

## **BILL ANALYSIS**

Senate Research Center  
88R20153 SCL-D

H.B. 1526  
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Natural Resources & Economic Development  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Interested parties contend that several of Texas' largest cities have parkland dedication ordinances that have been modified in recent years that are starting to inhibit housing development.

Texas continues to be a high-growth state, and the lack of housing is a threat to Texas' economic growth.

Historically in Texas, large cities adopt parkland dedication ordinances that make a developer either donate part of their site plan to park space or pay a fee in lieu of donating part of their land. The percentage of the site the developer must donate has steadily grown in recent years and in some cases, specifically in the City of Austin, has risen from 10 percent to as high as 40 percent of a landowner's property. Many multifamily housing developers have been unable to move forward with projects due to the decrease in buildable units resulting from increases in parkland dedication requirements. Furthermore, some cities have increased fee in lieu costs by 400 percent over the last three years.

There are many developers across the state who have decided against building multifamily developments in some areas of the state because increases in parkland dedication requirements have made it cost-prohibitive to build projects that can offer affordable housing in those markets.

H.B. 1526 would place some guardrails on and add certainty to parkland dedication ordinances in Texas' largest cities. The bill addresses the Texas parkland dedication problem through the following changes to the statute:

- Places a cap on the percentage of land a city can mandate a developer donate for parkland;
- Clarifies that the city has the authority to determine whether a developer must donate park space or pay a fee in lieu;
- Establishes a formula for determining the fee calculation;
- Provides for an earlier opportunity for the developer to obtain a determination of parkland dedication requirements;
- Strengthens due process by creating an appeal process that developers may pursue if they disagree with a city's parkland dedication requirement for their property; and
- Allows cities to use parkland dedication fees to pay for maintenance and operation of current parks.

H.B. 1526 amends current law relating to parkland dedication for multifamily, hotel, and motel property development by certain municipalities and authorizes a fee.

## **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 Chapter 212, Local Government Code, by adding Subchapter H, as follows:

### **SUBCHAPTER H. MULTIFAMILY, HOTEL, AND MOTEL PARKLAND DEDICATION: MUNICIPALITIES WITH POPULATION OF MORE THAN 800,000**

Sec. 212.201. DEFINITIONS. Defines "affordable dwelling unit," "consumer price index," "improvement," "market value," "land value," "median family income," "multifamily unit," "parkland," "parkland dedication," "parkland dedication fee," and "plan."

Sec. 212.202. APPLICABILITY. Provides that this subchapter applies only to a municipality with a population of more than 800,000.

Sec. 212.203. CONSTRUCTION. Prohibits this subchapter from being construed to prohibit a municipality from requiring by ordinance a landowner to dedicate a portion of the landowner's property for parkland use, impose a parkland dedication fee, or both require the dedication and impose the fee for the development of single-family or two-family uses.

Sec. 212.204. EXCLUSIVE AUTHORITY; LIMITATION. (a) Provides that a municipality, notwithstanding any other law, has exclusive authority within its boundaries to require the dedication of parkland, impose a parkland dedication fee, or both require the dedication and impose the fee. Prohibits a municipality from delegating that authority to another political subdivision.

(b) Provides that a municipality is only authorized to exercise its authority under this section through a plan application in accordance with this subchapter.

Sec. 212.205. PARKLAND DEDICATION, FEE, OR COMBINATION. (a) Authorizes a municipality to require a landowner to dedicate a portion of the landowner's property for parkland use, impose a parkland dedication fee, or require the dedication and impose the fee under a plan application filed under this subchapter by:

(1) paying a fee set in accordance with 212.201(b) or 212.211(b), as applicable; or

(2) dedicating a portion up to the maximum size authorized under Section 212.208 and paying a reduced fee set in accordance with Section 212.210(d) or 212.211(c), as applicable.

(b) Authorizes a municipality to allow a landowner to elect a parkland dedication, a parkland dedication fee, or a dedication and fee under Subsection (a).

Sec. 212.206. REQUEST FOR PARKLAND DEDICATION DETERMINATION. (a) Authorizes a landowner, at the landowner's sole discretion, to make a written request to a municipality that the municipality make a timely determination of the dedication amount the municipality will impose under the municipality's parkland dedication requirements as applied to the landowner's property being considered for development.

(b) Authorizes a municipality to make a reasonable written request to the landowner for additional information that is:

(1) publicly and readily available; and

(2) necessary to provide a determination under this section.

