

Suspending limitations on conference committee
jurisdiction, H.B. No 3699 (Wilson/Bettencourt)

By: Bettencourt

S.R. No. 717

SENATE RESOLUTION

BE IT RESOLVED by the Senate of the State of Texas, 88th Legislature, Regular Session, 2023, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on House Bill 3699 (municipal regulation of subdivisions and approval of subdivision plans or plats) to consider and take action on the following matters:

(1) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter which is not included in either the house or senate version of the bill by adding the following SECTIONS to the bill:

SECTION 1. Sections 212.001(2) and (3), Local Government Code, are amended to read as follows:

(2) ~~["Plan" means a subdivision development plan, including a subdivision plan, subdivision construction plan, site plan, land development application, and site development plan.~~

~~[(3)]~~ "Plat" includes a preliminary plat, ~~[general plan]~~ final plat, and replat.

SECTION 2. Subchapter A, Chapter 212, Local Government Code, is amended by adding Section 212.0015 to read as follows:

Sec. 212.0015. CONSTRUCTION OF SUBCHAPTER. This subchapter may not be construed to restrict a municipality from establishing a submittal calendar to be used by an applicant to

facilitate compliance with the approval process described by Sections 212.009, 212.0091, 212.0093, and 212.0095.

SECTION 6. Sections 212.0065(a) and (c), Local Government Code, are amended to read as follows:

(a) The governing body of a municipality or the municipal planning commission may delegate to one or more officers or employees of the municipality or of a utility owned or operated by the municipality the ability to approve, approve with conditions, or disapprove a plat [+

~~[(1) amending plats described by Section 212.016,~~

~~[(2) minor plats or replats involving four or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities, or~~

~~[(3) a replat under Section 212.0145 that does not require the creation of any new street or the extension of municipal facilities].~~

(c) An applicant has the right to appeal to the governing body of the municipality or the municipal planning commission if the designated [The] person disapproves a ~~[or persons shall not disapprove the]~~ plat ~~[and shall be required to refer any plat which the person or persons refuse to approve to the municipal authority responsible for approving plats within the time period specified in Section 212.009].~~

SECTION 9. Section 212.0091(a), Local Government Code, is amended to read as follows:

(a) A municipal authority or governing body that

conditionally approves or disapproves a [~~plan-or~~] plat under this subchapter shall provide the applicant a written statement of the conditions for the conditional approval or reasons for disapproval that clearly articulates each specific condition for the conditional approval or reason for disapproval.

SECTION 10. Sections 212.0093, 212.0095, and 212.0096, Local Government Code, are amended to read as follows:

Sec. 212.0093. APPROVAL PROCEDURE: APPLICANT RESPONSE TO CONDITIONAL APPROVAL OR DISAPPROVAL. After the conditional approval or disapproval of a [~~plan-or~~] plat under Section 212.0091, the applicant may submit to the municipal authority or governing body that conditionally approved or disapproved the [~~plan-or~~] plat a written response that satisfies each condition for the conditional approval or remedies each reason for disapproval provided. The municipal authority or governing body may not establish a deadline for an applicant to submit the response.

Sec. 212.0095. APPROVAL PROCEDURE: APPROVAL OR DISAPPROVAL OF RESPONSE. (a) A municipal authority or governing body that receives a response under Section 212.0093 shall determine whether to approve or disapprove the applicant's previously conditionally approved or disapproved [~~plan-or~~] plat not later than the 15th day after the date the response was submitted.

(b) A municipal authority or governing body that conditionally approves or disapproves a [~~plan-or~~] plat following the submission of a response under Section 212.0093:

(1) must comply with Section 212.0091; and

(2) may disapprove the [~~plan-or~~] plat only for a specific condition or reason provided to the applicant under Section 212.0091.

(c) A municipal authority or governing body that receives a response under Section 212.0093 shall approve a previously conditionally approved or disapproved [~~plan-or~~] plat if the response adequately addresses each condition of the conditional approval or each reason for the disapproval.

(d) A previously conditionally approved or disapproved [~~plan-or~~] plat is approved if:

(1) the applicant filed a response that meets the requirements of Subsection (c); and

(2) the municipal authority or governing body that received the response does not disapprove the [~~plan-or~~] plat on or before the date required by Subsection (a) and in accordance with Section 212.0091.

