

SENATE AMENDMENTS

2nd Printing

By: Phelan, Geren, Darby, Larson

H.B. No. 7

A BILL TO BE ENTITLED

AN ACT

relating to a tree planting credit to offset tree mitigation fees imposed by a municipality.

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

SECTION 1. Subchapter Z, Chapter 212, Local Government Code, is amended by adding Section 212.905 to read as follows:

Sec. 212.905. TREE MITIGATION FEE CREDIT FOR PLANTED TREES.

(a) A municipality that imposes a tree mitigation fee for tree removal that is necessary for development or construction on a person's property must allow that person to apply for a credit for tree planting under this section to offset the amount of the fee.

(b) An application for a credit under Subsection (a) must be in the form and manner prescribed by the municipality. To qualify for a credit under this section, a tree must be:

(1) planted on property:

(A) for which the tree mitigation fee was assessed; or

(B) mutually agreed upon by the municipality and the person; and

(2) at least two inches in diameter at the point on the trunk 4.5 feet above ground.

(c) For purposes of Subsection (b)(1)(B), the municipality and the person may consult with an academic organization, state agency, or nonprofit organization to identify an area for which

1 tree planting will best address the science-based benefits of trees
2 and other reforestation needs of the municipality.

3 (d) The amount of a credit provided to a person under this
4 section must be:

5 (1) applied in the same manner as the tree mitigation
6 fee assessed against the person; and

7 (2) at least 50 percent of the amount of the tree
8 mitigation fee assessed against the person.

9 (e) As long as the municipality meets the requirement to
10 provide a person a credit under Subsection (a), this section does
11 not affect the ability of or require a municipality to determine:

12 (1) the size, number, and type of trees that must be
13 planted to receive a credit under this section, except as provided
14 by Subsection (b);

15 (2) the requirements for tree removal and
16 corresponding tree mitigation fees, if applicable; or

17 (3) the requirements for tree planting methods and
18 best management practices to ensure that the tree grows to the
19 anticipated height at maturity.

20 (f) This section does not apply to property within five
21 miles of a federal military base in active use as of December 1,
22 2017.

23 SECTION 2. The changes in law made by this Act apply only to
24 a tree mitigation fee assessed by a municipality on or after the
25 effective date of this Act.

26 SECTION 3. This Act takes effect December 1, 2017.

ADOPTED

AUG 11 2017

Adrian Spaw
Secretary of the Senate

By: *L. W. Keller*

H.B. No. 7

Substitute the following for ___B. No. _____:

By: *N. Campbell*

C.S. H.B. No. 7

A BILL TO BE ENTITLED

AN ACT

1
2 relating to municipal regulation of the removal of trees or
3 vegetation on private property.

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

5 SECTION 1. Section 212.003(a), Local Government Code, is
6 amended to read as follows:

7 (a) The governing body of a municipality by ordinance may
8 extend to the extraterritorial jurisdiction of the municipality the
9 application of municipal ordinances adopted under Section 212.002
10 and other municipal ordinances relating to access to public roads
11 or the pumping, extraction, and use of groundwater by persons other
12 than retail public utilities, as defined by Section 13.002, Water
13 Code, for the purpose of preventing the use of or contact with
14 groundwater that presents an actual or potential threat to human
15 health. However, unless otherwise authorized by state law, in its
16 extraterritorial jurisdiction a municipality shall not regulate:

17 (1) the use of any building or property for business,
18 industrial, residential, or other purposes;

19 (2) the bulk, height, or number of buildings
20 constructed on a particular tract of land;

21 (3) the size of a building that can be constructed on a
22 particular tract of land, including without limitation any
23 restriction on the ratio of building floor space to the land square
24 footage;

1 (4) the number of residential units that can be built
2 per acre of land; [~~or~~]

3 (5) the size, type, or method of construction of a
4 water or wastewater facility that can be constructed to serve a
5 developed tract of land if:

6 (A) the facility meets the minimum standards
7 established for water or wastewater facilities by state and federal
8 regulatory entities; and

9 (B) the developed tract of land is:

10 (i) located in a county with a population of
11 2.8 million or more; and

12 (ii) served by:

13 (a) on-site septic systems
14 constructed before September 1, 2001, that fail to provide adequate
15 services; or

16 (b) on-site water wells constructed
17 before September 1, 2001, that fail to provide an adequate supply of
18 safe drinking water; or

19 (6) the ability of an owner of property that has been
20 platted to remove a tree or vegetation on the owner's property,
21 except as necessary to mitigate tree-borne diseases as recommended
22 by the Texas A&M Forest Service, including by:

23 (A) requiring the owner to file an affidavit or
24 notice before removing the tree or vegetation; or

25 (B) imposing a tree mitigation fee.

