

By: Burton, et al.

S.B. No. 13

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of a permit by a political subdivision.

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

SECTION 1. Section 214.904, Local Government Code, is amended to read as follows:

Sec. 214.904. PROCEDURES AND PERIOD [TIME] FOR APPROVAL OR DENIAL [ISSUANCE] OF MUNICIPAL [BUILDING] PERMIT APPLICATIONS; PROHIBITED PERMIT REQUIREMENTS. (a) In this section, "permit" and "project" have the meanings assigned by Section 245.001.

(a-1) This section applies ~~[only]~~ to any ~~[a]~~ permit required by a municipality that relates to any project ~~[to erect or improve a building or other structure in the municipality or its extraterritorial jurisdiction]~~.

(b) Not later than the 30th ~~[45th]~~ day after the date an application for a permit is submitted, the municipality must:

(1) grant or make a preliminary determination to deny the permit;

(2) provide written notice to the applicant stating the reasons why the municipality has been unable to act on ~~[grant or deny]~~ the permit application; ~~[or]~~

(3) reach a written agreement with the applicant providing for a deadline not later than the 120th day after the date the application was submitted for granting or denying the permit; or

1           (4) grant conditional approval of the permit and  
2 provide written notice to the applicant stating:

3                   (A) the applicant has met the municipality's  
4 requirements for the permit;

5                   (B) the municipality has not received  
6 documentation of state or federal approval relating to the permit  
7 that is required under state or federal law;

8                   (C) the municipality is granting conditional  
9 approval of the permit; and

10                   (D) the municipality will grant final approval of  
11 the permit or deny the permit, as applicable, on the date the  
12 municipality receives documentation of the state or federal  
13 approval or disapproval.

14           (c) For a permit application for which notice is provided  
15 under Subsection (b)(2), the municipality must grant or make a  
16 preliminary determination to deny the permit not later than the  
17 15th ~~[30th]~~ day after the date the notice is received. A  
18 municipality may extend the period for the municipality to act on an  
19 application under this subsection once by an additional 15 days.

20           (c-1) For a permit application for which notice is provided  
21 under Subsection (b)(4), the municipality must grant the final  
22 approval of the permit or deny the permit, as applicable, on the  
23 date the municipality receives documentation of the state or  
24 federal approval or disapproval relating to the permit.

25           (d) If a municipality fails to act on ~~[grant or deny]~~ a  
26 permit application within ~~[in]~~ the period ~~[time]~~ required by  
27 Subsection (c) or (c-1) or by an agreement under Subsection (b)(3),

1 the permit application is considered approved and the municipality:

2           (1) may not collect any permit fees associated with  
3 the application; ~~and~~

4           (2) shall refund to the applicant any permit fees  
5 associated with the application that have been collected; and

6           (3) shall issue the permit.

7       (e) If a municipality makes a preliminary determination to  
8 deny a permit application, the municipality must send written  
9 notice of the determination to the applicant not later than the  
10 first business day after the date the determination is made  
11 stating:

12           (1) a plain language description of each deficiency  
13 that is a reason for the determination, including a citation to the  
14 specific ordinance, order, regulation, or policy relevant to the  
15 determination;

16           (2) general guidance regarding how to remedy each  
17 specified deficiency; and

18           (3) a deadline not earlier than the 30th day after the  
19 date the notice is sent for the applicant to complete the remedial  
20 actions specified in the notice before the denial becomes final.

21       (f) If the municipality makes a reasonable determination  
22 that a new deficiency has arisen from a remedial action taken by the  
23 applicant, the municipality must send written notice not later than  
24 the first business day after the date the determination is made  
25 stating:

26           (1) a plain language description of each new  
27 deficiency, including a citation to the specific ordinance, order,

1 regulation, or policy relevant to the deficiency;

2 (2) general guidance regarding how to remedy each  
3 specified deficiency; and

4 (3) a new deadline not earlier than the 30th day after  
5 the date the notice is sent under this subsection for the applicant  
6 to complete all of the remedial actions.

7 (g) If an applicant substantially completes the remedial  
8 actions specified in the notice under Subsection (e) and, if  
9 applicable, Subsection (f) within the period required, the  
10 applicant may request reconsideration of the determination. If the  
11 municipality determines the applicant has substantially completed  
12 the specified remedial actions, the municipality shall:

13 (1) grant the permit; or

14 (2) conditionally approve the permit, if the  
15 municipality has not received documentation of state or federal  
16 approval relating to the permit that is required under state or  
17 federal law.

18 (g-1) Not later than the 15th day after the date the  
19 applicant's request for reconsideration is received, the  
20 municipality shall send the applicant written notice of:

21 (1) a final determination to grant or deny the permit;  
22 or

23 (2) a determination to conditionally approve the  
24 permit until state or federal approval or disapproval relating to  
25 the permit is received.

