

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 3699
By: Wilson (Bettencourt)
Local Government
5/17/2023
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texans have raised concerns 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. H.B. 3699 seeks to provide consistency and transparency regarding the municipal subdivision plat application and approval process by requiring the publication of a list of all documentation and other information that a municipality requires to be submitted with a plat application.

(Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 3699 amends current law relating to municipal regulation of subdivisions and approval of subdivision plans or plats.

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 Subchapter A, Chapter 212, Local Government Code, by adding Section 212.0021, as follows:

Sec. 212.0021. SUBDIVISION REQUIREMENTS. Authorizes the governing body of a municipality, by ordinance and after notice is published in a newspaper of general circulation in the municipality, to:

- (1) 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
- (2) adopt reasonable specifications to provide adequate drainage for each street or road in a subdivision in accordance with standard engineering practices.

SECTION 2. Amends Section 212.003(a), Local Government Code, as follows:

(a) Prohibits a municipality, unless otherwise authorized by state law, from regulating in its extraterritorial jurisdiction, either directly or indirectly:

- (1)-(3) makes no changes to these subdivisions;
- (4) the minimum size of a lot, dimensions of a lot, minimum width of a lot frontage, minimum distance a lot is required to be set back from a road or property line, or another component of lot density on a particular tract of land;

(5) creates this subdivision from existing text; or

(6) the size, type, or method of construction of a water or wastewater facility that can be constructed to serve a developed tract of land if the facility meets the minimum standards established for water or wastewater facilities by state and federal regulatory entities.

Deletes existing text prohibiting a municipality, unless otherwise authorized by state law, from regulating in its extraterritorial jurisdiction, either directly or indirectly the size, type, or method of construction of a water or wastewater facility that can be constructed to serve a developed tract of land if the developed tract of land is located in a county with a population of 2.8 million or more and is served by on-site septic systems constructed before September 1, 2001, that fail to provide adequate services or by on-site water wells constructed before September 1, 2001, that fail to provide an adequate supply of safe drinking water.

SECTION 3. Amends Sections 212.004(a) and (b), Local Government Code, as follows:

(a) Requires 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 to lay out a subdivision of the tract, including an addition to a municipality, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares, parks, or other parts of the tract intended by the owner of the tract to be dedicated to public use or for the private use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts to be maintained by the purchasers or owners of those lots to have a plat of the subdivision prepared.

(b) Requires that the plat, to be recorded:

(1)-(2) makes no changes to these subdivisions;

(3) state the dimensions of the subdivision and of each street, alley, square, park, or other part of the tract intended by the owner of the tract to be dedicated to public use or for the private use of purchasers or owners of lots fronting on or adjacent to the street, alley, square, park, or other part to be maintained by the purchasers or owners of those lots.

SECTION 4. Amends Section 212.005, Local Government Code, as follows:

Sec. 212.005. APPROVAL BY MUNICIPALITY REQUIRED. (a) Creates this subsection from existing text. Requires the municipal authority responsible for approving plats to approve a plat or replat that is required to be prepared under Subchapter A (Regulation of Subdivisions) and that satisfies the requirements of this subchapter, rather than satisfies all applicable regulations.

(b) Prohibits this subchapter 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 this subchapter.

SECTION 5. Amends Subchapter A, Chapter 212, Local Government Code, by adding Section 212.0081, as follows:

Sec. 212.0081. REQUIRED APPLICATION MATERIALS. (a) Requires each municipality 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. Requires that the required documentation and other information be related to a requirement authorized under this subchapter.

(b) Provides that a plat application submitted to the municipal authority responsible for approving plats that contains all documents and other information on the list provided under Subsection (a) is considered complete.

(c) Requires a municipality that operates an Internet website to publish and continuously maintain the list described by Subsection (a) on the Internet website not later than the 30th day after the date the municipality adopts or amends the list.

(d) Requires a municipality that does not operate an Internet website to publish the list described by Subsection (a) on adoption of the list or an amendment to the list in:

(1) a newspaper of general circulation in the municipality; and

(2) a public place in the location in which the governing body of the municipality meets.

SECTION 6. Amends Section 212.009(b-2), Local Government Code, as follows:

(b-2) Requires, rather than authorizes, the parties, notwithstanding Subsection (a) (relating to requiring the municipal authority responsible for approving plats to approve, approve with conditions, or disapprove a plan or plat within 30 days after the date the plan or plat is filed) or (b) (relating to requiring the governing body, if an ordinance requires that a plan or plat be approved by the governing body of the municipality in addition to the planning commission, to approve, approve with conditions, or disapprove the plan or plat within 30 days after the date the plan or plat is approved by the planning commission or is approved by the inaction of the commission), to extend the 30-day period described by those subsections for a period not to exceed 30 days if:

(1) both:

(A) creates this paragraph from existing text;

(B) redesignates existing Subdivision (2) as Paragraph (B) and makes nonsubstantive changes;

(2) Chapter 2007 (Governmental Action Affecting Private Property Rights), Government Code, requires the municipality to perform a takings impact assessment in connection with the plan or plat.

SECTION 7. Amends Section 212.010, Local Government Code, by adding Subsections (c), (d), and (e), as follows:

(c) 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:

(1) not intended by the owner of the tract; and

(2) not included, funded, and approved in:

(A) a capital improvement plan adopted by the municipality; or

(B) a similar plan adopted by a county in which the municipality is located or the state.

(d) 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 a corridor, as defined by Section 201.619 (Cooperative Planning With Counties), Transportation Code,

unless the corridor is part of an agreement between the Texas Department of Transportation and a county in which the municipality is located under that section.

(e) Authorizes the owner of a tract that is the subject of the plat, if a municipal authority responsible for approving plats fails or refuses to approve a plat that meets the requirements of this subchapter, 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. Authorizes the prevailing party to recover reasonable and necessary attorney's fees and court costs in the action.

SECTION 8. Requires each municipality to adopt and publish the list described by Section 212.0081, Local Government Code, as added by this Act, as soon as practicable after the effective date of this Act but not later than January 1, 2024.

SECTION 9. Makes application of this Act prospective.

SECTION 10. Effective date: upon passage or September 1, 2023.