

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.

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

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

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

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

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

15 Sec. 242.004. APPORTIONMENT OF INFRASTRUCTURE COSTS. (a)
16 If a municipality or a county, under a regulating agreement adopted
17 under this Chapter, requires as a condition of approval for a
18 property development project that the developer bear a portion of
19 the costs of infrastructure improvements by the making of
20 dedications, the payment of fees, or the payment of construction
21 costs, the developer's portion of the costs may not exceed the
22 amount required for infrastructure improvements that are roughly
23 proportionate to the proposed development as approved by a
24 professional engineer who holds a license issued under Chapter
25 1001, Occupations Code, and is retained by the municipality or the
26 county.

27 (b) A developer who disputes the determination made under

1 Subsection (a) may appeal to the governing body of a municipality or
2 the commissioners court of the county. At the appeal, the developer
3 may present evidence and testimony under procedures adopted by the
4 governing body of a municipality or the commissioners court of the
5 county. After hearing any testimony and reviewing the evidence,
6 the governing body of a municipality or the commissioners court of
7 the county shall make the applicable determination within 30 days
8 following the final submission of any testimony or evidence by the
9 developer.

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

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

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

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

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

25 Sec. 250.009. APPORTIONMENT OF INFRASTRUCTURE COSTS. (a)
26 If a municipality or a county requires as a condition of approval
27 for a property development project that the developer bear a

1 portion of the costs of infrastructure improvements by the making
2 of dedications, the payment of fees, or the payment of construction
3 costs, the developer's portion of the costs may not exceed the
4 amount required for infrastructure improvements that are roughly
5 proportionate to the proposed development as approved by a
6 professional engineer who holds a license issued under Chapter
7 1001, Occupations Code, and is retained by the municipality or the
8 county.

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

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

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

27 (e) A developer who prevails in an appeal under this section

1 is entitled to applicable costs and to reasonable attorney's fees,
2 including expert witness fees.

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

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

7 Sec. 161.126. APPORTIONMENT OF INFRASTRUCTURE COSTS. (a)
8 If an electric cooperative requires as a condition of approval for a
9 property development project that the developer bear a portion of
10 the costs of infrastructure improvements by the making of
11 dedications, the payment of fees, or the payment of construction
12 costs, the developer's portion of the costs may not exceed the
13 amount required for infrastructure improvements that are roughly
14 proportionate to the proposed development as approved by a
15 professional engineer who holds a license issued under Chapter
16 1001, Occupations Code, and is retained by the electric
17 cooperative.

18 (b) A developer who disputes the determination made under
19 Subsection (a) may appeal to the board. At the appeal, the
20 developer may present evidence and testimony under procedures
21 adopted by the board. After hearing any testimony and reviewing the
22 evidence, the board shall make the applicable determination within
23 30 days following the final submission of any testimony or evidence
24 by the developer.

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

1 governing body.

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

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

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

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