26 (g-2) If the municipality fails to send notice of a final  
27 determination to grant or deny a permit within the period required

1 by Subsection (g-1), the permit application is considered approved  
2 and the municipality shall issue the permit. If the municipality  
3 fails to send notice of a conditional approval of the permit within  
4 the period required by Subsection (g-1), the permit application is  
5 considered conditionally approved by the municipality and the  
6 municipality shall issue or deny the permit, as applicable, on the  
7 date the municipality receives documentation of the state or  
8 federal approval or disapproval relating to the permit.

9 (h) Written notice of the municipality's final  
10 determination that a permit is denied must include the information  
11 required by Subsections (e)(1) and (2) and, if applicable,  
12 Subsections (f)(1) and (2) in addition to written findings of the  
13 reasons the municipality determined that any remedial actions taken  
14 by the applicant were insufficient to correct the deficiencies  
15 specified in the notice provided under Subsection (e) or (f).

16 (i) Any final determination that a permit is denied may not  
17 be based on:

18 (1) a reason or remedial requirement that was not  
19 previously disclosed to the applicant in the notice required under  
20 Subsection (e) or (f); or

21 (2) a requirement for the applicant to comply with any  
22 ordinance, order, regulation, or policy that is not substantially  
23 related to the project for which the permit is required.

24 (j) A municipality may not adopt or enforce an ordinance,  
25 order, regulation, or policy relating to granting or denying a  
26 permit that:

27 (1) restricts or prohibits the right of an applicant

1 to reapply for a permit that was the subject of a denied permit  
2 application;

3 (2) requires a private employer to offer wages higher  
4 than the wages required under Chapter 62, Labor Code; or

5 (3) authorizes on-site monitoring of a private  
6 employer by a nongovernmental entity.

7 (k) The right of a permit applicant to the issuance of a  
8 determination or a permit as required by this section may be  
9 enforced only through mandamus or declaratory or injunctive relief.  
10 A municipality's immunity from suit is waived in regard to an action  
11 under this section.

12 SECTION 2. Section 233.901, Local Government Code, is  
13 amended to read as follows:

14 Sec. 233.901. PROCEDURES AND PERIOD [TIME] FOR APPROVAL OR  
15 DENIAL [ISSUANCE] OF COUNTY [BUILDING] PERMIT APPLICATIONS;  
16 PROHIBITED PERMIT REQUIREMENTS. (a) In this section, "permit" and  
17 "project" have the meanings assigned by Section 245.001.

18 (a-1) This section applies [only] to any [a] permit required  
19 by a county that relates to any project [with a population of 3.3  
20 million or more to construct or improve a building or other  
21 structure in the county], but does not apply to a permit for an  
22 on-site sewage disposal system.

23 (b) Not later than the 30th ~~[45th]~~ day after the date an  
24 application for a permit is submitted, the county must:

25 (1) grant or make a preliminary determination to deny  
26 the permit;

27 (2) provide written notice to the applicant stating

the reasons why the county has been unable to act on the permit application; ~~[or]~~

(3) reach a written agreement with the applicant providing for a deadline not later than the 120th day after the date the application was submitted for granting or denying the permit; or

(4) grant conditional approval of the permit and provide written notice to the applicant stating:

(A) the applicant has met the county's requirements for the permit;

(B) the county has not received documentation of state or federal approval relating to the permit that is required under state or federal law;

(C) the county is granting conditional approval of the permit; and

(D) the county will grant final approval of the permit or deny the permit, as applicable, on the date the county receives documentation of the state or federal approval or disapproval.

(c) For a permit application for which notice is provided under Subsection (b)(2), the county must grant or make a preliminary determination to deny the permit not later than the 15th ~~[30th]~~ day after the date the notice is received. A county may extend the period for the county to act on an application under this subsection once by an additional 15 days.

(c-1) For a permit application for which notice is provided under Subsection (b)(4), the county must grant the final approval

1 of the permit or deny the permit, as applicable, on the date the  
2 county receives documentation of the state or federal approval or  
3 disapproval relating to the permit.

4 (d) If a county fails to act on a permit application within  
5 ~~[in]~~ the period ~~[time]~~ required by Subsection (c) or (c-1) or by an  
6 agreement under Subsection (b)(3), the permit application is  
7 considered approved and the county:

8 (1) may not collect any permit fees associated with  
9 the application; ~~and~~

10 (2) shall refund to the applicant any permit fees  
11 associated with the application that have been collected; and

12 (3) shall issue the permit.

13 (e) If a county makes a preliminary determination to deny a  
14 permit application, the county must send written notice of the  
15 determination to the applicant not later than the first business  
16 day after the date the determination is made stating:

17 (1) a plain language description of each deficiency  
18 that is a reason for the determination, including a citation to the  
19 specific ordinance, order, regulation, or policy relevant to the  
20 determination;

21 (2) general guidance regarding how to remedy each  
22 specified deficiency; and

23 (3) a deadline not earlier than the 30th day after the  
24 date the notice is sent for the applicant to complete the remedial  
25 actions specified in the notice before the denial becomes final.

