

BILL ANALYSIS

C.S.S.B. 1599

By: Zaffirini

International Trade & Intergovernmental Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties identify a need for uniform standards for the regulation of the development of subdivisions in the unincorporated areas of certain counties near the international border and in certain economically distressed counties, in areas described as colonias. C.S.S.B. 1599 seeks to provide for those standards as they relate to county and municipal land development regulation by, among other provisions, requiring the preparation of plats by certain subdividers of land and ensuring compliance with the model rules adopted by the Texas Water Development Board relating to minimum standards for safe and sanitary water supply and sewer services in residential areas.

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.S.B. 1599 amends the Government Code to require the secretary of state's statewide system for identifying colonias to include a method for a municipality or county, on a form prescribed by the secretary of state, to nominate an area for identification as a colonia and to authorize the system to provide for the review of a nominated area by the Texas Water Development Board (TWDB), the office of the attorney general, or any other appropriate state agency as determined by the secretary of state.

C.S.S.B. 1599 amends the Local Government Code to increase from 10 or more acres to more than 10 acres the minimum subdivision lot size required for an exemption from subdivision platting requirements in certain counties near an international border.

C.S.S.B. 1599 makes the requirement for a subdivider of land subject to subdivision platting requirements in certain counties near an international border to have a subdivision plat prepared contingent on at least one of the subdivision lots being five acres or less and authorizes a commissioners court by order to require the preparation of a plat if none of the lots is five acres or less but at least one of the lots of a subdivision is more than five acres but not more than 10 acres.

C.S.S.B. 1599 authorizes a commissioners court in certain economically distressed counties other than certain counties near an international border by order to require each subdivider of land in that county to prepare a plat if none of the lots is five acres or less but at least one of the lots of the subdivision is more than five acres but not more than 10 acres. The bill specifies that the requirement applicable to an owner of a tract of land in such a county who divides the tract in any manner that creates lots of five acres or less intended for residential purposes to have a subdivision plat prepared applies if the division of the tract creates at least one lot of five acres or less.

C.S.S.B. 1599 amends the Water Code to authorize the TWDB's model rules for ensuring minimum standards for safe and sanitary water supply and sewer services in residential areas to impose requirements for platting or replatting under provisions requiring the model rules to provide criteria applicable to tracts that were divided into two or more parts to lay out a subdivision and were not platted or recorded before September 1, 2005, to prohibit the establishment of residential developments with lots of five acres or less in the political subdivision without adequate water supply and sewer services, and to prohibit more than one single-family, detached dwelling to be located on each lot. The bill authorizes a municipality or county that has adopted the model rules, except as may be required under an agreement developed under Local Government Code provisions relating to the regulation authority of a municipality and county, to impose municipal or county platting requirements, as applicable, to real property that is required to be platted or replatted by the provisions of the model rules.

C.S.S.B. 1599 removes previous prerequisites regarding the local adoption of the model rules before the TWDB could consider an application for funding from certain funds or under certain programs administered by the TWDB and instead requires a municipality to adopt and enforce the model rules if the applicant is located in the municipality, requires the applicant to demonstrate that the model rules have been adopted and are enforced in the extraterritorial jurisdiction by the municipality or the county if the applicant is located in the municipality's extraterritorial jurisdiction, and requires the county to adopt and enforce the model rules if the applicant is located outside the extraterritorial jurisdiction of a municipality.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.S.B. 1599 may differ from the engrossed version in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 405.021, Government Code, is amended.

SECTION 1. Same as engrossed version.

SECTION 2. Subsections (a) and (d), Section 232.022, Local Government Code, are amended to read as follows:

SECTION 2. Section 232.022(d), Local Government Code, is amended to read as follows:

- (a) This subchapter applies only to:
 - (1) a county any part of which is located within 50 miles of an international border;
 - ~~[or]~~
 - (2) a county:
 - (A) any part of which is located within 100 miles of an international border;
 - (B) that contains the majority of the area of a municipality with a population of more than 250,000; and
 - (C) to which Subdivision (1) does not apply;
 - or
 - (3) a county in which the commissioners court by order:
 - (A) has adopted the model rules adopted

under Section 16.343, Water Code; and (B) elects to operate under this subchapter.

(d) This subchapter does not apply if all [each] of the lots of the subdivision are more than [is] 10 [or more] acres.

SECTION 3. Section 232.023, Local Government Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) A subdivider of land must have a plat of the subdivision prepared if at least one of the lots of the subdivision is five acres or less. A commissioners court by order may require a subdivider of land to prepare a plat if none of the lots is five acres or less but at least one of the lots of a subdivision is more than five acres but not more than 10 acres.

