

BILL ANALYSIS

Senate Research Center
88R20661 MP-F

C.S.S.B. 491
By: Hughes
Local Government
4/19/2023
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Purpose of Bill and Change to Current Law:

This bill will create a uniform approach to the land use issue of height compatibility for major cities with minimum populations of 750,000. There is no existing state law that regulates height compatibility, and it would not conflict with or affect any other existing state laws.

Issue:

Height compatibility, also known as a buffer ordinance, is an additional height restriction on a plot of land that overrides the existing height allowances permitted by the existing zoning classification for a plot. This restriction has been used by some cities to prevent properties from achieving the heights granted by their zoning classification, limiting property rights, and reducing the number of residential units that can be built where they are most needed.

Across the country, housing availability is a major issue; however, in Texas, it is growing to be a larger issue in urban cores where the population is drastically increasing and is expected to continue to increase in the next 10 years due to the quality of life and economic freedom available in Texas.

Impact:

This bill will establish a maximum distance of 50 feet from a triggering property that height compatibility can be applied. Structures will be able to reach their maximum height per zoning classification and maximize the number of units. It will not interfere with or impede the federal government's regulation of airports or military facilities and the surrounding land or affect the Capitol View Corridor.

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

C.S.S.B. 491 amends current law relating to building height restrictions in certain municipalities.

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 Z, Chapter 214, Local Government Code, by adding Section 214.908, as follows:

Sec. 214.908. LIMITATION ON BUILDING HEIGHT RESTRICTION. (a) Provides that this section applies only to a municipality with a population of more than 725,000.

(b) Prohibits a municipality 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.

(c) Provides that the prohibition described by Subsection (b) applies to a zoning regulation that limits the maximum building height authorized for a lot.

(d) Provides that the proximity of a building to a lot, for purposes of this section, is measured along the shortest straight line between the building and the lot's lot line.

(e) Provides that this section does not affect the application of a restriction or regulation imposed by:

(1) Chapter 3151 (Preservation of View of State Capitol), Government Code;

(2) federal law, including a restriction or regulation affecting a military base or airport;

(3) 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

(4) a municipality related to the height of a building near an airport, including a military airport, commercial service airport, or joint-use airport.

SECTION 2. Effective date: upon passage or September 1, 2023.