

BILL ANALYSIS

C.S.H.B. 3699
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Land & Resource Management
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Constituents in House District 20 have raised the issue that municipal subdivision regulation and the approval of subdivision plats can differ from municipality to municipality. Specifically, there is no consistency with regard to how municipalities handle requirements for completed subdivision plat applications and the beginning of the 30-day period in which to approve, approve with conditions, or disapprove a completed plat application. Texas is a diverse state with vast changes in topography and widely differing population densities from municipality to municipality. Municipalities understandably have different requirements for subdivision regulation and subdivision plat and plan approval. C.S.H.B. 3699 seeks to provide consistency and transparency regarding the municipal subdivision plat application and approval process by, among other things, requiring the publication of a list of all documentation and other information that a municipality requires to be submitted with a plat application.

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. 3699 amends the Local Government Code to authorize a municipality's governing body, by ordinance and after notice is published in a newspaper of general circulation in the municipality, to do the following:

- adopt, based on the amount and kind of travel over each street or road in a subdivision, reasonable specifications relating to the construction of each street or road; and
- adopt reasonable specifications to provide adequate drainage for each street or road in a subdivision in accordance with standard engineering practices.

C.S.H.B. 3699 does the following with respect to the requirement that the owner of a tract of land located within the limits or in the extraterritorial jurisdiction of a municipality who divides the tract in two or more parts for the purpose of laying out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts to have a plat of the subdivision prepared:

- specifies that the intention for the public use dedication is the tract owner's intention; and
- specifies that the use for purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts is for the private use of the purchasers and owners and specifies that those streets, alleys, squares, parks, or other parts are to be maintained by the purchasers and owners.

C.S.H.B. 3699 changes from all applicable regulations to the requirements of provisions relating to municipal regulation of subdivisions the elements that must be satisfied for municipal approval of a plat or replat. The bill prohibits such provisions from being construed to convey any authority to a municipality regarding the completeness of an application or the approval of a plat or replat that is not explicitly granted by such provisions.

C.S.H.B. 3699 requires each municipality to which provisions relating to municipal regulation of subdivisions apply to adopt and make available to the public a complete, written list of all documentation and other information that the municipality requires to be submitted with a plat application. In addition, the bill does the following:

- requires the required documentation and other information to be related to a requirement authorized under such provisions;
- establishes that an application submitted to the municipal authority responsible for approving plats that contains all documents and other information on the list is considered complete;
- requires a municipality that operates a website to publish and continuously maintain the list on the website not later than the 30th day after the date the municipality adopts or amends the list;
- requires a municipality that does not operate a website to publish the list on adoption of the list or an amendment to the list in a newspaper of general circulation in the municipality and in a public place in the location in which the municipality's governing body meets; and
- requires each municipality to adopt and publish the list as soon as practicable after the bill's effective date but not later than January 1, 2024.

C.S.H.B. 3699 replaces the authorization for parties to extend the applicable 30-day period for municipal approval of a plan or plat for a period not to exceed 30 days under certain conditions with a requirement for the parties to do so as such and adds as an alternative condition that triggers the requirement under the Private Real Property Rights Preservation Act that the municipality perform a takings impact assessment in connection with the plan or plat.

C.S.H.B. 3699 prohibits the municipal authority responsible for approving plats from requiring the dedication of land within a subdivision for a future street or alley that is:

- not intended by the owner of the tract; and
- not included, funded, and approved in a capital improvement plan adopted by the municipality or in a similar plan adopted by a county in which the municipality is located or the state.

The bill prohibits a municipal authority responsible for approving plats from refusing to review a plat or to approve a plat for recordation for failure to identify an applicable corridor unless the corridor is part of an agreement between the Texas Department of Transportation and a county in which the municipality is located. The bill, if a municipal authority responsible for approving plats fails or refuses to approve a plat that meets the requirements of provisions relating to municipal regulation of subdivisions, authorizes the owner of the tract that is the subject of the plat to bring an action in a district court in a county in which the tract is located for a writ of mandamus to compel the municipal authority to approve the plat by issuing to the owner applicable approval documentation. The bill authorizes the prevailing party to recover reasonable and necessary attorney's fees and court costs in the action.

C.S.H.B. 3699 applies only to an application submitted on or after the bill's effective date.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 3699 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 does not include provisions present in the introduced that authorized a municipality's governing body, by ordinance and after notice is published in a newspaper of general circulation in the municipality, to the following:

- require a right-of-way on a street or road that functions as a main artery in a subdivision of a width of not less than 50 feet or more than 100 feet;
- require a right-of-way on any other street or road in a subdivision of a width of not less than 40 feet or more than 70 feet; and
- require that the shoulder-to-shoulder width on collectors or main arteries within the right-of-way is not less than 32 feet or more than 56 feet, and that the shoulder-to-shoulder width on any other street or road is not less than 25 feet or more than 35 feet.

The substitute does not include a provision present in the introduced that removed the requirement for the owner of a tract of land located within the limits or in the extraterritorial jurisdiction of a municipality who divides the tract in two or more parts for the purpose of laying out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts to have a plat of the subdivision prepared. The substitute includes provisions absent in the introduced that instead specify that the use for the purchasers or owners is private use and specify that those streets, alleys, squares, parks, or other parts are to be maintained by the purchasers and owners.

The substitute includes a provision absent in the introduced that requires a municipality that operates a website to continuously maintain on the website the list of all documentation and other information that the municipality requires to be submitted with a plat application.

With regard to the action that the owner of an applicable tract may bring in a district court for a writ of mandamus to compel a municipal authority to approve a plat by issuing to the owner applicable approval documentation, the introduced authorized the owner to recover reasonable and necessary attorney's fees and court costs in the action, whereas the substitute authorizes the prevailing party to recover such fees and costs.