(a-1) A subdivision of a tract under this section [subsection] includes a subdivision of real property by any method of conveyance, including a contract for deed, oral contract, contract of sale, or other type of executory contract, regardless of whether the subdivision is made by using a metes and bounds description.

SECTION 4. Section 232.072, Local Government Code, is amended.

SECTION 5. Subchapter Z, Chapter 233, Local Government Code, is amended by adding Section 233.902 to read as follows:

Sec. 233.902. CONNECTION OF UTILITIES: RESIDENTIAL STRUCTURE. A utility may not serve or connect any residential structure with permanent water, sewer, electricity, gas, or other utility service unless the utility receives a certificate issued by the commissioners court certifying that the residential structure complies with all county regulations applicable to the structure.

SECTION 6. Section 16.343, Water Code, is amended by adding Subsection (f) and amending Subsection (g) to read as follows:

(f) To augment regulatory compliance by political subdivisions, the model rules may impose requirements for platting, replatting, or any other method authorized by law. Notwithstanding any other law to the contrary, a political subdivision that has adopted the model rules under this section may impose the platting requirements of Chapter 212 or 232, Local Government Code,

(d) This subchapter does not apply if all [each] of the lots of the subdivision are more than [is] 10 [or more] acres.

SECTION 3. Section 232.023, Local Government Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) A subdivider of land must have a plat of the subdivision prepared if at least one of the lots of the subdivision is five acres or less. A commissioners court by order may require each subdivider of land to prepare a plat if none of the lots is five acres or less but at least one of the lots of a subdivision is more than five acres but not more than 10 acres.

(a-1) A subdivision of a tract under this section [subsection] includes a subdivision of real property by any method of conveyance, including a contract for deed, oral contract, contract of sale, or other type of executory contract, regardless of whether the subdivision is made by using a metes and bounds description.

SECTION 4. Same as engrossed version.

No equivalent provision.

SECTION 5. Section 16.343, Water Code, is amended by adding Subsection (f) and amending Subsection (g) to read as follows:

(f) The model rules may impose a platting or replatting requirement pursuant to Subsection (b)(2), (c)(2), or (d). Except as may be required by an agreement developed under Chapter 242, Local Government Code, a municipality that has adopted the model rules may impose the applicable platting requirements of Chapter 212, Local Government Code, and a county that has

as applicable, to a division of real property that is required to be platted or replatted by the provisions of the model rules.

(g) Before an application for funds under Section 15.407 or Subchapter P, Chapter 15, or Subchapter K, Chapter 17, may be considered by the board, if the applicant is located:

(1) in a municipality, the municipality must adopt and enforce the model rules in accordance with this section;

(2) in the extraterritorial jurisdiction of a municipality, the applicant must demonstrate that the model rules have been adopted and are enforced in the extraterritorial jurisdiction by the municipality or the county; or

(3) outside the extraterritorial jurisdiction of a municipality, the county must adopt and enforce the model rules in accordance with this section ~~[a political subdivision must adopt the model rules pursuant to this section. If the applicant is a district, nonprofit water supply corporation, or colonia, the applicant must be located in a city or county that has adopted such rules. Applicants for funds under Section 15.407 or Subchapter P, Chapter 15, or Subchapter K, Chapter 17, may not receive funds under those provisions unless the applicable political subdivision adopts and enforces the model rules].~~

SECTION 7. The changes in law made by this Act to Chapter 232, Local Government Code, apply only to a subdivision plat application submitted for approval on or after the effective date of this Act. A subdivision plat application submitted for approval before the effective date of this Act is governed by the law in effect when the application was submitted, and the former law is continued in effect for that purpose.

SECTION 8. This Act takes effect September 1, 2013.

adopted the model rules may impose the applicable platting requirements of Chapter 232, Local Government Code, to real property that is required to be platted or replatted by the model rules under this section.

(g) Before an application for funds under Section 15.407 or Subchapter P, Chapter 15, or Subchapter K, Chapter 17, may be considered by the board, if the applicant is located:

(1) in a municipality, the municipality must adopt and enforce the model rules in accordance with this section;

(2) in the extraterritorial jurisdiction of a municipality, the applicant must demonstrate that the model rules have been adopted and are enforced in the extraterritorial jurisdiction by the municipality or the county; or

(3) outside the extraterritorial jurisdiction of a municipality, the county must adopt and enforce the model rules in accordance with this section ~~[a political subdivision must adopt the model rules pursuant to this section. If the applicant is a district, nonprofit water supply corporation, or colonia, the applicant must be located in a city or county that has adopted such rules. Applicants for funds under Section 15.407 or Subchapter P, Chapter 15, or Subchapter K, Chapter 17, may not receive funds under those provisions unless the applicable political subdivision adopts and enforces the model rules].~~

SECTION 6. Same as engrossed version.

SECTION 7. Same as engrossed version.