

SENATE AMENDMENTS

2nd Printing

By: Olivo, Howard of Fort Bend, Turner,
Davis of Harris, Zerwas, et al.

H.B. No. 3232

A BILL TO BE ENTITLED

AN ACT

relating to certain subdivision golf courses.

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

SECTION 1. Subchapter A, Chapter 212, Local Government Code, is amended by adding Section 212.0155 to read as follows:

Sec. 212.0155. ADDITIONAL REQUIREMENTS FOR CERTAIN REPLATS AFFECTING A SUBDIVISION GOLF COURSE. (a) This section applies to land located wholly or partly in the corporate boundaries of a municipality if the municipality:

(1) has a population of more than 50,000; and

(2) is located wholly or partly in a county:

(A) with a population of more than three million;

or

(B) with a population of more than 275,000 that is adjacent to a county with a population of more than three million.

(b) In this section:

(1) "Management certificate" means a certificate described by Section 209.004, Property Code.

(2) "New plat" means a development plat, replat, amending plat, or vacating plat that would change the existing plat or the current use of the land that is the subject of the new plat.

(3) "Property owners' association" and "restrictive covenant" have the meanings assigned by Section 202.001, Property

1 Code.

2 (4) "Restrictions," "subdivision," and "owner" have
3 the meanings assigned by Section 201.003, Property Code.

4 (5) "Subdivision golf course" means an area of land
5 that has been used as a golf course or country club at any time in
6 the five years preceding the date on which a new plat for the land is
7 filed and that:

8 (A) is or was, within the past five years, zoned
9 as a community facility; or

10 (B) was originally developed as:

11 (i) a golf course or a country club; and

12 (ii) an integral part of a common scheme of
13 development for a predominantly residential single-family
14 development project.

15 (c) In addition to any other requirement of this chapter, a
16 new plat must conform to the requirements of this section if any of
17 the area subject to the new plat is a subdivision golf course. The
18 exception in Section 212.004(a) excluding divisions of land into
19 parts greater than five acres for platting requirements does not
20 apply to a subdivision golf course.

21 (d) A new plat that is subject to this section may not be
22 approved until each municipal authority reviewing the new plat
23 conducts a public hearing on the matter at which the parties in
24 interest and citizens have an adequate opportunity to be heard,
25 present evidence, and submit statements or petitions for
26 consideration by the municipal authority. The number, location,
27 and procedure for the public hearings may be designated by the

1 municipal authority for a particular hearing. The municipal
2 authority may abate, continue, or reschedule, as the municipal
3 authority considers appropriate, any public hearing in order to
4 receive a full and complete record on which to make a decision. If
5 the new plat would otherwise be administratively approved, the
6 municipal planning commission is the approving body for the
7 purposes of this section.

8 (e) The municipal authority may not approve the new plat
9 without adequate consideration of testimony and the record from the
10 public hearings and making the findings required by Subsection (k).
11 Sections 212.009(a) and (b) do not apply to the approval of plats
12 under this section.

13 (f) Notice of the initial hearing required by Subsection (d)
14 shall be given before the 15th day before the date of the hearing
15 by:

16 (1) publishing notice in an official newspaper or a
17 newspaper of general circulation in the county in which the
18 municipality is located;

19 (2) providing written notice, with a copy of this
20 section attached, by the municipal authority responsible for
21 approving plats to:

22 (A) each property owners' association for each
23 neighborhood benefited by the subdivision golf course, as indicated
24 in the most recently filed management certificates; and

25 (B) the owners of lots that are within 200 feet of
26 the area subject to the new plat, as indicated:

27 (i) on the most recently approved municipal

1 tax roll; and

2 (ii) in the most recent online records of
3 the central appraisal district of the county in which the lots are
4 located; and

5 (3) any other manner determined by the municipal
6 authority to be necessary to ensure that full and fair notice is
7 provided to all owners of residential single-family lots in the
8 general vicinity of the subdivision golf course.

