

BILL ANALYSIS

S.B. 1370
By: Lucio
Border & Intergovernmental Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under current law, counties do not have the authority to adopt zoning ordinances or building codes. This lack of county regulatory power is among the primary reasons why substandard housing has flourished in colonias throughout the Texas-Mexico border region.

As proposed, S.B. 1370 relates to authorizing certain counties and municipalities to regulate land development and provides a penalty.

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

SECTION 1. Amends Chapter 242, Local Government Code, by adding Subchapter B, as follows:

SUBCHAPTER B. DEVELOPMENT REGULATIONS IN CERTAIN COUNTIES AND MUNICIPALITIES

Sec. 242.051. **APPLICABILITY.** Provides that this subchapter applies only to a county that includes territory located within 50 miles of an international border, or a municipality located in that county, if the county does not exercise in the municipality's extraterritorial jurisdiction the authority described by this subchapter, and the county by resolution authorizes the municipality to exercise in the municipality's extraterritorial jurisdiction the authority described by this subchapter.

Sec. 242.052. **REGULATORY AUTHORITY.** (a) Authorizes the commissioners court of a county to which this subchapter applies, by order, to regulate residential land development in the unincorporated area of the county. Authorizes the governing body of a municipality to which this subchapter applies, by ordinance, to regulate residential land development in the municipality's extraterritorial jurisdiction. Authorizes the commissioners court or governing body, by this authority, to prevent the proliferation of colonias by:

(1) adopting regulations relating to:

- (A) maximum densities, including the size of lots;
- (B) the height, number of stories, size, or number of buildings or other structures that may be located on a lot or tract;
- (C) the location of buildings and other structures on a lot or tract; and
- (D) the preparation of a plan for utility development, environmental effect and adaptation, utility extension, and capacity planning and providing financial analysis of said plan; and

(2) adopting building codes to promote safe and uniform building, plumbing, and electrical standards.

(b) Prohibits the commissioners court or governing body, if a tract of land is appraised as agricultural or open-space land by the appraisal district, from regulating land development on that tract under the authority granted by Subsection (a)(1)(B), (a)(1)(C), or (a)(2).

(c) Provides that the authority granted under this section does not authorize the commissioners court or governing body to adopt an order regulating commercial property that is uninhabitable.

(d) Provides that the authority granted under this section does not authorize the commissioners court or governing body to adopt an order that limits or otherwise impairs the rights of individuals or entities in the exploration, development, or production of oil, gas, or other minerals.

Sec. 242.053. BUILDING PERMITS. (a) Requires the county or municipality, as appropriate, to issue a building permit if the person submitting the application for the permit files information relating to the location of the residence, files the building plans for the residence, and complies with the applicable regulations relating to the issuance of the permit.

(b) Authorizes the county or municipality to charge a reasonable building permit fee.

(c) Requires the county or municipality to deposit fees collected under this section in an account in its general fund and dedicate the fees to the building permit program. Authorizes the funds in the account to be used only for the purpose of administering the building permit program.

Sec. 242.054. MUNICIPAL ORDINANCE PREVAILS OVER COUNTY ORDER. Provides that if an order adopted by the county under this subchapter conflicts with an ordinance of a municipality, the municipal ordinance prevails within the municipality's jurisdiction to the extent of the conflict.

Sec. 242.055. EXISTING AUTHORITY UNAFFECTED. Provides that the authority granted by this subchapter does not affect the authority of the commissioners court or governing body to adopt an order or ordinance under other law.

Sec. 242.056. INJUNCTION. Entitles the county or municipality, in a suit brought by the appropriate attorney representing the county or municipality in the district court, to appropriate injunctive relief to prevent the violation or threatened violation of the entity's order or ordinance adopted under this subchapter from continuing or occurring.

Sec. 242.057. PENALTY; EXCEPTION. (a) Provides that a person commits an offense if the person violates a restriction or prohibition imposed by an order or ordinance adopted under this subchapter. Provides that an offense under this section is a Class C misdemeanor.

(b) Provides that it is an exception to the application of this section that the person is an owner-occupant of a residential dwelling that is classified by the Texas Department of Housing and Community Affairs as a low-income household; the dwelling was constructed before the effective date of this subchapter; the violation related to a building standard or building code for that dwelling; and the county or municipality, as appropriate, did not make available to the person a grant or loan in an amount sufficient to cure the violation; or made available to the person a loan that was sufficient to cure the violation but that caused the housing expenses of the person to exceed 30 percent of the person's net income.

SECTION 2. Amends the heading to Chapter 242, Local Government Code, to read as follows:

CHAPTER 242. AUTHORITY OF MUNICIPALITY AND COUNTY TO REGULATE
SUBDIVISIONS AND PROPERTY DEVELOPMENT

SECTION 3. Amends Chapter 242, Local Government Code, by redesignating Sections 242.001, 242.0015, and 242.002 as Subchapter A and adding a heading for Subchapter A to read as follows:

SUBCHAPTER A. AUTHORITY TO REGULATE SUBDIVISIONS IN AND OUTSIDE
MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION

EFFECTIVE DATE

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