26 SECTION 2. Subchapter Z, Chapter 212, Local Government
27 Code, is amended by adding Section 212.905 to read as follows:

1 Sec. 212.905. REGULATION OF TREE REMOVAL. (a) In this
2 section:

3 (1) "Residential structure" means:

4 (A) a manufactured home as that term is defined
5 by Section 1201.003, Occupations Code;

6 (B) a detached one-family or two-family
7 dwelling, including the accessory structures of the dwelling;

8 (C) a multiple single-family dwelling that is not
9 more than three stories in height with a separate means of entry for
10 each dwelling, including the accessory structures of the dwelling;

11 or

12 (D) any other multifamily structure.

13 (2) "Tree mitigation fee" means a fee or charge
14 imposed by a municipality in connection with the removal of a tree
15 from private property.

16 (b) A municipality that imposes a tree mitigation fee for
17 tree removal on a person's property must allow that person to apply
18 for a credit for tree planting under this section to offset the
19 amount of the fee.

20 (c) An application for a credit under Subsection (b) must be
21 in the form and manner prescribed by the municipality. To qualify
22 for a credit under this section, a tree must be:

23 (1) planted on property:

24 (A) for which the tree mitigation fee was
25 assessed; or

26 (B) mutually agreed upon by the municipality and
27 the person; and

1 (2) at least two inches in diameter at the point on the
2 trunk 4.5 feet above ground.

3 (d) For purposes of Subsection (c)(1)(B), the municipality
4 and the person may consult with an academic organization, state
5 agency, or nonprofit organization to identify an area for which
6 tree planting will best address the science-based benefits of trees
7 and other reforestation needs of the municipality.

8 (e) The amount of a credit provided to a person under this
9 section must be applied in the same manner as the tree mitigation
10 fee assessed against the person and:

11 (1) equal to the amount of the tree mitigation fee
12 assessed against the person if the property is an existing
13 one-family or two-family dwelling that is the person's residence;

14 (2) at least 50 percent of the amount of the tree
15 mitigation fee assessed against the person if:

16 (A) the property is a residential structure that
17 is not occupied by the person; and

18 (B) the person is constructing or renovating the
19 residential structure for sale as a residential structure and not
20 for use as the person's residence; or

21 (3) at least 40 percent of the amount of the tree
22 mitigation fee assessed against the person if:

23 (A) the property is not a residential structure;
24 or

25 (B) the person is constructing or intends to
26 construct a structure on the property that is not a residential
27 structure.

1 (f) As long as the municipality meets the requirement to
2 provide a person a credit under Subsection (b), this section does
3 not affect the ability of or require a municipality to determine:
4 (1) the type of trees that must be planted to receive a
5 credit under this section, except as provided by Subsection (c);
6 (2) the requirements for tree removal and
7 corresponding tree mitigation fees, if applicable;
8 (3) the requirements for tree-planting methods and
9 best management practices to ensure that the tree grows to the
10 anticipated height at maturity; or
11 (4) the amount of a tree mitigation fee, except that a
12 tree mitigation fee may not exceed \$400.
13 (g) A municipality may not impose a tree mitigation fee for
14 the removal of a tree that:
15 (1) is diseased or dead; or
16 (2) poses an imminent or immediate threat to persons
17 or property.
18 (h) A municipality may not prohibit the removal of a tree
19 that:
20 (1) is less than 24 inches in diameter at the point on
21 the trunk 4.5 feet above the ground;
22 (2) is diseased or dead; or
23 (3) poses an imminent or immediate threat to persons
24 or property.
25 (i) This section does not apply to property within five
26 miles of a federal military base in active use as of December 1,
27 2017.

