

BILL ANALYSIS

S.B. 491
By: Hughes
Land & Resource Management
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under many local zoning codes, properties are permitted certain maximum heights based on their zoning district. Some cities have implemented an additional regulation, sometimes called building height compatibility, wherein the zoning of one lot or presence of one building reduces the developable height of a building on a nearby lot, regardless of what the zoning permits. Many 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 prevents new buildings from being allowed to build to their permitted height. S.B. 491 aims to provide consistency in cities with a population of more than 725,000 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

S.B. 491 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;
- 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 World Heritage Site declared by the United Nations Educational, Scientific and Cultural Organization and 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;

- the prohibition does not apply to a tower that is a fixed, uninhabitable structure, regardless of whether free-standing or guyed, and is not designed to act as a shelter or to be occupied for any use; and
- the prohibition does not affect the validity or enforceability by any person of a restrictive covenant or deed restriction.

EFFECTIVE DATE

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