

SENATE AMENDMENTS

2nd Printing

By: Simmons, Workman, Paddie, Fallon, et al.

H.B. No. 1449

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting local governments from imposing certain fees on new construction.

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

SECTION 1. The legislature finds that:

(1) fees and exactions imposed by political subdivisions to fund subsidized housing materially increase the cost of housing construction and other forms of construction in the state; and

(2) it is in the state's interest to incentivize housing affordability for Texas residents by circumscribing regulatory burdens imposed on the housing industry by political subdivisions.

SECTION 2. Chapter 250, Local Government Code, is amended by adding Section 250.008 to read as follows:

Sec. 250.008. LINKAGE FEES PROHIBITED. (a) A political subdivision may not adopt or enforce a charter provision, ordinance, order, or other regulation that imposes, directly or indirectly, a fee on new construction for the purposes of offsetting the cost or rent of any unit of residential housing.

(b) This section does not apply to:

(1) an affordable housing and property tax abatement program:

(A) in existence on January 1, 2017;

1 (B) adopted under Chapter 378 by a municipality
2 with a population of more than 700,000; and

3 (C) for which eligibility is maintained as
4 required under Chapter 312, Tax Code;

5 (2) a residential density bonus program in which a
6 zoning waiver is issued for a voluntary fee payment; or

7 (3) the voluntary provision of affordable housing or
8 other defined public benefit.

9 (c) A charter provision, ordinance, order, or other
10 regulation adopted by a political subdivision that conflicts with
11 this section is null and void.

12 SECTION 3. The change in law made by this Act does not apply
13 to an agreement relating to providing subsidized housing entered
14 into before the effective date of this Act.

15 SECTION 4. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2017.

ADOPTED

MAY 18 2017

Antony Spaw
Secretary of the Senate

By: AS, mmons/Nelson

H.B. No. 1449

Substitute the following for __.B. No. ____:

By: Campbell

C.S.__.B. No. ____

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3 fees on new construction.

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6 (1) fees and exactions imposed by political
7 subdivisions to fund subsidized housing materially increase the
8 cost of housing construction and other forms of construction in the
9 state; and

10 (2) it is in the state's interest to incentivize
11 housing affordability for Texas residents by circumscribing
12 regulatory burdens imposed on the housing industry by political
13 subdivisions.

14 SECTION 2. Chapter 250, Local Government Code, is amended
15 by adding Section 250.008 to read as follows:

16 Sec. 250.008. LINKAGE FEES PROHIBITED. (a) A political
17 subdivision may not adopt or enforce a charter provision,
18 ordinance, order, or other regulation that imposes, directly or
19 indirectly, a fee on new construction for the purposes of
20 offsetting the cost or rent of any unit of residential housing.

21 (b) For purposes of this section:

22 (1) a fee is imposed indirectly on new construction if
23 a charter provision, ordinance, order, or other regulation allows
24 acceptance by the political subdivision of a fee on new

1 construction; and

2 (2) new construction includes zoning, subdivisions,
3 site plans, and building permits associated with new construction.

4 (c) This section does not apply to:

5 (1) an affordable housing and property tax abatement
6 program:

7 (A) in existence on January 1, 2017;

8 (B) adopted under Chapter 378 by a municipality
9 with a population of more than 700,000; and

10 (C) for which eligibility is maintained as
11 required under Chapter 312, Tax Code; or

12 (2) an ordinance, order, or other similar measure in
13 effect on January 1, 2017, that allows voluntary payment of a fee to
14 a political subdivision in connection with the issuance of a zoning
15 waiver related to new construction that allows a multifamily
16 residential or commercial structure to exceed height or square
17 footage limitations.

18 (d) A charter provision, ordinance, order, or other
19 regulation adopted by a political subdivision that conflicts with
20 this section is null and void.

21 SECTION 3. The change in law made by this Act does not apply
22 to an agreement relating to providing subsidized housing entered
23 into before the effective date of this Act.

