

SENATE AMENDMENTS

2nd Printing

By: Marquez, et al.

H.B. No. 2833

A BILL TO BE ENTITLED

1 AN ACT

2 relating to authorizing certain counties to adopt a building code
3 in their unincorporated areas; providing a penalty.

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

5 SECTION 1. Chapter 233, Local Government Code, is amended
6 by adding Subchapter F to read as follows:

7 SUBCHAPTER F. RESIDENTIAL BUILDING CODES IN CERTAIN COUNTIES

8 Sec. 233.151. DEFINITION. In this subchapter, "new
9 residential construction" includes:

10 (1) residential construction on a vacant lot; and

11 (2) construction of an addition to an existing
12 residence, if the addition will increase the square footage or
13 value of the existing residential building by more than 50 percent.

14 Sec. 233.152. APPLICABILITY. This subchapter applies only
15 to:

16 (1) a county that:

17 (A) includes territory located within 50 miles of
18 an international border;

19 (B) has a population of 700,000 or more;

20 (C) contains a municipality with a population of
21 550,000 or more; and

22 (D) contains one or more colonias or other
23 developments composed of substandard housing; and

24 (2) a county whose commissioners court adopts a

1 resolution stating that the county expects population expansion as
2 a result of the recommendations of the federal Defense Base Closure
3 and Realignment Commission.

4 Sec. 233.153. REGULATORY AUTHORITY. (a) The commissioners
5 court of a county may adopt a building code applicable to new
6 residential construction in the unincorporated area of the county.

7 (b) A building code adopted under this subchapter applies
8 only to new residential construction that begins after September 1,
9 2009.

10 (c) If a municipality located within a county to which this
11 subchapter applies has adopted a building code in the
12 municipality's extraterritorial jurisdiction, the building code
13 adopted by the municipality controls and a building code adopted by
14 the county has no effect in the municipality's extraterritorial
15 jurisdiction.

16 (d) This subchapter may not be construed to:

17 (1) require prior approval by the county before
18 beginning new residential construction;

19 (2) authorize the commissioners court of a county to
20 adopt or enforce zoning regulations; or

21 (3) affect the application of the provisions of
22 Subchapter B, Chapter 232, to land development.

23 (e) In the event of a conflict between this subchapter and
24 Subchapter B, Chapter 232, the provisions of Subchapter B, Chapter
25 232, control.

26 Sec. 233.154. BUILDING CODE REQUIREMENTS. (a) A building
27 code adopted under Section 233.153 may contain only the same

1 requirements as the statutory warranty and building and performance
2 standards that apply to residential construction under Chapter 430,
3 Property Code, and any rules governing those standards adopted by
4 the Texas Residential Construction Commission under Title 16,
5 Property Code.

6 (b) A building code adopted under Section 233.153 shall
7 require a person who builds new residential construction to:

8 (1) have the new residential construction inspected by
9 a third-party inspector approved by the Texas Residential
10 Construction Commission at the time and in the manner prescribed by
11 rules adopted by the commission;

12 (2) before commencing new residential construction,
13 provide notice to the county of:

14 (A) the location of the new residential
15 construction on a form prescribed by the county;

16 (B) the date by which the new residential
17 construction will be commenced; and

18 (C) the name of the third-party inspector who
19 will inspect the new residential construction as required by
20 Subdivision (1); and

21 (3) submit not later than the 10th day after the date
22 of each inspection required by Subdivision (1) a written report
23 prepared by the third-party inspector of the inspection and
24 describing the results of the inspection to:

25 (A) the county employee or department or agency
26 of the county designated by the commissioners court of the county;
27 and

1 (B) the person who purchased the new residential
2 construction from the builder, if applicable.

3 Sec. 233.155. BUILDING CODE ENFORCEMENT. (a) To enforce
4 compliance with a building code adopted under Section 233.153, the
5 county may take any or all of the following actions:

6 (1) exercise the enforcement authority under Sections
7 233.157 and 233.158;

8 (2) refer a builder registered under Title 16,
9 Property Code, who violates a provision of that title, or any rule
10 adopted under that title, to the Texas Residential Construction
11 Commission for disciplinary action; and

12 (3) refer a third-party inspector approved by the
13 Texas Residential Construction Commission under Title 16, Property
14 Code, who violates a provision of that title, or any rule adopted
15 under that title, to that commission for disciplinary action.