9 (g) The written notice required by Subsection (f)(2) may be
10 delivered by depositing the notice, properly addressed with postage
11 prepaid, in the United States mail.

12 (h) The cost of providing the notices under Subsection (f)
13 shall be paid by the plat applicant.

14 (i) If written instruments protesting the proposed new plat
15 are signed by the owners of at least 20 percent of the area of the
16 lots or land immediately adjacent to the area covered by a proposed
17 new plat and extending 200 feet from that area and are filed with
18 the municipal planning commission or the municipality's governing
19 body before the conclusion of the public hearings, the proposed new
20 plat must receive, to be approved, the affirmative vote of at least
21 three-fifths of the members of the municipal planning commission or
22 governing body.

23 (j) In computing the percentage of land area under
24 Subsection (i), the area of streets and alleys is included.

25 (k) The municipal planning commission or the municipality's
26 governing body may not approve a new plat under this section unless
27 it determines that:

1 (1) there is adequate existing or planned public
2 infrastructure to support the future development of the subdivision
3 golf course;

4 (2) based on existing or planned facilities, the
5 development of the subdivision golf course will not have a
6 materially adverse effect on traffic, parking, or drainage, water,
7 sewer, or other utilities;

8 (3) the development of the subdivision golf course
9 will not have a materially adverse effect on existing single-family
10 property values;

11 (4) the new plat is consistent with all applicable
12 land use regulations and restrictive covenants and the
13 municipality's land use policies as described by the municipality's
14 comprehensive plan or other appropriate public policy documents;
15 and

16 (5) if any portion of a previous plat reflected a
17 restriction on the subdivision golf course:

18 (A) that restriction is not an implied covenant
19 or easement benefiting adjacent residential properties; or

20 (B) if the restriction is an implied covenant or
21 easement benefiting adjacent residential properties, the covenant
22 or easement is legally released.

23 (1) For the purpose of the findings required by Subsection
24 (k), the municipal authority may assume as the municipal authority
25 determines to be appropriate the development of the subdivision
26 golf course will be for:

27 (1) any currently permitted use under applicable

1 zoning or restrictive covenants; or

2 (2) residential single-family development compatible
3 with the residential single-family development in the neighborhood
4 benefited by the subdivision golf course.

5 (m) The application for a new plat under this section is not
6 complete and may not be submitted for review for administrative
7 completeness unless the tax certificates required by Section
8 12.002(e), Property Code, are attached, notwithstanding that the
9 application is for a type of plat other than a plat specified in
10 that section.

11 (n) A plan for development or a new plat application for a
12 subdivision golf course is not considered to provide fair notice of
13 the project and nature of the permit sought unless it contains the
14 following information, complete in all material respects:

15 (1) street layout;
16 (2) lot and block layout;
17 (3) number of residential units;
18 (4) square footage of nonresidential development, by
19 type of development;

20 (5) drainage, detention, and retention plans;
21 (6) screening plan for adjacent residential
22 properties, including landscaping or fencing; and

23 (7) an analysis of the effect of the project on values
24 in the adjacent residential neighborhoods.

25 (o) The municipal authority with authority over platting
26 may adopt rules requiring more detailed information for plans for
27 development or new plat applications for a subdivision golf course

1 than the information required by Subsection (n).

2 (p) A municipal authority with authority over platting may
3 require as a condition for approval of a plat for a golf course
4 that:

5 (1) the area be platted as a restricted reserve for the
6 proposed use; and

7 (2) the plat be incorporated into the plat for any
8 adjacent residential lots.

9 (q) An owner of a lot that is within 200 feet of a
10 subdivision golf course may seek declaratory or injunctive relief
11 from a district court to enforce the provisions in this section.

12 SECTION 2. Section 82.051, Property Code, is amended by
13 adding Subsection (f) to read as follows:

14 (f) This chapter does not permit development of a
15 subdivision golf course, as defined by Section 212.0155(b), Local
16 Government Code, without a plat if the plat is otherwise required by
17 applicable law. A municipality or county may require as a condition
18 to the development of a previously platted or unplatted subdivision
19 golf course that the subdivision golf course be platted or
20 replatted.

