

## **BILL ANALYSIS**

C.S.H.B. 1970

By: Pickett

International Trade & Intergovernmental Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Current law requires certain municipalities and counties to enter into a written agreement that identifies the governmental entity authorized to regulate subdivision plats and approve related permits in the extraterritorial jurisdiction of the municipality; however, some cities and counties along Texas' international border are exempt from this requirement. Interested parties note that, as a result of such an exemption, the city and the county of El Paso have differing and sometimes conflicting standards relating to subdivision development in the extraterritorial jurisdiction and that local developers seeking permits and entitlements to build in that jurisdiction are consequently compelled to vet subdivision plats through both the city and the county, burdening both the development process and the planning and development staff of the city and county. C.S.H.B. 1970 seeks to mitigate this burden by authorizing agreements to regulate subdivisions in the extraterritorial jurisdiction of certain municipalities.

### **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. 1970 amends the Local Government Code to authorize a county with a population of more than 800,000 that is located on the international border and a municipality that has extraterritorial jurisdiction in that county to enter into an agreement that identifies the governmental entity authorized to regulate subdivision plats and approve related permits in the municipality's extraterritorial jurisdiction in a manner consistent with statutory provisions governing the regulation of subdivisions in extraterritorial jurisdiction generally. The bill requires the county and the municipality to adopt the agreement by order, ordinance, or resolution.

C.S.H.B. 1970 requires the agreement to be amended by the county and the municipality if necessary to take into account an expansion or reduction in the extraterritorial jurisdiction of the municipality and requires the municipality to notify the county of any expansion or reduction in the municipality's extraterritorial jurisdiction. The bill specifies that any expansion or reduction in the municipality's extraterritorial jurisdiction that affects property that is subject to a preliminary or final plat, a plat application, or an application for a related permit filed with the municipality or the county or that was previously approved does not affect any rights accrued under statutory provisions relating to the issuance of a local permit. The bill provides that the approval of the plat, any permit, a plat application, or an application for a related permit remains effective as provided by such provisions regardless of the change in designation as extraterritorial jurisdiction of the municipality. The bill prohibits the municipality from regulating subdivisions or approving the filing of plats in an unincorporated area outside the extraterritorial jurisdiction of a municipality, except as provided by the Interlocal Cooperation Act. The bill adds that property subject to pending approval of a preliminary or final plat is subject only to county approval of the plat application and related permits and county regulation

of that plat.

**EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1970 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

**INTRODUCED**

**HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Section 242.001, Local Government Code, is amended by amending Subsection (a) and adding Subsection (c-1) to read as follows:

**No equivalent provision.**

- (a) This section applies only to a county operating under Sections 232.001-232.005 or Subchapter B, C, or E, Chapter 232, and a municipality that has extraterritorial jurisdiction in that county. Subsections (b)-(g) do not apply:
- (1) within a county that contains extraterritorial jurisdiction of a municipality with a population of 1.9 million or more;
  - (2) within a county with a population of less than 800,000 within 50 miles of an international border, or to which Subchapter C, Chapter 232, applies; or
  - (3) to a tract of land subject to a development agreement under Subchapter G, Chapter 212, or other provisions of this code.

(c-1) A county with a population of more than 800,000 located within 50 miles of an international border to which this section applies shall enter into an agreement with a municipality as required by this section not later than April 1, 2014. If an agreement is not in effect on or before January 1, 2014, the county and municipality must enter into arbitration in the manner required by Subsection (f) and Section 242.0015. This subsection expires September 1, 2015.

**No equivalent provision, but see added Sec. 242.003, Local Government Code, in SECTION 2 below.**

**No equivalent provision.**

SECTION 1. Section 242.001(h), Local Government Code, is amended to read as follows:

(h) This subsection applies only to a county to

which Subsections (b)-(g) do not apply, except that this subsection does not apply to a county subject to Section 242.002 or a county that has entered into an agreement under Section 242.003. For an area in a municipality's extraterritorial jurisdiction, as defined by Section 212.001, a plat may not be filed with the county clerk without the approval of both the municipality and the county. If a municipal regulation and a county regulation relating to plats and subdivisions of land conflict, the more stringent regulation prevails. However, if one governmental entity requires a plat to be filed for the subdivision of a particular tract of land in the extraterritorial jurisdiction of the municipality and the other governmental entity does not require the filing of a plat for that subdivision, the authority responsible for approving plats for the governmental entity that does not require the filing shall issue on request of the subdivider a written certification stating that a plat is not required to be filed for that subdivision of the land. The certification must be attached to a plat required to be filed under this subsection.

No equivalent provision, but see added Sec. 242.001(c-1), Local Government Code in SECTION 1 above.

SECTION 2. Chapter 242, Local Government Code, is amended by adding Section 242.003 to read as follows:

Sec. 242.003. AUTHORITY OF CERTAIN BORDER COUNTIES AND MUNICIPALITIES TO REGULATE SUBDIVISIONS IN EXTRATERRITORIAL JURISDICTION BY AGREEMENT. (a) This section applies only to a county having a population of more than 800,000 and located on the international border and a municipality that has extraterritorial jurisdiction, as defined by Section 212.001, in that county.

(b) A county and a municipality may enter into an agreement that identifies the governmental entity authorized to regulate subdivision plats and approve related permits in the extraterritorial jurisdiction of the municipality in a manner consistent with Section 242.001(d). The county and the municipality shall adopt the agreement by order, ordinance, or resolution.

(c) The agreement must be amended by the county and the municipality if necessary to take into account an expansion or reduction in the extraterritorial jurisdiction of the municipality. The municipality shall notify the county of any expansion or reduction in the municipality's extraterritorial jurisdiction. Any expansion or reduction in the municipality's extraterritorial

jurisdiction that affects property that is subject to a preliminary or final plat, a plat application, or an application for a related permit filed with the municipality or the county or that was previously approved under Section 212.009 or Chapter 232 does not affect any rights accrued under Chapter 245. The approval of the plat, any permit, a plat application, or an application for a related permit remains effective as provided by Chapter 245 regardless of the change in designation as extraterritorial jurisdiction of the municipality.

(d) In an unincorporated area outside the extraterritorial jurisdiction of a municipality, the municipality may not regulate subdivisions or approve the filing of plats, except as provided by Chapter 791, Government Code.

(e) Property subject to pending approval of a preliminary or final plat is governed by Section 242.001(i).

SECTION 2. This Act takes effect September 1, 2013.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.