(c) Requires a municipality to respond in writing to a request made under Subsection (a) not later than the 30th day after the date the municipality receives a completed request. Prohibits a municipality from requiring a parkland dedication as a condition of approval of a proposed plan or application for property that is the subject of the request, if the municipality fails to respond in accordance with this subsection.

(d) Provides that a parkland dedication determination issued under this section:

(1) is a legally binding determination of the amount of the landowner's parkland dedication for the property that is the subject of the determination; and

(2) is applicable to the property that is the subject of the determination for a period that is the lesser of two years or the time between the date the determination is issued and the date a plan application is filed that uses or relies on the determination.

(e) Authorizes a landowner to release in writing a municipality from a determination made under this section.

Sec. 212.207. PARKLAND DEDICATION AUTHORITY. (a) Prohibits a municipality from requiring a parkland dedication, imposing a parkland dedication fee, or both requiring the dedication and imposing the fee for any commercial use. Provides that a commercial use, for the purpose of this section, does not include a multifamily, hotel, or motel use.

(b) Requires the municipality, if a plan application submitted to a municipality proposes development of the land subject to the application that includes both multifamily, hotel, or motel and commercial uses, to determine the amount of a parkland dedication based only on the pro rata portion of the land proposed for multifamily, hotel, or motel use.

Sec. 212.208. LIMITATION ON PARKLAND DEDICATION AMOUNT. Prohibits a municipality from requiring a landowner to dedicate as parkland under this subchapter more than 10 percent, without adjustment or disqualification for impairment, of the gross site area of the land subject to a plan application.

Sec. 212.209. INITIAL REQUIREMENTS FOR DETERMINING FEES. (a) Requires the governing body of a municipality, for purposes of determining the amount of a fee imposed under this section, after providing at least 30 days' public notice and holding a public hearing, by official action to designate all territory within its municipal boundaries as a suburban area, urban area, or central business district area. Authorizes the governing body to use the same designation for multiple areas in the municipality. Authorizes the governing body to amend a designation only during the adoption or amendment of a municipal comprehensive plan under Chapter 213 (Municipal Comprehensive Plans).

(b) Requires the municipality, not later than the 10th day after the date the municipality designates its territory under Subsection (a), to notify each appraisal district in which the municipality is wholly or partly located of the designation.

(c) Requires each appraisal district in which the municipality is wholly or partly located to calculate and provide to the municipality, once every 10 years, the average land value for each area or portion of an area designated by the municipality under Subsection (a) that is located in the district.

(d) Provides that the municipality, if multiple appraisal districts calculate an average land value for different portions of an area designated under Subsection (a), is required to determine the area's total average land value by:

(1) multiplying each district's calculated value for the portion located in the district by the percentage, expressed as a fraction, that the portion is to the total area; and

(2) adding the resulting amounts.

(e) Requires a municipality, in each year other than the year in which an appraisal district calculates average land values under Subsection (c), to calculate the average land value for each area designated under Subsection (a) by multiplying the previous year's average land value for the area by one plus the average consumer price index for each month of the previous year.

(f) Requires a municipality to set the municipality's dwelling unit factor, which reflects the number of parkland acres for each dwelling unit proposed by a plan application. Prohibits the factor from being more than:

(1) .005 for dwelling units; and

(2) .004 for rooms in a hotel or motel ordinarily used for sleeping.

(g) Requires a municipality to set the municipality's density factor, which reflects the diminishing expectation of parkland acres per dwelling unit in increasingly dense urban environments, for each area designated by the municipality under Subsection (a). Prohibits the density factor from being less than:

(1) one for the suburban area;

(2) four for the urban area; and

(3) 40 for the central business district area.

Sec. 212.210. GENERAL REQUIREMENTS FOR CALCULATION OF FEES. (a) Provides that this section applies only to a municipality to which Section 212.211 does not apply.

(b) Requires a municipality to determine the amount of a fee imposed under Section 212.205(a)(1) for land subject to a plan application by:

(1) adding, as appropriate:

(A) the product of the number of multifamily units proposed by the plan by the dwelling unit factor prescribed by Section 212.209(f)(1); and

(B) the product of the number of hotel and motel rooms ordinarily used for sleeping proposed by the plan by the dwelling unit factor prescribed by Section 212.209(f)(2);

(2) multiplying the sum calculated under Subdivision (1) by the average land value for the area in which the land is located; and

(3) dividing the product calculated under Subdivision (2) by the applicable density factor.