21 SECTION 3. (a) The change in law made by Section 212.0155,
22 Local Government Code, as added by this Act, applies only to
23 approval of a plat filed on or after the effective date of this Act.
24 A plat filed before the effective date of this Act is governed by
25 the law in effect immediately before that date, and that law is
26 continued in effect for that purpose.

27 (b) The change in law made by Section 212.0155, Local

1 Government Code, as added by this Act, does not apply to a lawsuit
2 filed before the effective date of this Act.

3 SECTION 4. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect on the 91st day after the last day of the
8 legislative session.

ADOPTED

MAY 22 2007

Leta Spaw
Secretary of the Senate

By: *Kyle Gank*

H.B. No. 3232

Substitute the following for H.B. No. 3232 :

By: *Phil Lewis*

C.S. H.B. No. 3232

A BILL TO BE ENTITLED

1

AN ACT

2

relating to certain subdivision golf courses.

3

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

4

SECTION 1. Subchapter A, Chapter 212, Local Government Code, is amended by adding Section 212.0155 to read as follows:

5

6

Sec. 212.0155. ADDITIONAL REQUIREMENTS FOR CERTAIN REPLATS AFFECTING A SUBDIVISION GOLF COURSE. (a) This section applies to land located wholly or partly in the corporate boundaries of a municipality if the municipality:

10

(1) has a population of more than 50,000; and

11

(2) is located wholly or partly in a county:

12

(A) with a population of more than three million;

13

or

14

(B) with a population of more than 275,000 that is adjacent to a county with a population of more than three million.

17

(b) In this section:

18

(1) "Management certificate" means a certificate described by Section 209.004, Property Code.

20

(2) "New plat" means a development plat, replat, amending plat, or vacating plat that would change the existing plat or the current use of the land that is the subject of the new plat.

23

(3) "Property owners' association" and "restrictive covenant" have the meanings assigned by Section 202.001, Property

24

Handwritten signature

1 Code.

2 (4) "Restrictions," "subdivision," and "owner" have
3 the meanings assigned by Section 201.003, Property Code.

4 (5) "Subdivision golf course" means an area of land:

5 (A) that was originally developed as a golf
6 course or a country club within a common scheme of development for a
7 predominantly residential single-family development project;

8 (B) that was at any time in the seven years
9 preceding the date on which a new plat for the land is filed:

10 (i) used as a golf course or a country club;
11 (ii) zoned as a community facility;
12 (iii) benefited from restrictive covenants
13 on adjoining homeowners; or

14 (iv) designated on a recorded plat as a golf
15 course or a country club; and

16 (C) that is not separated entirely from the
17 predominantly residential single-family development project by a
18 public street.

19 (c) In addition to any other requirement of this chapter, a
20 new plat must conform to the requirements of this section if any of
21 the area subject to the new plat is a subdivision golf course. The
22 exception in Section 212.004(a) excluding divisions of land into
23 parts greater than five acres for platting requirements does not
24 apply to a subdivision golf course.

25 (d) A new plat that is subject to this section may not be
26 approved until each municipal authority reviewing the new plat
27 conducts a public hearing on the matter at which the parties in

1 interest and citizens have an adequate opportunity to be heard,
2 present evidence, and submit statements or petitions for
3 consideration by the municipal authority. The number, location,
4 and procedure for the public hearings may be designated by the
5 municipal authority for a particular hearing. The municipal
6 authority may abate, continue, or reschedule, as the municipal
7 authority considers appropriate, any public hearing in order to
8 receive a full and complete record on which to make a decision. If
9 the new plat would otherwise be administratively approved, the
10 municipal planning commission is the approving body for the
11 purposes of this section.

12 (e) The municipal authority may not approve the new plat
13 without adequate consideration of testimony and the record from the
14 public hearings and making the findings required by Subsection (k).
15 Not later than the 30th day after the date on which all proceedings
16 necessary for the public hearings have concluded, the municipal
17 authority shall take action on the application for the new plat.
18 Sections 212.009(a) and (b) do not apply to the approval of plats
19 under this section.