24 SECTION 4. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

1 Act takes effect September 1, 2017.

ADOPTED

✓✓
MAY 18 2017

Latoy Spaw
Secretary of the Senate

AMENDMENT NO. 1

BY: Jane Nelson

1 Amend C.S.H.B 1449 (senate committee report) as follows:

2 (1) On page 1, strike lines 47 through 60 and substitute the
3 following:

4 (c) This section does not apply to:

5 (1) an affordable housing and property tax abatement
6 program:

7 (A) adopted under Chapter 378 or Chapter 312, Tax
8 Code, by a municipality with a population of more than 700,000; and

9 (B) for which eligibility is maintained as required
10 under Chapter 312, Tax Code, as applicable; or

11 (2) an ordinance, order, or other similar measure that
12 permits the voluntary payment of a fee in lieu of other consideration
13 to a political subdivision in connection with the issuance of a
14 zoning waiver related to new construction that allows a multifamily
15 residential or commercial structure to exceed height or square
16 footage limitations.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 19, 2017

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1449 by Simmons (Relating to prohibiting local governments from imposing certain fees on new construction.), **As Passed 2nd House**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code to prohibit a political subdivision from imposing, directly or indirectly, a fee on new construction for the purposes of offsetting the cost or rent of any unit of residential housing. Exempts residential density bonus programs in which a zoning waiver concerning height or square footage is issued for a voluntary fee payment. Exempts certain existing property tax abatement programs. Nullifies existing charter provisions, ordinances, orders, or other regulations in conflict with this bill. The provisions of the bill do not apply to agreements entered into before the effective date of the bill.

According to the Department of Housing and Community Affairs and the Department of Licensing and Regulation, no fiscal implication to the state is anticipated.

The bill would take effect immediately if it receives a vote of two-thirds of all the members elected to each house. If the bill does not receive the vote necessary for immediate effect, it would take effect September 1, 2017.

Local Government Impact

According to the Department of Housing and Community Affairs and the Department of Licensing and Regulation, no fiscal implication to local government is anticipated.

According to the Texas Municipal League, no fiscal implication to municipalities is anticipated.

Source Agencies: 332 Department of Housing and Community Affairs, 452 Department of Licensing and Regulation

LBB Staff: UP, CL, GG, GP, KK, EK

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 12, 2017

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1449 by Simmons (Relating to prohibiting local governments from imposing certain fees on new construction.), **Committee Report 2nd House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code to prohibit a political subdivision from imposing, directly or indirectly, a fee on new construction for the purposes of offsetting the cost or rent of any unit of residential housing. Exempts existing residential density bonus programs in which a zoning waiver concerning height or square footage is issued for a voluntary fee payment. Exempts certain existing property tax abatement programs. Nullifies existing charter provisions, ordinances, orders, or other regulations in conflict with this bill. The provisions of the bill do not apply to agreements entered into before the effective date of the bill.

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LBB Staff: UP, CL, GG, GP, KK, EK

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 10, 2017

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1449 by Simmons (Relating to prohibiting local governments from imposing certain fees on new construction.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code to prohibit a political subdivision from imposing, directly or indirectly, a fee on new construction for the purposes of offsetting the cost or rent of any unit of residential housing. Establishes that fees for granting an exemption or waiver to zoning-related height restrictions are not covered by this prohibition. Exempts residential density bonus programs in which a zoning waiver is issued for a voluntary fee payment or the voluntary provision of affordable housing or other defined public benefit. Exempts certain existing property tax abatement programs. Nullifies existing charter provisions, ordinances, orders, or other regulations in conflict with this bill. The provisions of the bill do not apply to agreements entered into before the effective date of the bill.

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LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 6, 2017

TO: Honorable Dennis Bonnen, Chair, House Committee on Ways & Means

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1449 by Simmons (relating to prohibiting local governments from imposing certain fees on new construction.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code to prohibit a political subdivision from imposing, directly or indirectly, a fee or other charge on new construction for the purposes of offsetting the cost or rent of any unit of residential housing. Establishes that fees for granting an exemption or waiver to zoning-related height restrictions are not covered by this prohibition. Exempts residential density bonus programs in which a zoning waiver is issued for a voluntary fee payment or the voluntary provision of affordable housing or other defined public benefit. Nullifies existing charter provisions, ordinances, orders, or other regulations in conflict with this bill. The provisions of the bill do not apply to agreements entered into before the effective date of the bill.

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LBB Staff: UP, KK, GG, GP, EK

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

March 28, 2017

TO: Honorable Dennis Bonnen, Chair, House Committee on Ways & Means

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1449 by Simmons (Relating to prohibiting local governments from imposing certain fees on new construction.), **As Introduced**

No fiscal implication to the State is anticipated.

This bill would amend the Local Government Code to prohibit a political subdivision from imposing, directly or indirectly, a fee or other charge on new construction for the purposes of offsetting the cost or rent of any unit of residential housing. Establishes that fees for granting an exemption or waiver to zoning-related height restrictions are not covered by this prohibition.

According to the Department of Housing and Community Affairs and the Department of Licensing and Regulation, no fiscal implication to the state is anticipated.

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