

By: Workman

H.B. No. 3876

Substitute the following for H.B. No. 3876:

By: Deshotel

C.S.H.B. No. 3876

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of local permits by a regulatory agency of a political subdivision; limiting the amount of a fee.

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

SECTION 1. Section 245.006, Local Government Code, is amended to read as follows:

Sec. 245.006. ENFORCEMENT OF CHAPTER. (a) Except as provided by Section 245.0061, this ~~[This]~~ chapter may be enforced only through mandamus or declaratory or injunctive relief.

(b) A political subdivision's immunity from suit is waived in regard to an action under this chapter. A political subdivision that has been found by a court to have violated this chapter is liable for:

(1) the permit applicant's attorney's fees and administrative and court costs; and

(2) the applicant's portion of the cost of any mediation requested under Section 245.0061 that did not result in an agreement.

SECTION 2. Chapter 245, Local Government Code, is amended by adding Section 245.0061 to read as follows:

Sec. 245.0061. AVAILABILITY OF MANDATORY MEDIATION. (a) A permit applicant, by written notice to the chief administrative law judge of the State Office of Administrative Hearings and the regulatory agency, may request mediation of a dispute arising out

1 of a regulatory agency's determination that this chapter does not
2 apply to the applicant's project.

3 (b) Except as otherwise provided by this section, Chapter
4 154, Civil Practice and Remedies Code, governs the mediation.

5 (c) The chief administrative law judge shall appoint a
6 mediator from a list of qualified mediators maintained by the State
7 Office of Administrative Hearings through random assignment,
8 giving notice to the parties in writing. The parties may substitute
9 a mediator of their choice in place of the appointed mediator not
10 later than the seventh day after the date of the appointment.

11 (d) The mediator is entitled to a reasonable fee, due at the
12 time mediation convenes, which shall be borne equally by the
13 parties unless the parties agree otherwise.

14 (e) The parties shall cooperate with the mediator in setting
15 the date, time, and place of the mediation, which shall be convened
16 and completed not later than the 30th day after the date of the
17 applicant's written notice. If the parties fail to agree on a date,
18 time, or place for the mediation, the mediator shall unilaterally
19 set the date, time, and place of the mediation so that the mediation
20 is convened and completed in the 30-day period.

21 (f) An authorized representative of each party with
22 authority to settle the dispute must be physically present at the
23 mediation.

24 (g) Failure by a party to attend and participate in
25 mediation shall be considered a default, entitling the other party
26 to the party's requested relief and reserving only the issue of any
27 attorney's fees or damages otherwise legally permitted, which shall

1 be determined by an administrative law judge of the State Office of
2 Administrative Hearings after a hearing to which each party is
3 given notice.

4 (h) Additional rules governing the conduct of the mediation
5 shall be provided by the mediator consistent with this section and
6 Chapter 154, Civil Practice and Remedies Code. Any dispute arising
7 out of the procedure in convening the mediation shall be determined
8 by an administrative law judge assigned by the State Office of
9 Administrative Hearings on the request of a party with written
10 notice to the other party.

11 SECTION 3. Chapter 245, Local Government Code, is amended
12 by adding Section 245.008 to read as follows:

13 Sec. 245.008. REGULATORY AGENCY FEE. A fee imposed by a
14 regulatory agency to review an application for determination of the
15 applicability of this chapter to the permit applicant's project may
16 not exceed \$250.

17 SECTION 4. This Act takes effect September 1, 2015.