20 (f) The municipality may provide notice of the initial
21 hearing required by Subsection (d) only after the requirements of
22 Subsections (m) and (n) are met. The notice shall be given before
23 the 15th day before the date of the hearing by:

24 (1) publishing notice in an official newspaper or a
25 newspaper of general circulation in the county in which the
26 municipality is located;

27 (2) providing written notice, with a copy of this

1 section attached, by the municipal authority responsible for
2 approving plats to:

3 (A) each property owners' association for each
4 neighborhood benefited by the subdivision golf course, as indicated
5 in the most recently filed management certificates; and

6 (B) the owners of lots that are within 200 feet of
7 the area subject to the new plat, as indicated:

8 (i) on the most recently approved municipal
9 tax roll; and

10 (ii) in the most recent online records of
11 the central appraisal district of the county in which the lots are
12 located; and

13 (3) any other manner determined by the municipal
14 authority to be necessary to ensure that full and fair notice is
15 provided to all owners of residential single-family lots in the
16 general vicinity of the subdivision golf course.

17 (g) The written notice required by Subsection (f)(2) may be
18 delivered by depositing the notice, properly addressed with postage
19 prepaid, in the United States mail.

20 (h) The cost of providing the notices under Subsection (f)
21 shall be paid by the plat applicant.

22 (i) If written instruments protesting the proposed new plat
23 are signed by the owners of at least 20 percent of the area of the
24 lots or land immediately adjacent to the area covered by a proposed
25 new plat and extending 200 feet from that area and are filed with
26 the municipal planning commission or the municipality's governing
27 body before the conclusion of the public hearings, the proposed new

1 plat must receive, to be approved, the affirmative vote of at least
2 three-fifths of the members of the municipal planning commission or
3 governing body.

4 (j) In computing the percentage of land area under
5 Subsection (i), the area of streets and alleys is included.

6 (k) The municipal planning commission or the municipality's
7 governing body may not approve a new plat under this section unless
8 it determines that:

9 (1) there is adequate existing or planned
10 infrastructure to support the future development of the subdivision
11 golf course;

12 (2) based on existing or planned facilities, the
13 development of the subdivision golf course will not have a
14 materially adverse effect on:

15 (A) traffic, parking, drainage, water, sewer, or
16 other utilities;

17 (B) the health, safety, or general welfare of
18 persons in the municipality; or

19 (C) safe, orderly, and healthful development of
20 the municipality;

21 (3) the development of the subdivision golf course
22 will not have a materially adverse effect on existing single-family
23 property values;

24 (4) the new plat is consistent with all applicable
25 land use regulations and restrictive covenants and the
26 municipality's land use policies as described by the municipality's
27 comprehensive plan or other appropriate public policy documents;

1 and

2 (5) if any portion of a previous plat reflected a
3 restriction on the subdivision golf course whether:

4 (A) that restriction is an implied covenant or
5 easement benefiting adjacent residential properties; or

6 (B) the restriction, covenant, or easement has
7 been legally released or has expired.

8 (l) The municipal authority may adopt rules to govern the
9 platting of a subdivision golf course that do not conflict with this
10 section, including rules that require more detailed information
11 than is required by Subsection (n) for plans for development and new
12 plat applications.

13 (m) The application for a new plat under this section is not
14 complete and may not be submitted for review for administrative
15 completeness unless the tax certificates required by Section
16 12.002(e), Property Code, are attached, notwithstanding that the
17 application is for a type of plat other than a plat specified in
18 that section.

19 (n) A plan for development or a new plat application for a
20 subdivision golf course is not considered to provide fair notice of
21 the project and nature of the permit sought unless it contains the
22 following information, complete in all material respects:

23 (1) street layout;

24 (2) lot and block layout;

25 (3) number of residential units;

26 (4) location of nonresidential development, by type of
27 development;

1 (5) drainage, detention, and retention plans;
2 (6) screening plan for adjacent residential
3 properties, including landscaping or fencing; and
4 (7) an analysis of the effect of the project on values
5 in the adjacent residential neighborhoods.