1 SECTION 3. The changes in law made by this Act apply only to
2 a tree mitigation fee assessed by a municipality on or after the
3 effective date of this Act.

4 SECTION 4. This Act takes effect December 1, 2017.

ADOPTED

RV 23-8
AUG 14 2017

Leta Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 8

BY: B. W. Keller

Amend C.S.H.B. No. 7 (senate committee report) as follows:

(1) Strike SECTION 1 of the bill (page 1, line 24 through page 2, line 8).

(2) In SECTION 2 of the bill, in added Section 212.905, Local Government Code (page 2, between lines 25 and 26), insert the following appropriately lettered subsection:

() A municipality may not require a person to pay a tree mitigation fee for the removed tree if the tree:

(1) is located on a property that is an existing one-family or two-family dwelling that is the person's residence; and

(2) is less than 10 inches in diameter at the point on the trunk 4.5 feet above the ground.

(3) In SECTION 2 of the bill, in added Section 212.905(e), Local Government Code, strike Subparagraphs 212.905(e)(2)(A) and (B) (page 2, lines 53 to 57) and insert the following:

(A) the property is a residential structure or pertains to the development, construction, or renovation of a residential structure; and

(B) the person is developing, constructing or renovating the property not for use as the person's residence; or

(4) In SECTION 2 of the bill, in added Section 212.905(f), Local Government Code (page 3, lines 6 to 7), strike "except that a tree mitigation fee may not exceed \$400".

(5) In SECTION 2 of the bill, in added Section 212.905(g), Local Government Code (page 3, line 8), between "not" and "impose", insert "prohibit the removal of or".

(6) In SECTION 2 of the bill, strike added Section 212.905(h),

Local Government Code (page 3, lines 13 through 19).

(7) Reletter subsections of Section 212.905, Local Government Code, and cross-references to those subsections as appropriate.

(8) Renumber the SECTIONS of the bill as appropriate.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATURE 1st CALLED SESSION - 2017
Revision 1

August 15, 2017

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB7 by Phelan (Relating to municipal regulation of the removal of trees or vegetation on private property.), **As Passed 2nd House**

No fiscal implication to the State is anticipated.

Local Government Impact

According to the Texas Municipal League, no significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, SD, CL, BM, JGA, GG

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATURE 1st CALLED SESSION - 2017

August 11, 2017

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB7** by Phelan (Relating to municipal regulation of the removal of trees or vegetation on private property.), **As Passed 2nd House**

No fiscal implication to the State is anticipated.

Local Government Impact

According to the Texas Municipal League, no significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, SD, CL, BM, JGA, GG

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATURE 1st CALLED SESSION - 2017

August 8, 2017

TO: Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB7** by Phelan (Relating to municipal regulation of the removal of trees or vegetation on private property.), **Committee Report 2nd House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code to require a municipality that imposes a fee for tree removal must allow the person to apply for a credit for tree planting to offset the amount of the fee. The bill would also specify tree mitigation fee assessments based on property and residence types.

The bill would take effect December 1, 2017.

Local Government Impact

According to the Texas Municipal League, no significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, CL, BM, JGA, GG

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATURE 1st CALLED SESSION - 2017

August 2, 2017

TO: Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB7 by Phelan (Relating to a tree planting credit to offset tree mitigation fees imposed by a municipality.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code to require a municipality that imposes a fee for tree removal must allow the person to apply for a credit for tree planting to offset the amount of the fee.

The bill would take effect December 1, 2017.

Local Government Impact

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

Source Agencies:

LBB Staff: UP, CL, BM, JGA, GG

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATURE 1st CALLED SESSION - 2017

July 25, 2017

TO: Honorable Carol Alvarado, Chair, House Committee on Urban Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB7 by Phelan (Relating to a tree planting credit to offset tree mitigation fees imposed by a municipality.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code to require a municipality that imposes a fee for tree removal must allow the person to apply for a credit for tree planting to offset the amount of the fee.

The bill would take effect December 1, 2017.

Local Government Impact

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

Source Agencies:

LBB Staff: UP, BM, JGA, GG