

By: Workman

H.B. No. 898

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of local permits by a regulatory agency of a political subdivision.

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) actual damages;
- (2) reasonable attorney's fees;
- (3) administrative and court costs; and
- (4) 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. REQUIRED MEDIATION ON REQUEST OF PERMIT APPLICANT. (a) A permit applicant may request mandatory mediation regarding any regulatory agency determination that this chapter

1 does not apply to the applicant's project.

2 (b) The mediation must begin not later than the 30th day
3 after written notice by the permit applicant to the regulatory
4 agency official who made the determination under Subsection (a).

5 (c) The mediation shall be conducted before a licensed
6 attorney mediator chosen by agreement of the parties from a pool of
7 mediators approved by the attorney general.

8 (d) Each party must pay the mediator one half of the cost of
9 the mediation on the day of the mediation.

10 (e) If the parties fail to reach a mediated agreement, the
11 permit applicant may initiate a suit for mandamus or injunctive
12 relief in a court of law.

13 (f) Failure by a regulatory agency to begin the mediation in
14 the period described by Subsection (b) constitutes a final
15 determination by the regulatory agency that the requested permit is
16 subject to the original project rules, regulations, ordinances, and
17 requirements as requested by the permit applicant, if the
18 regulatory agency's failure is verified by:

19 (1) the mediator selected by the parties; or

20 (2) the mediator selected by the permit applicant, if
21 the regulatory agency and the permit applicant do not select a
22 mediator by agreement.

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

25 Sec. 245.008. REGULATORY AGENCY FEE PROHIBITED. A
26 regulatory agency may not impose a fee for the agency to review an
27 application for determination of the applicability of this chapter

1 to the applicant's project.

2 SECTION 4. Section 245.006(b), Local Government Code, as
3 amended by this Act, applies only to an action that commences on or
4 after the effective date of this Act. An action that commences
5 before the effective date of this Act is governed by the law in
6 effect on the date the action commenced, and the former law is
7 continued in effect for that purpose.

8 SECTION 5. This Act takes effect September 1, 2017.