6 (o) A municipal authority with authority over platting may
7 require as a condition for approval of a plat for a golf course
8 that:

9 (1) the area be platted as a restricted reserve for the
10 proposed use; and

11 (2) the plat be incorporated into the plat for any
12 adjacent residential lots.

13 (p) An owner of a lot that is within 200 feet of a
14 subdivision golf course may seek declaratory or injunctive relief
15 from a district court to enforce the provisions in this section.

16 SECTION 2. Section 82.051, Property Code, is amended by
17 adding Subsection (f) to read as follows:

18 (f) This chapter does not permit development of a
19 subdivision golf course, as defined by Section 212.0155(b), Local
20 Government Code, without a plat if the plat is otherwise required by
21 applicable law. A municipality may require as a condition to the
22 development of a previously platted or unplatted subdivision golf
23 course that the subdivision golf course be platted or replatted.

24 SECTION 3. (a) Notwithstanding Chapter 245, Local
25 Government Code, the change in law made by Section 212.0155, Local
26 Government Code, as added by this Act, applies to approval of a plat
27 filed on or after the effective date of this Act or before the

1 effective date of this Act if the approval of a plat filed before
2 the effective date of this Act is not final. A plat filed and
3 approved before the effective date of this Act is governed by the
4 law in effect immediately before that date, and that law is
5 continued in effect for that purpose.

6 (b) The change in law made by Section 212.0155, Local
7 Government Code, as added by this Act, does not apply to a lawsuit
8 filed before the effective date of this Act. That section applies
9 to land that is the subject of a lawsuit filed before the effective
10 date of this Act on the date the decision in that lawsuit becomes
11 final or the suit is otherwise terminated.

12 SECTION 4. This Act takes effect immediately if it receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by Section 39, Article III, Texas Constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 Act takes effect on the 91st day after the last day of the
17 legislative session.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 18, 2007

TO: Honorable Royce West, Chair, Senate Committee on Intergovernmental Relations

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3232 by Olivo (Relating to certain subdivision golf courses.), **Committee Report 2nd House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code and the Property Code regarding approval procedures and requirements related to a new plat that is a subdivision golf course. The changes would apply only to land located wholly or partly in the corporate boundaries of certain municipalities. Based on the 2000 U.S. Census, the bill would apply only to municipalities located in Harris, Montgomery, and Fort Bend counties.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, DB, WK

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 17, 2007

TO: Honorable Royce West, Chair, Senate Committee on Intergovernmental Relations

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3232 by Olivo (Relating to certain subdivision golf courses.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code and the Property Code regarding approval procedures and requirements related to a new plat that is a subdivision golf course. The changes would apply only to land located wholly or partly in the corporate boundaries of certain municipalities. Based on the 2000 U.S. Census, the bill would apply only to municipalities located in Harris, Montgomery, and Fort Bend counties.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, WK, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 30, 2007

TO: Honorable Anna Mowery, Chair, House Committee on Land & Resource Management

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3232 by Olivo (Relating to certain subdivision golf courses.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code and the Property Code regarding approval procedures and requirements related to a new plat that is a subdivision golf course. The changes would apply only to land located wholly or partly in the corporate boundaries of certain municipalities. Based on the 2000 U.S. Census, the bill would apply only to municipalities located in Harris, Montgomery, and Fort Bend counties.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, WK, DB



LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 9, 2007

TO: Honorable Anna Mowery, Chair, House Committee on Land & Resource Management

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3232 by Olivo (Relating to common areas in certain residential subdivisions.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code, Property Code, and the Tax Code relating to plats, replats, restrictions, and requirements regarding certain residential subdivisions.

The bill would take effect immediately if it were to receive the required two-thirds vote in each house; otherwise, it would take effect September 1, 2007.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, WK, DB