16 (b) Notwithstanding any other law, including Section
17 430.005, Property Code, the Texas Residential Construction
18 Commission may take any action with regard to a builder or
19 third-party inspector that it is authorized to take by any other
20 law, including taking disciplinary action under Chapter 418,
21 Property Code, or imposing an administrative penalty under Chapter
22 419, Property Code, with regard to new residential construction in
23 a county that has adopted a building code authorized under this
24 subchapter.

25 (c) A county may not charge a fee to a person regulated by a
26 building code adopted under this subchapter to defray the costs of
27 enforcing the code.

1 Sec. 233.156. EXISTING AUTHORITY UNAFFECTED. The authority
2 granted by this subchapter does not affect the authority of a
3 commissioners court to adopt an order under other law.

4 Sec. 233.157. INJUNCTION. The county, in a suit brought by
5 the appropriate attorney representing the county in the district
6 court, is entitled to appropriate injunctive relief to prevent the
7 violation or threatened violation of a building code adopted under
8 this subchapter from continuing or occurring.

9 Sec. 233.158. PENALTY; EXCEPTION. A person commits an
10 offense if the person violates a restriction or prohibition imposed
11 by a building code adopted under this subchapter. An offense under
12 this section is a Class C misdemeanor.

13 SECTION 2. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2009.

ADOPTED

MAY 27 2009

Robert Shaw
Secretary of the Senate

By: Shapiro

H.B. No. 2833

Substitute the following for H.B. No. 2833:

By: Mario Gallego Jr.

C.S. H.B. No. 2833

A BILL TO BE ENTITLED

AN ACT

1
2 relating to certain building code standards applicable to the
3 unincorporated areas of certain counties; providing a penalty.

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

5 SECTION 1. Chapter 233, Local Government Code, is amended
6 by adding Subchapter F to read as follows:

7 SUBCHAPTER F. RESIDENTIAL BUILDING CODE STANDARDS APPLICABLE TO

8 UNINCORPORATED AREAS OF CERTAIN COUNTIES

9 Sec. 233.151. DEFINITIONS. In this subchapter:

10 (1) "Commission" means the Texas Residential
11 Construction Commission.

12 (2) "New residential construction" includes:

13 (A) residential construction on a vacant lot; and

14 (B) construction of an addition to an existing
15 residence, if the addition will increase the square footage or
16 value of the existing residential building by more than 50 percent.

17 Sec. 233.152. APPLICABILITY. This subchapter applies only
18 in a county:

19 (1) that includes territory located within 50 miles of
20 an international border;

21 (2) that has a population of 650,000 or more;

22 (3) that contains a municipality with a population of
23 550,000 or more;

24 (4) that contains one or more colonias or other

1 developments composed of substandard housing; and
2 (5) whose population is expected to rapidly expand as
3 a result of the recommendations of the federal Defense Base Closure
4 and Realignment Commission.

5 Sec. 233.153. BUILDING CODE STANDARDS APPLICABLE. (a) New
6 residential construction in the unincorporated area of a county to
7 which this subchapter applies shall conform to the standards
8 described by Sections 430.001(d)(2) and (e)(2), Property Code, and
9 any rules adopted by the commission regarding those standards.

10 (b) Standards required under this subchapter apply only to
11 new residential construction that begins after September 1, 2009.

12 (c) If a municipality located within a county to which this
13 subchapter applies has adopted a building code in the
14 municipality's extraterritorial jurisdiction, the building code
15 adopted by the municipality controls and building code standards
16 under this subchapter have no effect in the municipality's
17 extraterritorial jurisdiction.

18 (d) This subchapter may not be construed to:

19 (1) require prior approval by the county before
20 beginning new residential construction;

21 (2) authorize the commissioners court of a county to
22 adopt or enforce zoning regulations; or

23 (3) affect the application of the provisions of
24 Subchapter B, Chapter 232, to land development.

25 (e) In the event of a conflict between this subchapter and
26 Subchapter B, Chapter 232, the provisions of Subchapter B, Chapter
27 232, control.

1 (f) Notwithstanding any other law, including Section
2 430.005, Property Code, the commission may take any action with
3 regard to a builder or fee inspector that it is authorized to take
4 by any other law, including taking disciplinary action under
5 Chapter 418, Property Code, or imposing an administrative penalty
6 under Chapter 419, Property Code, with regard to new residential
7 construction in a county to which this subchapter applies.

8 (g) A person who builds new residential construction shall
9 have the new residential construction inspected by a fee inspector
10 approved by the commission at the time and in the manner prescribed
11 by Subtitle F, Title 16, Property Code, and rules adopted by the
12 commission under that subtitle.

