By:  Muñoz, Jr. H.B. No. 2839

A BILL TO BE ENTITLED

AN ACT

relating to the apportionment of infrastructure costs in regard to certain property development projects.

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

SECTION 1.  Subchapter A, Chapter 232, Local Government Code, is amended by adding Section 232.012 to read as follows:

Sec. 232.012.  APPORTIONMENT OF INFRASTRUCTURE COSTS. (a) If a county requires as a condition of approval for a property development project that the developer bear a portion of the costs of infrastructure improvements by the making of dedications, the payment of fees, or the payment of construction costs, the developer's portion of the costs may not exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development as approved by a professional engineer who holds a license issued under Chapter 1001, Occupations Code, and is retained by the county.

(b)  A developer who disputes the determination made under Subsection (a) may appeal to the commissioners court of the county. At the appeal, the developer may present evidence and testimony under procedures adopted by the commissioners court of the county. After hearing any testimony and reviewing the evidence, the commissioners court of the county shall make the applicable determination within 30 days following the final submission of any testimony or evidence by the developer.

(c)  A developer may appeal the determination of the commissioners court of the county to a county or district court of the county in which the development project is located within 30 days of the final determination by the governing body.

(d)  A county may not require a developer to waive the right of appeal authorized by this section as a condition of approval for a development project.

(e)  A developer who prevails in an appeal under this section is entitled to applicable costs and to reasonable attorney's fees, including expert witness fees.

(f)  This section does not diminish the authority or modify the procedures specified by Chapter 395.

SECTION 2.  Chapter 242, Local Government Code, is amended by adding Section 242.004 to read as follows:

Sec. 242.004.  APPORTIONMENT OF INFRASTRUCTURE COSTS. (a) If a municipality or a county, under a regulating agreement adopted under this Chapter, requires as a condition of approval for a property development project that the developer bear a portion of the costs of infrastructure improvements by the making of dedications, the payment of fees, or the payment of construction costs, the developer's portion of the costs may not exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development as approved by a professional engineer who holds a license issued under Chapter 1001, Occupations Code, and is retained by the municipality or the county.

(b)  A developer who disputes the determination made under Subsection (a) may appeal to the governing body of a municipality or the commissioners court of the county. At the appeal, the developer may present evidence and testimony under procedures adopted by the governing body of a municipality or the commissioners court of the county. After hearing any testimony and reviewing the evidence, the governing body of a municipality or the commissioners court of the county shall make the applicable determination within 30 days following the final submission of any testimony or evidence by the developer.

(c)  A developer may appeal the determination of the governing body of a municipality or the commissioners court of the county to a county or district court of the county in which the development project is located within 30 days of the final determination by the governing body.

(d)  A municipality or a county may not require a developer to waive the right of appeal authorized by this section as a condition of approval for a development project.

(e)  A developer who prevails in an appeal under this section is entitled to applicable costs and to reasonable attorney's fees, including expert witness fees.

(f)  This section does not diminish the authority or modify the procedures specified by Chapter 395.

SECTION 3.  Chapter 250, Local Government Code, is amended by adding Section 250.009 to read as follows:

Sec. 250.009.  APPORTIONMENT OF INFRASTRUCTURE COSTS. (a) If a municipality or a county requires as a condition of approval for a property development project that the developer bear a portion of the costs of infrastructure improvements by the making of dedications, the payment of fees, or the payment of construction costs, the developer's portion of the costs may not exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development as approved by a professional engineer who holds a license issued under Chapter 1001, Occupations Code, and is retained by the municipality or the county.

(b)  A developer who disputes the determination made under Subsection (a) may appeal to the governing body of a municipality or the commissioners court of the county. At the appeal, the developer may present evidence and testimony under procedures adopted by the governing body of a municipality or the commissioners court of the county. After hearing any testimony and reviewing the evidence, the governing body of a municipality or the commissioners court of the county shall make the applicable determination within 30 days following the final submission of any testimony or evidence by the developer.

(c)  A developer may appeal the determination of the governing body of a municipality or the commissioners court of the county to a county or district court of the county in which the development project is located within 30 days of the final determination by the governing body.

(d)  A municipality or a county may not require a developer to waive the right of appeal authorized by this section as a condition of approval for a development project.

(e)  A developer who prevails in an appeal under this section is entitled to applicable costs and to reasonable attorney's fees, including expert witness fees.

(f)  This section does not diminish the authority or modify the procedures specified by Chapter 395.

SECTION 4.  Subchapter C, Chapter 161, Utilities Code, is amended by adding Section 161.126 to read as follows:

Sec. 161.126.  APPORTIONMENT OF INFRASTRUCTURE COSTS. (a) If an electric cooperative requires as a condition of approval for a property development project that the developer bear a portion of the costs of infrastructure improvements by the making of dedications, the payment of fees, or the payment of construction costs, the developer's portion of the costs may not exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development as approved by a professional engineer who holds a license issued under Chapter 1001, Occupations Code, and is retained by the electric cooperative.

(b)  A developer who disputes the determination made under Subsection (a) may appeal to the board. At the appeal, the developer may present evidence and testimony under procedures adopted by the board. After hearing any testimony and reviewing the evidence, the board shall make the applicable determination within 30 days following the final submission of any testimony or evidence by the developer.

(c)  A developer may appeal the determination of the board to a county or district court of the county in which the development project is located within 30 days of the final determination by the governing body.

(d)  An electric cooperative may not require a developer to waive the right of appeal authorized by this section as a condition of approval for a development project.

(e)  A developer who prevails in an appeal under this section is entitled to applicable costs and to reasonable attorney's fees, including expert witness fees.

SECTION 5.  The change in law made by this Act applies to the approval of a development project that is not finally adjudicated before the effective date of this Act.

SECTION 6.  This Act takes effect September 1, 2019.