(c) Requires a municipality, for purposes of Subsection (b)(1), to exclude from a plan application the number of affordable dwelling units proposed by the plan.

(d) Requires a municipality to determine the amount of a fee imposed under Section 212.205(a)(2) for land subject to a plan application by:

(1) calculating the amount of the fee for the land under Subsection (b); and

(2) subtracting from the amount calculated under Subdivision (1) the product of the land value applicable to the land and the number of acres dedicated.

(e) Provides that if a calculation made under Subsection (d) results in a negative number, the applicable landowner is entitled to receive from the applicable municipality the amount equal to the positive difference between the calculated amount and zero. Requires the municipality to pay that amount to the landowner at the time of transfer of fee simple title or the recording of the easement.

**Sec. 212.211. REQUIREMENTS CALCULATION OF FEES FOR MUNICIPALITIES WITH LOW FEES.** (a) Provides that this section applies only to a municipality that after August 31, 2023, requires a parkland dedication fee for a multifamily, hotel, or motel development in an amount, calculated on a per dwelling unit basis, not greater than two percent of the median family income.

(b) Authorizes a municipality to which this section applies to set a parkland dedication fee. Provides that if the municipality elects to set the fee in an amount greater than two percent of the municipality's median family income:

(1) this section no longer applies to the municipality; and

(2) the municipality is required to set the fee in accordance with Section 212.210.

(c) Requires a municipality to determine the amount of a fee imposed under Section 212.205(a)(2) for land subject to a plan application by subtracting from the amount of the fee set under Subsection (b) the product of the land value applicable to the land and the number of acres dedicated.

(d) Provides that the applicable landowner is entitled to receive from the applicable municipality, if a calculation made under Subsection (c) results in a negative number, the amount equal to the positive difference between the calculated amount and zero. Requires the municipality to pay that amount to the landowner at the time of transfer of fee simple title or the recording of the easement.

**Sec. 212.212. COLLECTION OF FEES.** Provides that a municipality is required to provide a landowner a written determination of fees owed under this subchapter before approving a plan application but is authorized to only collect a fee authorized under this subchapter as a precondition to the issuance of a final certificate of occupancy.

**Sec. 212.213. APPEAL.** (a) Authorizes a landowner to appeal a determination made by a municipal department, board, or commission regarding any element of a parkland dedication requirement, including amount, orientation, or suitability, as that element applies to the landowner's property, to the municipal planning commission or, if the municipality has no planning commission, the governing body of the municipality. Requires that the appeal include a requested adjudication of the issue in controversy.

(b) Authorizes a landowner to appeal a municipal planning commission's determination under Subsection (a) to the governing body of the municipality.

(c) Authorizes a municipal planning commission or governing body of a municipality, in an appeal under this section, to uphold, reverse, or modify a parkland dedication requirement as applied to the landowner making the appeal.

(d) Requires a municipal planning commission or governing body of a municipality to uphold, reverse, or modify a parkland dedication requirement that is the subject of an appeal not later than the 60th day after the date the appeal is filed with the commission or governing body. Provides that if the commission or governing body fails to act in accordance with this subsection, the parkland dedication requirement is considered resolved in favor of the landowner's requested adjudication.

SECTION 2. (a) Requires each municipality to which Subchapter H, Chapter 212, Local Government Code, as added by this Act, applies, not later than December 1, 2023, to:

(1) effective January 1, 2024:

(A) designate the areas of the municipality as required by Section 212.209(a), Local Government Code, as added by this Act; and

(B) set the municipality's dwelling unit and density factors, as required by Sections 212.209(f) and (g), Local Government Code, as added by this Act; and

(2) provide to each appraisal district in which the municipality is wholly or partly located the location of each area designated under Subdivision (1)(A) of this subsection in a manner sufficient to allow the appraisal district to make the calculations required by Subsection (b) of this section.

(b) Requires each appraisal district that appraises property located in a municipality described by Subsection (a) of this section, not later than January 1, 2024, to calculate and provide to the municipality the average land values as required by Section 212.209(c), Local Government Code, as added by this Act.

SECTION 3. Makes application of Subchapter H, Chapter 212, Local Government Code, as added by this Act, prospective to January 1, 2024.

SECTION 4. Effective date: upon passage or September 1, 2023.