

By: Hilderbran

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 solely to enhance the public purpose for which the property was acquired.

Sec. 334.452. ELECTION REQUIRED. Unless authorized at an election held in a home-rule municipality, the municipality, or an entity owned by the municipality, may not construct, operate, or maintain unrelated infrastructure on property that the municipality acquired as part of an approved venue project for:

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

- 1 (2) a municipal parks and recreation system;
- 2 (3) improvements or additions to a municipal parks and
3 recreation system;
- 4 (4) a watershed protection and preservation project;
- 5 (5) a recharge, recharge area, or recharge feature
6 protection project;
- 7 (6) a conservation easement; or
- 8 (7) an open-space preservation program intended to
9 protect water.

10 Sec. 334.453. ELECTION. (a) A municipality may order an
11 election to authorize the use of property described by Section
12 334.452 for unrelated infrastructure.

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

17 (c) The ballot for an election held under this subchapter
18 shall provide for voting for or against the following proposition:
19 "Authorizing (insert name of municipality) to construct, operate,
20 and maintain (insert description of unrelated infrastructure) on
21 (insert description, name, and location of approved venue property)
22 for the (insert name of project and purpose)."

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

26 Sec. 334.454. ENFORCEMENT. (a) An action to enforce this
27 subchapter or enjoin a violation of this subchapter may be brought

1 by:

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

4 (2) the attorney general;

5 (3) a taxpayer of the municipality;

6 (4) a board of trustees appointed under Section
7 1502.070, Government Code, to manage and control a municipal
8 utility system in the area where the venue project is located; or

9 (5) an owner of property:

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

11 (B) on which the unrelated infrastructure is or
12 would be constructed.

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

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

23 (1) reasonable attorney's fees;

24 (2) court costs; and

25 (3) expenses directly related to the litigation
26 required to enforce this section.

27 SECTION 2. Chapter 26, Parks and Wildlife Code, is amended

1 by adding Section 26.006 to read as follows:

2 Sec. 26.006. CERTAIN VENUE PROJECTS. Subchapter L, Chapter
3 334, Local Government Code, applies to the construction, operation,
4 or maintenance of unrelated infrastructure, as defined by Section
5 334.451, Local Government Code, on property that is:

6 (1) part of an approved venue project, as defined by
7 Section 334.001, Local Government Code; and

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

10 SECTION 3. Subchapter L, Chapter 334, Local Government
11 Code, as added by this Act, applies to the construction, operation,
12 or maintenance of unrelated infrastructure in violation of that
13 subchapter before the effective date of this Act that is the subject
14 of litigation filed after January 1, 2005, in which a final judgment
15 has not been entered as of the effective date of this Act.

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