrastructure) on  
2 (insert description, name, and location of approved venue property)  
3 for the (insert name of project and purpose)."

4 (d) The municipality may authorize the use of the venue  
5 property only if a majority of votes cast at the election approve  
6 the use of the venue property for the unrelated infrastructure.

7 Sec. 334.455. ENFORCEMENT. (a) An action to enforce this  
8 subchapter or enjoin a violation of this subchapter may be brought  
9 by:

10 (1) the district attorney or county attorney  
11 representing the area where the venue project is located;

12 (2) the attorney general;

13 (3) a taxpayer of the municipality; or

14 (4) an owner of property:

15 (A) adjacent to the approved venue project; and

16 (B) on which the unrelated infrastructure is or  
17 would be constructed.

18 (b) The sovereign immunity of the municipality against suit  
19 and liability is specifically and expressly waived with respect to  
20 a suit brought by a person identified by Subsection (a) against the  
21 municipality for the purpose of enforcing this subchapter.

22 (c) A suit to enforce this subchapter may be brought for  
23 injunctive relief, mandamus, declaratory judgment, and damages,  
24 including damages to property acquired in violation of this  
25 subchapter if the action is brought by the owner of that property.  
26 A plaintiff who prevails in an action brought to enforce this  
27 section is entitled to:

- 1           (1) reasonable attorney's fees;
- 2           (2) court costs; and
- 3           (3) expenses directly related to the litigation  
4 required to enforce this section.

5           SECTION 2. Chapter 26, Parks and Wildlife Code, is amended  
6 by adding Section 26.006 to read as follows:

7           Sec. 26.006. CERTAIN VENUE PROJECTS. Subchapter L, Chapter  
8 334, Local Government Code, applies to the construction, operation,  
9 or maintenance of unrelated infrastructure, as defined by Section  
10 334.451, Local Government Code, on property that is:

- 11           (1) part of an approved venue project, as defined by  
12 Section 334.001, Local Government Code; and
- 13           (2) designated or used as a park, recreation area,  
14 scientific area, wildlife refuge, or historic site.

15           SECTION 3. Subchapter L, Chapter 334, Local Government  
16 Code, as added by this Act, applies to an action taken by a  
17 municipality before the effective date of this Act if, as of the  
18 effective date of this Act, the action is the subject of litigation  
19 in which:

- 20           (1) a judgment has been issued and the judgment is  
21 subject to modification, reversal, or appeal; or
- 22           (2) a final judgment has not been entered.

23           SECTION 4. This Act takes effect immediately if it receives  
24 a vote of two-thirds of all the members elected to each house, as  
25 provided by Section 39, Article III, Texas Constitution. If this  
26 Act does not receive the vote necessary for immediate effect, this  
27 Act takes effect September 1, 2007.