13 SECTION 2. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2009.

ADOPTED

MAY 27 2009

FLOOR AMENDMENT NO. 1

Atay Spaw
Secretary of the Senate

BY:

Elit Shopleigh

1 Amend C.S.H.B. No. 2833 (senate committee report) by
2 striking SECTION 1 of the bill (page 1, line 13, through page 2,
3 line 8) and substituting the following:

4 SECTION 1. Chapter 233, Local Government Code, is amended
5 by adding Subchapter F to read as follows:

6 SUBCHAPTER F. RESIDENTIAL BUILDING CODE STANDARDS APPLICABLE TO
7 UNINCORPORATED AREAS OF COUNTIES

8 Sec. 233.151. DEFINITIONS. In this subchapter, "new
9 residential construction" includes:

10 (1) residential construction of a single-family house
11 or duplex on a vacant lot; and

12 (2) construction of an addition to an existing
13 single-family house or duplex, if the addition will increase the
14 square footage or value of the existing residential building by
15 more than 50 percent.

16 Sec. 233.152. BUILDING CODE STANDARDS APPLICABLE. (a)
17 New residential construction of a single-family house or duplex
18 in the unincorporated area of a county shall conform to the
19 version of the International Residential Code published as of
20 May 1, 2008, or the version of the International Residential
21 Code that is applicable in the county seat of that county.

22 (b) Standards required under this subchapter apply only to
23 new residential construction that begins after September 1,
24 2009.

25 (c) If a municipality has adopted a building code in the
26 municipality's extraterritorial jurisdiction, the building code
27 adopted by the municipality controls and building code standards
28 under this subchapter have no effect in the municipality's
29 extraterritorial jurisdiction.

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19

1 (d) This subchapter may not be construed to:

2 (1) require prior approval by the county before the
3 beginning of new residential construction;

4 (2) authorize the commissioners court of a county to
5 adopt or enforce zoning regulations; or

6 (3) affect the application of the provisions of
7 Subchapter B, Chapter 232, to land development.

8 (e) In the event of a conflict between this subchapter and
9 Subchapter B, Chapter 232, the provisions of Subchapter B,
10 Chapter 232, control.

11 (f) A county may not charge a fee to a person subject to
12 standards under this subchapter to defray the costs of enforcing
13 the standards.

14 Sec. 233.153. INSPECTION AND NOTICE REQUIREMENTS. (a) A
15 person who builds new residential construction described by
16 Section 233.152 shall have the construction inspected to ensure
17 building code compliance in accordance with this section as
18 follows:

19 (1) for new residential construction on a vacant lot,
20 a minimum of three inspections must be performed during the
21 construction project to ensure code compliance, as applicable,
22 at the following stages of construction:

23 (A) the foundation stage, before the placement
24 of concrete;

25 (B) the framing and mechanical systems stage,
26 before covering with drywall or other interior wall covering;
27 and

28 (C) on completion of construction of the
29 residence;

30 (2) for new residential construction of an addition
31 to an existing residence as described by Section 233.151(2), the

1 inspections under Subdivision (1) must be performed as necessary
2 based on the scope of work of the construction project; and

3 (3) for new residential construction on a vacant lot
4 and for construction of an addition to an existing residence,
5 the builder:

6 (A) is responsible for contracting to perform
7 the inspections required by this subsection with:

8 (i) a licensed engineer;

9 (ii) a registered architect;

10 (iii) a professional inspector licensed by
11 the Texas Real Estate Commission;

12 (iv) a plumbing inspector employed by a
13 municipality and licensed by the Texas State Board of Plumbing
14 Examiners;

15 (v) a building inspector employed by a
16 political subdivision; or

17 (vi) an individual certified as a
18 residential combination inspector by the International Code
19 Council; and

20 (B) may use the same inspector for all the
21 required inspections or a different inspector for each required
22 inspection.

23 (b) If required by a county, before commencing new
24 residential construction, the builder shall provide notice to
25 the county on a form prescribed by the county of:

26 (1) the location of the new residential construction;

27 (2) the approximate date by which the new residential
28 construction will be commenced; and

29 (3) the version of the International Residential Code
30 that will be used to construct the new residential construction
31 before commencing construction.

1 misdemeanor.

2 Sec. 233.157. PRIOR APPROVAL FOR OWNER-BUILT RESIDENCES.

3 (a) This section applies only to a county located within 50
4 miles of an international border.

