

BILL ANALYSIS

Senate Research Center

H.B. 2136
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Agriculture, Water & Rural Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 2136 amends the Special District Local Laws Code to require the Fort Bend County Drainage District, in achieving the ultimate goal of minimizing the threat of flooding of Fort Bend County by implementing flood control measures, to establish a compensatory mitigation program for stormwater flows for drainage areas that are less than 50 acres. H.B. 2136 requires the program to allow compensatory mitigation measures to be taken on property that is associated with development of a site and authorizes the program to allow compensatory mitigation measures to be taken on property that is not associated with a site's development if the threat of flooding would be minimized at least as much as if the compensatory mitigation measures were taken on property associated with the site's development.

H.B. 2136 authorizes compensatory mitigation measures authorized by the program to include the use of detention or retention facilities to store increases in stormwater flows that are attributable to impervious cover from development and any other appropriate measures that are demonstrated to minimize the threat of flooding. H.B. 2136 prohibits a project to develop compensatory mitigation measures approved under the program from being inconsistent with any applicable federal or state requirements relating to management or control of stormwater.

H.B. 2136 sets out provisions relating to an application for approval of a compensatory mitigation project. H.B. 2136 requires the district engineer or other designee of the district to approve or deny an application for approval of a compensatory mitigation project not later than the 90th day after the date the application is submitted, unless the applicant agrees to an extension. H.B. 2136 authorizes the decision by the district engineer or other designee of the district to be appealed directly to the commissioners court by the applicant.

H.B. 2136 amends current law relating to flood control storage requirements established by the Fort Bend County Drainage District.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 6604, Special District Local Laws Code, by adding Section 6604.108, as follows:

Sec. 6604.108. COMPENSATORY MITIGATION PROGRAM. (a) Requires the Fort Bend County Drainage District (district), in achieving the ultimate goal of minimizing the threat of flooding of Fort Bend County by implementing flood control measures, to establish a compensatory mitigation program for stormwater flows for drainage areas that are less than 50 acres.

(b) Requires the district's compensatory mitigation program to allow compensatory mitigation measures to be taken on property that is associated with development of a site and authorizes the program to allow compensatory mitigation measures to be taken on property that is not associated with a site's

development if the threat of flooding would be minimized at least as much as if the compensatory mitigation measures were taken on property associated with the site's development.

(c) Authorizes compensatory mitigation measures authorized by the compensatory mitigation program to include the use of detention or retention facilities to store increases in stormwater flows that are attributable to impervious cover from development and any other appropriate measures that are demonstrated to minimize the threat of flooding.

(d) Prohibits a project to develop compensatory mitigation measures approved under the compensatory mitigation program from being inconsistent with any applicable federal or state requirements relating to management or control of stormwater.

(e) Provides that an application for approval of a compensatory mitigation project:

(1) is required to include a demonstration that the threat of flooding will be minimized in accordance with the district's purposes;

(2) is required to be signed, sealed, and dated by an engineer licensed by the Texas Board of Professional Engineers under Chapter 1001 (Engineers), Occupations Code;

(3) is authorized to use calculations that are in accordance with acceptable engineering practices to determine the amount of flood control storage necessary based on increased impervious cover resulting from development; and

(4) is authorized to include use of a compensatory mitigation bank in which credits can be issued to one or more site developers that allow a site developer to rely on the compensatory mitigation measures to reduce the threat of flooding.

(f) Requires the district engineer or other designee of the district to approve or deny an application for approval of a compensatory mitigation project not later than the 90th day after the date the application is submitted, unless the applicant agrees to an extension. Authorizes the decision by the district engineer or other designee of the district to be appealed directly to the commissioners court by the applicant.

SECTION 2. Effective date: September 1, 2017.