

By: Uresti

S.B. No. 1774

A BILL TO BE ENTITLED

AN ACT

relating to the use of real property acquired for certain venue projects.

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

SECTION 1. Subchapter C, Chapter 334, Local Government Code, is amended by adding Section 334.046 to read as follows:

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

(b) Real property or an interest in real property acquired by or on behalf of a municipality or county for a venue may not be 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:

(1) the operation of a park, recreation system, or area or facility that is part of a municipal parks and recreation system, for a venue as defined by Section 334.001(4)(D); or

(2) a device, metering station, or related equipment used to further the objectives of a venue as defined by Section 334.001(4)(F).

(c) 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

1 approved venue project property.

2 (d) The governing body of a municipality or county may sell,
3 lease, or otherwise convey real property or an interest in real
4 property as provided by Section 334.041(b) to an agency, board,
5 department, or commission of the municipality or county to
6 establish, construct, operate, or maintain infrastructure only if
7 the infrastructure is related to the venue project and enhances the
8 use, value, or appeal of the venue or areas adjacent to the venue.
9 Section 334.041(b) does not authorize the governing body of a
10 municipality or county to authorize an agency, board, department,
11 or commission of the municipality or county to establish,
12 construct, operate, or maintain infrastructure or easements for
13 infrastructure, other than drainage infrastructure, that is
14 unrelated to carrying out the purposes of the venue project as
15 described in the ballot proposition approving the project.

16 (e) A municipality or county or an agency, board,
17 department, or commission of the municipality or county may use
18 real property or an interest in real property acquired for an
19 approved venue project only for a purpose described by the ballot
20 proposition submitted at the election under Section 334.024 until:

21 (1) the public purpose described by the ballot
22 proposition has been completely fulfilled; and

23 (2) a district court of Travis County has ruled that
24 the real property or interest in real property is no longer capable
25 of fulfilling the original purposes of the approved venue project,
26 as defined in the resolution and ballot proposition.

27 (f) The governing body of a municipality or county may file

1 a declaratory judgment action in Travis County for the
2 determination of whether real property or an interest in real
3 property is no longer capable of fulfilling the original purposes
4 of a venue project as defined in the ballot proposition approving
5 the project. A district court of Travis County has original
6 jurisdiction for making the determination under this subsection.
7 The district court's determination under this subsection is final.

8 (g) The governing body of a municipality or county shall
9 publish a notice in a newspaper of general circulation in the county
10 in which the property is located not later than the 45th day before
11 the date of a hearing in the declaratory judgment action. The
12 notice must include the following statement:

13 "Notice is given that (insert name of governing body) has
14 filed an action in the (insert court number) District Court, for
15 Travis County, Texas, pending under the style of '(insert style)'
16 under Cause No. (insert cause number), for the purpose of obtaining
17 a declaration by the court that certain approved venue project
18 property is no longer capable of fulfilling the original purposes
19 of the venue project as identified in a proposition adopted by the
20 voters on (insert date proposition was approved) stating (insert
21 exact proposition language). The approved venue project property
22 to be used is generally described as follows: (insert description,
23 common name, and location of property) and the non-venue purpose is
24 described as follows: (insert description of any proposed non-venue
25 use). An owner of real property located adjacent to the venue
26 project property or a taxpayer of the (insert name of municipality
27 or county) has standing to intervene as a party to this action on or

1 before the 30th day after the date of publication of this notice
2 under Section 334.046, Texas Local Government Code."

3 (h) An action for the declaratory judgment may not be
4 initiated within 24 months after the date a similar action relating
5 to the same venue project property has been finally determined.

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

11 (j) An action to enforce this section or enjoin a violation
12 of this section may be brought by:

13 (1) a taxpayer of the municipality or county;

14 (2) the grantor of the real property or interest in
15 real property acquired by the municipality or county for the venue;
16 or

17 (3) a person authorized to bring an action under
18 another law.

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

24 (l) A suit to enforce this section may be brought for
25 injunctive relief, mandamus, declaratory judgment, specific
26 performance of the approved ballot proposition or the ordinance or
27 order implementing the project, and court costs, attorney's fees,

1 and related expenses. A plaintiff who prevails in an action brought
2 to enforce this section is entitled to:

3 (1) reasonable attorney's fees;

4 (2) court costs;

5 (3) expenses directly related to the litigation
6 required to enforce this section;

7 (4) an order requiring the removal of any unauthorized
8 infrastructure constructed on the approved venue project property
9 in violation of this section; and

10 (5) an order to restore the approved venue project
11 property to the state the property was in before the activity
12 constituting a violation of this section was conducted.

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

18 (n) If this section conflicts with another state statute or
19 an ordinance or order of a municipality or county, this section
20 controls.

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