

BILL ANALYSIS

C.S.H.B. 3929
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Border & Intergovernmental Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Since 1989, the Texas Legislature has enacted several pieces of legislation intending to curb the proliferation of colonias by developers in border and economically distressed counties. Originally, the laws regulating colonia development were uniform. However, modifications enacted in 1995, by the 74th Legislature, Regular Session, and subsequent legislative sessions thereafter, have resulted in unintended conflicts between the various statutes regulating land development in border counties. Such conflicting provisions of law complicate the regulatory process in border counties, create unnecessary confusion for property owners, developers, and regulatory enforcement entities, and, consequently, have resulted in regulatory inconsistencies between the various affected counties.

Additionally, with limited enforcement tools available to address regulation, border counties are unable to take a proactive role in the prevention of violations that lead to the proliferation of colonias. As such, in their regulatory enforcement efforts border counties are often burdened with finding satisfactory solutions to improper development that has already occurred on regulated land.

The establishment of a county development permit would enable border counties to take a proactive role in the prevention of colonias and would provide an enforcement tool to ensure that new construction or substantial improvement is undertaken in a manner conforming with existing state laws or county orders governing land use and development activities, such as platting requirements, water and sewer facilities, floodplain management, building set-backs, and dwelling limitations.

C.S.H.B. 3929 establishes a county development permit requirement for any construction or substantial improvement on tracts of land containing 10 acres or less in certain counties.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3929 amends the Local Government Code to prohibit a person from constructing or making a substantial improvement to a structure unless the person obtains a county development permit issued in accordance with the bill's provisions and the applicable rules, regulations, or orders of the county in which the development is located. The bill authorizes a commissioners court to adopt orders as necessary for the administration of the bill's provisions. The bill makes its provisions applicable to a tract of land that is 10 acres or less and that is located in the unincorporated area of a county within a prescribed distance of an international border.

C.S.H.B. 3929 authorizes the commissioners court, by order adopted and entered in the minutes of the court, to designate an official, department head, or county employee to perform the

necessary duties and functions to administer a county order under the bill's provisions. The bill requires the commissioners court, if such a designation is made, to establish an appeal procedure and sit as the appeal body for any appeal or grievance of an applicant for a development permit in regard to an action or decision of the court's designee.

C.S.H.B. 3929 requires the commissioners court or the court's designee to issue a development permit to a person submitting an application for the permit who has met or complied with all the specified requirements. The bill authorizes the commissioners court, by order adopted and entered in the minutes of the court, to charge a reasonable fee to cover the costs of administering the issuance of development permits and authorizes collected fees to be used only to defray those costs.

C.S.H.B. 3929 requires the commissioners court or the court's designee to issue a written list of the documentation and other information that must be submitted as part of the development permit application and requires such documentation or other information to relate to a county development permit requirement or other applicable law. The bill requires the commissioners court or the court's designee, if a person submits an application that does not include all of the required documentation or information, to notify the applicant, not later than the 15th business day after the date of receipt, of the missing documentation or information. The bill requires the county's orders to allow for a timely submission of the missing documentation or other information.

C.S.H.B. 3929 specifies that a development permit application is considered to be complete when all required documentation or other information is received, and prohibits acceptance of a completed application from being construed as approval of the application.

C.S.H.B. 3929 requires the commissioners court or the court's designee to take final action on the approval or disapproval of an application for a development permit not later than the 30th day after the date a completed application is received. The bill requires the commissioners court or the court's designee, if the application is disapproved, to provide to the applicant a complete list of the reasons for the disapproval.

C.S.H.B. 3929 establishes the county's authority granted under these provisions as cumulative of and in addition to the authority granted under provisions relating to county regulation of subdivisions and under other law pertaining to county regulation of the subdivision or development of land. The bill authorizes the county to conduct inspections to ensure compliance with a county development permit.

C.S.H.B. 3929 defines "development or develop," "structure," and "substantial improvement."

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3929 adds provisions not in the original prohibiting a person from constructing or substantially improving a structure in a county within a prescribed distance of the international border unless issued a county development permit and sets forth provisions related to the permit. The substitute omits provisions in the original clarifying the size of a lot that is presumed to be for residential use, and requiring a tract of land that is at least five acres but not more than 10 acres and that has not been platted to receive a building permit for a single residence if other applicable laws and requirements are met.