

By: Guillen

H.B. No. 4068

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the authority of Zapata County to adopt development  
3 regulations for certain unincorporated areas of the county;  
4 providing a penalty.

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

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

8 SUBCHAPTER L. DEVELOPMENT REGULATIONS IN ZAPATA COUNTY

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

11 (1) a substantial majority of Zapata County is located  
12 within the watershed that drains into the International Falcon  
13 Reservoir;

14 (2) the area that surrounds the International Falcon  
15 Reservoir in Zapata County is experiencing growth in population as  
16 a result of land development and will be frequented for residential  
17 and recreational purposes by residents from every part of the  
18 state;

19 (3) orderly development of the area and the watershed  
20 is of concern to the entire state; and

21 (4) without adequate development regulations, the  
22 area and the watershed have been and will continue to be developed  
23 in ways that:

24 (A) endanger and interfere with the proper use of

1 the area and the watershed for residential and recreational  
2 purposes; and

3 (B) are detrimental to the public health, safety,  
4 morals, and general welfare.

5 (b) The powers granted under this subchapter are for the  
6 purpose of:

7 (1) promoting the public health, safety, peace,  
8 morals, and general welfare;

9 (2) encouraging recreation; and

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

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

15 Sec. 231.253. DEVELOPMENT REGULATIONS GENERALLY. The  
16 Commissioners Court of Zapata County may regulate:

17 (1) the percentage of a lot that may be occupied or  
18 developed;

19 (2) population density;

20 (3) the size of buildings;

21 (4) the location, design, construction, extension,  
22 and size of streets and roads;

23 (5) the location, design, construction, extension,  
24 size, and installation of water and wastewater facilities,  
25 including the requirements for connecting to a centralized water or  
26 wastewater system;

27 (6) the location, design, construction, extension,

1 size, and installation of drainage facilities and other required  
2 public facilities;

3 (7) the location, design, and construction of parks,  
4 playgrounds, and recreational areas; and

5 (8) the abatement of harm resulting from inadequate  
6 water or wastewater facilities.

7 Sec. 231.254. COMPLIANCE WITH COUNTY PLAN. Development  
8 regulations must be:

9 (1) adopted in accordance with a county plan for  
10 growth and development of the county; and

11 (2) coordinated with the comprehensive plans of  
12 municipalities located in the county.

13 Sec. 231.255. DISTRICTS. (a) The commissioners court may  
14 divide the unincorporated area of the county into districts of a  
15 number, shape, and size the court considers best for carrying out  
16 this subchapter.

17 (b) Development regulations may vary from district to  
18 district.

19 Sec. 231.256. PROCEDURE GOVERNING ADOPTION OF REGULATIONS  
20 AND DISTRICT BOUNDARIES. (a) A development regulation adopted  
21 under this subchapter is not effective until it is adopted by the  
22 commissioners court after a public hearing. Before the 15th day  
23 before the date of the hearing, the commissioners court must  
24 publish notice of the hearing in a newspaper of general circulation  
25 in the county.

26 (b) The commissioners court may establish or amend a  
27 development regulation only by an order passed by a majority vote of

1 the full membership of the court.

2 Sec. 231.257. DEVELOPMENT COMMISSION. (a) The  
3 commissioners court may appoint a development commission to assist  
4 in the implementation and enforcement of development regulations  
5 adopted under this subchapter.

6 (b) The development commission must consist of an ex officio  
7 chairman who must be a public official in Zapata County and four  
8 additional members.

9 (c) The development commission is advisory only and may  
10 recommend appropriate development regulations for the county.

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

14 Sec. 231.258. SPECIAL EXCEPTION. (a) A person aggrieved by  
15 a development regulation adopted under this subchapter may petition  
16 the commissioners court or the development commission, if the  
17 commissioners court has established a development commission, for a  
18 special exception to a development regulation adopted by the  
19 commissioners court.

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

23 Sec. 231.259. ENFORCEMENT; PENALTY. (a) The commissioners  
24 court may adopt orders to enforce this subchapter or an order or  
25 development regulation adopted under this subchapter.

26 (b) A person commits an offense if the person violates this  
27 subchapter or an order or development regulation adopted under this

1 subchapter. An offense under this subsection is a misdemeanor  
2 punishable by a fine of not less than \$500 or more than \$1,000. Each  
3 day that a violation occurs constitutes a separate offense. Trial  
4 shall be in the district court.

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

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

16 SECTION 2. 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.

COMMITTEE AMENDMENT NO. 1

Amend H.B. No. 4068 by striking all below the enacting clause and substituting 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.

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

4           (1) four residents of Zapata County, with one resident  
5 from each of the county commissioner precincts, appointed by that  
6 precinct's commissioner; and

7           (2) a person, who shall serve as the commission's  
8 presiding officer, appointed by the county judge of Zapata County.

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

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

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

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

25       (b) Before the commission may prepare a report, the  
26 commission must hold a public hearing in which members of the public  
27 may offer testimony regarding any subject to be included in the

1 commission's report. The commission shall provide notice of the  
2 hearing as required by the commissioner's court.

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

8 (1) the height, number of stories, and size of  
9 buildings and other structures;

10 (2) the percentage of a lot that may be occupied;

11 (3) the size of yards, courts, and other open spaces;

12 (4) population density;

13 (5) the location and use of buildings, other  
14 structures, and land for business, industrial, residential, or  
15 other purposes; and

16 (6) the placement of water and sewage facilities,  
17 parks, and other public requirements.

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

25 (b) The zoning regulations must be uniform for each class or  
26 kind of building in a district, but the regulations may vary from  
27 district to district. The regulations shall be adopted with



1 reasonable consideration, among other things, for the character of  
2 each district and its peculiar suitability for particular uses,  
3 with a view of conserving the value of buildings and encouraging the  
4 most appropriate use of land throughout the area.

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

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

14 (c) If a building or other structure is erected,  
15 constructed, reconstructed, altered, repaired, converted, or  
16 maintained or if a building, other structure, or land is used in  
17 violation of this subchapter, an order adopted under this  
18 subchapter, or a zoning regulation, the appropriate county  
19 authority, in addition to other remedies, may institute appropriate  
20 action to:

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

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

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

27 (4) prevent any illegal act, conduct, business, or use

1 on or about the premises.

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

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