26 (f) If the county makes a reasonable determination that a  
27 new deficiency has arisen from a remedial action taken by the



1 applicant, the county must send written notice not later than the  
2 first business day after the date the determination is made  
3 stating:

4 (1) a plain language description of each new  
5 deficiency, including a citation to the specific ordinance, order,  
6 regulation, or policy relevant to the deficiency;

7 (2) general guidance regarding how to remedy each  
8 specified deficiency; and

9 (3) a new deadline not earlier than the 30th day after  
10 the date the notice is sent under this subsection for the applicant  
11 to complete all of the remedial actions.

12 (g) If an applicant substantially completes the remedial  
13 actions specified in the notice under Subsection (e) and, if  
14 applicable, Subsection (f) within the period required, the  
15 applicant may request reconsideration of the determination. If the  
16 county determines the applicant has substantially completed the  
17 specified remedial actions, the county shall:

18 (1) grant the permit; or

19 (2) conditionally approve the permit, if the county  
20 has not received documentation of state or federal approval  
21 relating to the permit that is required under state or federal law.

22 (g-1) Not later than the 15th day after the date the  
23 applicant's request for reconsideration is received, the county  
24 shall send the applicant written notice of:

25 (1) a final determination to grant or deny the permit;

26 or

27 (2) a determination to conditionally approve the

1 permit until state or federal approval or disapproval relating to  
2 the permit is received.

3 (g-2) If the county fails to send notice of a final  
4 determination to grant or deny a permit within the period required  
5 by Subsection (g-1), the permit application is considered approved  
6 and the county shall issue the permit. If the county fails to send  
7 notice of a conditional approval of the permit within the period  
8 required by Subsection (g-1), the permit application is considered  
9 conditionally approved by the county and the county shall issue or  
10 deny the permit, as applicable, on the date the county receives  
11 documentation of the state or federal approval or disapproval  
12 relating to the permit.

13 (h) Written notice of the county's final determination that  
14 a permit is denied must include the information required by  
15 Subsections (e)(1) and (2) and, if applicable, Subsections (f)(1)  
16 and (2) in addition to written findings of the reasons the county  
17 determined that any remedial actions taken by the applicant were  
18 insufficient to correct the deficiencies specified in the notice  
19 provided under Subsection (e) or (f).

20 (i) Any final determination that a permit is denied may not  
21 be based on:

22 (1) a reason or remedial requirement that was not  
23 previously disclosed to the applicant in the notice required under  
24 Subsection (e) or (f); or

25 (2) a requirement for the applicant to comply with any  
26 ordinance, order, regulation, or policy that is not substantially  
27 related to the project for which the permit is required.

1       (j) A county may not adopt or enforce an ordinance, order,  
2 regulation, or policy relating to granting or denying a permit  
3 that:

4           (1) restricts or prohibits the right of an applicant  
5 to reapply for a permit that was the subject of a denied permit  
6 application;

7           (2) requires a private employer to offer wages higher  
8 than the wages required under Chapter 62, Labor Code; or

9           (3) authorizes on-site monitoring of a private  
10 employer by a nongovernmental entity.

11       (k) The right of a permit applicant to the issuance of a  
12 determination or a permit as required by this section may be  
13 enforced only through mandamus or declaratory or injunctive relief.  
14 A county's immunity from suit is waived in regard to an action under  
15 this section.

16       (l) Nothing in this section shall be construed to authorize  
17 a county to require a permit to undertake a project in the county.

18       SECTION 3. Chapter 250, Local Government Code, is amended  
19 by adding Section 250.010 to read as follows:

20       Sec. 250.010. EXPEDITED PERMITTING PROCEDURES. (a) In  
21 this section, "permit" and "political subdivision" have the  
22 meanings assigned by Section 245.001.

23       (b) This title does not prohibit a political subdivision  
24 from adopting procedures to provide a shorter period than provided  
25 by law for the approval of a permit.

26       (c) Any ordinance, order, regulation, or policy providing  
27 procedures for the expedited approval of a permit must comply with

1 the requirements of other law, other than the period for the  
2 approval of a permit.

3 (d) A procedure authorized by this section may not:

4 (1) restrict or prohibit the right of an applicant to  
5 reapply for a permit that was the subject of a denied expedited  
6 permit application; or

7 (2) include any additional conditions or requirements  
8 for the expedited approval of the permit, other than a reasonable  
9 fee to offset the increased costs of expediting the permit.

10 SECTION 4. The changes in law made by this Act apply only to  
11 a permit application filed on or after the effective date of this  
12 Act. An application filed before the effective date of this Act is  
13 governed by the law in effect immediately before the effective date  
14 of this Act, and the former law is continued in effect for that  
15 purpose.

16 SECTION 5. This Act takes effect immediately if it receives  
17 a vote of two-thirds of all the members elected to each house, as  
18 provided by Section 39, Article III, Texas Constitution. If this  
19 Act does not receive the vote necessary for immediate effect, this  
20 Act takes effect December 1, 2017.