

By: Wentworth

S.B. No. 1636

A BILL TO BE ENTITLED

AN ACT

relating to the authority of certain counties to regulate land development after a local option election.

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

SECTION 1. Chapter 232, Local Government Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. REGULATION OF LAND DEVELOPMENT

Sec. 232.151. DEFINITIONS. In this subchapter:

(1) "Agriculture" means:

(A) cultivating the soil to produce crops for human food, animal feed, seed for planting, or the production of fibers;

(B) practicing floriculture, viticulture, silviculture, or horticulture;

(C) raising, feeding, or keeping animals for breeding purposes or for the production of food, fiber, leather, pelts, or other tangible products having commercial value;

(D) planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in a governmental program or normal crop or livestock rotation procedure; or

(E) wildlife management.

(2) "Agricultural use" means use or activity involving agriculture.

1 Sec. 232.152. APPLICABILITY. This subchapter applies only
2 to a county in which a navigable river is wholly located.

3 Sec. 232.153. SCOPE OF REGULATORY AUTHORITY. (a) The
4 commissioners court of a county that is granted authority in
5 accordance with this subchapter may regulate, by order, land
6 development in the unincorporated area of the county by:

7 (1) requiring a limited fire suppression system that
8 requires a developer to construct:

9 (A) for a subdivision of fewer than 50 houses,
10 2,500 gallons of storage; or

11 (B) for a subdivision of 50 or more houses, 2,500
12 gallons of storage with a centralized water system or 5,000 gallons
13 of storage;

14 (2) requiring a buffer zone between the land used for a
15 purpose specified by this subdivision and residential areas as
16 follows:

17 (A) at least 1,000 feet for heavy industrial or
18 quarry use;

19 (B) at least 750 feet for light industrial use;
20 and

21 (C) at least 500 feet for commercial or other
22 business use;

23 (3) requiring a developer, before the county approves
24 a plat filed by the developer, to:

25 (A) contract with an engineer licensed under
26 Chapter 1001, Occupations Code, and specializing in civil
27 engineering to determine the off-site roadway needs of the

1 subdivision or other development and the costs of providing the
2 necessary off-site roadway improvements attributable to the
3 subdivision or other development; and

4 (B) provide for the necessary off-site roadway
5 improvements attributable to the subdivision or other development,
6 as determined by the engineer under Paragraph (A); or

7 (4) imposing impact fees under Chapter 395.

8 (b) Any contribution from a developer required to be
9 provided for necessary off-site roadway improvements must be
10 limited to the developer's portion of the costs required for the
11 off-site roadway improvements that are roughly proportionate to the
12 attributable increased off-site roadway needs of the county as a
13 result of the proposed development, as determined by the engineer
14 under Subsection (a)(3)(A).

15 (c) Subsection (a)(2) does not authorize a county to adopt
16 zoning regulations.

17 (d) A county regulation under this subchapter does not apply
18 to land used for an activity described by Section 81.051, Natural
19 Resources Code, or to an interstate gas pipeline facility as
20 defined by 49 U.S.C. Section 60101.

21 (e) A county regulation under this subchapter, other than a
22 regulation requiring a buffer zone under Subsection (a)(2), does
23 not apply to a tract of land used for a single-family residence that
24 is located outside the boundaries of a platted subdivision.

25 (f) A county regulation under this subchapter does not apply
26 to:

27 (1) a platted residential subdivision in existence on

1 the date the regulation takes effect;

2 (2) a tract of land devoted to agricultural use; or

3 (3) an activity or a structure or appurtenance on a
4 tract of land devoted to agricultural use.

5 Sec. 232.154. ELECTION TO GRANT REGULATORY AUTHORITY. The
6 commissioners court of a county may order and hold an election in
7 the county on the question of granting the commissioners court the
8 authority to regulate land development in the unincorporated area
9 of the county.

10 Sec. 232.155. BALLOT PROPOSITION. For an election under
11 this subchapter, the ballot shall be prepared to permit voting for
12 or against the proposition: "Granting (name of county) the
13 authority to regulate land development in the unincorporated area
14 of the county."

15 Sec. 232.156. EFFECT OF ELECTION. If a majority of the
16 votes received on the question at the election approve the grant of
17 authority, the commissioners court of the county may adopt a
18 regulation under this subchapter.

19 SECTION 2. The heading to Chapter 232, Local Government
20 Code, is amended to read as follows:

21 CHAPTER 232. COUNTY REGULATION OF SUBDIVISIONS AND PROPERTY
22 DEVELOPMENT

23 SECTION 3. Section 395.001(7), Local Government Code, is
24 amended to read as follows:

25 (7) "Political subdivision" means:

26 (A) a municipality;

27 (B) [7] a district or authority created under

1 Article III, Section 52, or Article XVI, Section 59, of the Texas
2 Constitution;

3 (C) [~~or,~~] for the purposes set forth by Section
4 395.079, certain counties described by that section; or

5 (D) a county authorized to regulate land
6 development under Subchapter F, Chapter 232.

7 SECTION 4. Section 395.011(b), Local Government Code, is
8 amended to read as follows:

9 (b) Political subdivisions may enact or impose impact fees
10 on land within their [~~corporate~~] boundaries or extraterritorial
11 jurisdictions only by complying with this chapter, except that
12 impact fees may not be enacted or imposed in the extraterritorial
13 jurisdiction for roadway facilities.

14 SECTION 5. Sections 395.016(c) and (d), Local Government
15 Code, are amended to read as follows:

16 (c) This subsection applies only to impact fees adopted
17 after June 20, 1987. For new development which is platted in
18 accordance with Subchapter A, Chapter 212, or Subchapter A or B,
19 Chapter 232, or the subdivision or platting procedures of any other
20 [~~a~~] political subdivision before the adoption of an impact fee, an
21 impact fee may not be collected on any service unit for which a
22 valid building permit is issued within one year after the date of
23 adoption of the impact fee.

24 (d) This subsection applies only to land platted in
25 accordance with Subchapter A, Chapter 212, or Subchapter A or B,
26 Chapter 232, or the subdivision or platting procedures of any other
27 [~~a~~] political subdivision after adoption of an impact fee adopted

1 after June 20, 1987. The political subdivision shall assess the
2 impact fees before or at the time of recordation of a subdivision
3 plat or other plat under Subchapter A, Chapter 212, or Subchapter A
4 or B, Chapter 232, or the subdivision or platting ordinance or
5 procedures of any other political subdivision in the official
6 records of the county clerk of the county in which the tract is
7 located. Except as provided by Section 395.019, if the political
8 subdivision has water and wastewater capacity available:

9 (1) the political subdivision shall collect the fees
10 at the time the political subdivision issues a building permit;

11 (2) for land platted outside the corporate boundaries
12 of a municipality, the municipality shall collect the fees at the
13 time an application for an individual meter connection to the
14 municipality's water or wastewater system is filed; or

15 (3) a political subdivision that lacks authority to
16 issue building permits in the area where the impact fee applies
17 shall collect the fees at the time an application is filed for an
18 individual meter connection to the political subdivision's water or
19 wastewater system.

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