

BILL ANALYSIS

C.S.H.B. 2198
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Land & Resource Management
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under local zoning codes, properties are permitted certain maximum heights based on their zoning district. Some cities have implemented an additional regulation called building height compatibility wherein the presence of single-family homes nearby reduces the maximum height allowed on a property, regardless of what the zoning permits. Most cities that implement height compatibility do so only at very close proximity to single-family homes—typically 50 feet or less. However, some cities have chosen to increase their building height restrictions beyond 50 feet, which, in places such as Austin, prevents new high-rises from being allowed to develop as much as 540 feet from a single family home. C.S.H.B. 2198 aims to provide statewide consistency in building height compatibility regulation by banning local height restrictions that are based on buildings that are beyond this 50-foot radius.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2198 amends the Local Government Code to prohibit a municipality with a population of more than 725,000 from adopting or enforcing an ordinance, regulation, or other measure that limits the height of a building based on the building's proximity to a lot that is located more than 50 feet from the building. With respect to this provision, the bill provides the following:

- the prohibition applies to a zoning regulation that limits the maximum building height authorized for a lot;
- the proximity of a building to a lot is measured along the shortest straight line between the building and the lot's lot line; and
- the prohibition does not affect the application of a restriction or regulation imposed by any of the following:
 - state law establishing height restrictions to preserve the view of the state capitol;
 - federal law, including a restriction or regulation affecting a military base or airport;
 - a municipality that contains a UNESCO World Heritage Site intended to protect a building or area designated for protection based on the building's or area's historical, cultural, or architectural importance and significance; or
 - a municipality related to the height of a building near an airport, including a military airport, commercial service airport, or joint-use airport.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 2198 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute changes the nature of the prohibition from a prohibition against the adoption or enforcement of a measure that limits the height of a building on a lot based on the lot's proximity to another lot that is located more than 50 feet from the original lot, as was established by the introduced, to a prohibition against the adoption or enforcement of a measure that limits the height of a building based on the building's proximity to a lot that is located more than 50 feet from the building. Accordingly, the substitute changes the provision in the introduced establishing how the proximity of a lot to another lot is measured to make that provision applicable instead with regard to how the proximity of a building to a lot is measured.

The substitute expands the exceptions to the bill's prohibition as set out by the introduced to include a restriction or regulation imposed by any of the following:

- federal law;
- a municipality that contains a UNESCO World Heritage Site intended to protect a building or area designated for protection based on the building's or area's historical, cultural, or architectural importance and significance; or
- a municipality related to the height of a building near an airport.