5 (b) For new residential construction that is built by a
6 person who owns the residence, acts as the person's own
7 contractor, and intends to use the residence as the person's
8 primary residence for at least one year after the completion or
9 substantial completion of the new residential construction, the
10 county may require prior approval before the beginning of the
11 new residential construction through a form prescribed by the
12 county.



LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 28, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

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

IN RE: **HB2833** by Marquez (Relating to certain building code standards applicable to the unincorporated areas of certain counties; providing a penalty.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Local Government Code by adding Subchapter F to Chapter 233 to establish certain standards and procedures that residential construction in the unincorporated area of a county located within 50 miles of an international border must meet. An exception would apply to construction in the extraterritorial jurisdiction of a municipality if the municipality has adopted a building code.

The bill would provide certain actions that the county would be authorized to take to enforce compliance with the requirements of the bill. A county would not be allowed to charge a fee regarding enforcement of standards. If a person fails to comply with requirements under the provisions of the bill relating to inspection and notice requirements, the offense would be a Class C misdemeanor. Provisions of the bill would apply only to new residential construction begun after September 1, 2009.

Local Government Impact

A county would incur costs associated with enforcement that would depend on the number of residential construction projects to which the provisions of the bill would apply and which authorized actions may be pursued for each noncompliant project.

Source Agencies: 370 Residential Construction Commission

LBB Staff: JOB, DB, TG

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 21, 2009

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

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

IN RE: HB2833 by Marquez (Relating to certain building code standards applicable to the unincorporated areas of certain counties; providing a penalty.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Local Government Code to require residential construction in the unincorporated area of a certain county to conform to certain standards in Chapter 30 of the Property Code and any rules adopted by the Texas Residential Construction Commission (TRCC) regarding those standards, unless the construction is within the extraterritorial jurisdiction of a municipality in that county that has adopted a building code. The bill would authorize TRCC to take any action with regard to a builder or fee inspector that it is authorized to take by any other law with regard to new residential construction in the county to which the provisions of the bill would apply.

Based on the analysis of TRCC, it is assumed any costs or duties associated with implementing the provisions of the bill could be absorbed within the agency's existing resources.

Local Government Impact

Based on the applicability criteria within the bill, and using the 2000 U.S. Census figures as required by Sections 311.00 and 312.011, Government Code, the bill would apply only to El Paso County.

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies: 370 Residential Construction Commission

LBB Staff: JOB, DB, TG

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 19, 2009

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

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

IN RE: HB2833 by Marquez (Relating to authorizing certain counties to adopt a building code in their unincorporated areas; providing a penalty.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code to authorize a certain county to adopt a building code in its unincorporated areas and would provide penalties for violations.

Local Government Impact

Based on the applicability criteria within the bill, and using the 2000 U.S. Census figures as required by Sections 311.00 and 312.011, Government Code, the bill would not currently apply to any county; however, it will likely apply to El Paso County once the next U.S. decennial census is completed.

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies:

LBB Staff: JOB, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 17, 2009

TO: Honorable Garnet Coleman, Chair, House Committee on County Affairs

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

IN RE: HB2833 by Marquez (Relating to authorizing certain counties to adopt a building code in their unincorporated areas; providing a penalty.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code to authorize a certain county to adopt a building code in its unincorporated areas and would provide penalties for violations.

Local Government Impact

Based on the applicability criteria within the bill, and using the 2000 U.S. Census figures as required by Sections 311.00 and 312.011, Government Code, the bill would not currently apply to any county; however, it will likely apply to El Paso County once the next U.S. decennial census is completed.

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies:

LBB Staff: JOB, DB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 18, 2009

TO: Honorable Garnet Coleman, Chair, House Committee on County Affairs

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

IN RE: HB2833 by Marquez (Relating to authorizing certain counties and municipalities to regulate land development; providing a penalty.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would add Subchapter B to Chapter 242, Local Government Code, to authorize certain counties and municipalities to regulate land development. The county or municipality would be required to issue a building permit if certain requirements are met by the applicant and would be allowed to charge a reasonable building permit fee. The county or municipality would be required to deposit fees collected in an account in the general fund and dedicate the fees for administering the building permit program.

A county or municipality would be entitled to injunctive relief to prevent the violation or threatened violation of the entity's order or ordinance adopted relating to regulation of land development. An offense would be a Class C misdemeanor.

Local Government Impact

Although there could be some revenue gain from fines imposed for commission of a Class C misdemeanor, the revenue gain is not expected to be significant. Because fees could be charged to offset costs of administering a building permit program as part of the land development regulation, no significant fiscal impact is anticipated.

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

Source Agencies:

LBB Staff: JOB, DB