Sec. 212.0096. APPROVAL PROCEDURE: ALTERNATIVE APPROVAL PROCESS. (a) Notwithstanding Sections 212.009, 212.0091, 212.0093, and 212.0095, an applicant may elect at any time to seek approval for a [~~plan-or~~] plat under an alternative approval process adopted by a municipality if the process allows for a shorter approval period than the approval process described by Sections 212.009, 212.0091, 212.0093, and 212.0095.

(b) An applicant that elects to seek approval under the alternative approval process described by Subsection (a) is not:

(1) required to satisfy the requirements of

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Sections 212.009, 212.0091, 212.0093, and 212.0095 before bringing an action challenging a disapproval of a [~~plan or~~] plat under this subchapter; and

(2) prejudiced in any manner in bringing the action described by Subdivision (1), including satisfying a requirement to exhaust any and all remedies.

SECTION 11. Section 212.0099, Local Government Code, is amended to read as follows:

Sec. 212.0099. JUDICIAL REVIEW OF DISAPPROVAL. In a legal action challenging a disapproval of a [~~plan or~~] plat under this subchapter, the municipality has the burden of proving by clear and convincing evidence that the disapproval meets the requirements of this subchapter or any applicable case law. The court may not use a deferential standard.

Explanation: This change is necessary to provide limitations on municipal regulation of subdivisions and approval of subdivision plans or plats.

(2) Senate Rules 12.03(1), (3), and (4) are suspended to permit the committee to change, alter, or amend text which is not in disagreement, to add text on a matter which is not in disagreement, and to add text on a matter which is not included in either the house or senate version of the bill in proposed SECTION 4 of the bill, in Section 212.004, Local Government Code, by amending Subsections (a) and (b) and adding Subsections (f) and (g) to read as follows:

(a) 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 use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts~~] must have a plat of the subdivision prepared. A division of a tract under this subsection includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method. A division of land under this subsection does not include a division of land into parts greater than five acres, where each part has access and no public improvement is being dedicated.

(b) To be recorded, the plat must:

(1) describe the subdivision by metes and bounds;

(2) locate the subdivision with respect to a corner of the survey or tract or an original corner of the original survey of which it is a part; and

(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 use of purchasers or owners of lots fronting on or adjacent to the street, alley, square, park, or other part~~].

(f) A plat is considered filed on the date the applicant submits the plat, along with a completed plat application and the

application fees and other requirements prescribed by or under this subchapter, to:

(1) the governing body of the municipality; or

(2) the municipal authority responsible for approving plats.

(g) The governing body of a municipality or the municipal authority responsible for approving plats may not require an analysis, study, document, agreement, or similar requirement to be included in or as part of an application for a plat, development permit, or subdivision of land that is not explicitly required by state law.

Explanation: This change is necessary to repeal the plat preparation requirement in relation to purchasers or owners of certain lots, to specify the date on which a plat is considered filed, and to prohibit a municipality or municipal authority from requiring certain additional materials for a plat, development permit, or subdivision of land.

(3) Senate Rules 12.03(3) and (4) are suspended to permit the committee to add text on a matter which is not in disagreement and to add text on a matter which is not included in either the house or senate version of the bill in proposed SECTION 8 of the bill, by amending Sections [212.009](#)(a), (b), (c), and (d), Local Government Code, to read as follows:

(a) The municipal authority responsible for approving plats shall approve, approve with conditions, or disapprove a ~~[plan or]~~ plat within 30 days after the date the ~~[plan or]~~ plat is filed. A ~~[plan or]~~ plat is approved by the municipal authority

unless it is disapproved within that period and in accordance with Section 212.0091.

(b) If an ordinance requires that a [~~plan~~-or] plat be approved by the governing body of the municipality in addition to the planning commission, the governing body shall 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. A [~~plan~~-or] plat is approved by the governing body unless it is disapproved within that period and in accordance with Section 212.0091.

(c) If a [~~plan~~-or] plat is approved, the municipal authority giving the approval shall endorse the [~~plan~~-or] plat with a certificate indicating the approval. The certificate must be signed by:

(1) the authority's presiding officer and attested by the authority's secretary; or

(2) a majority of the members of the authority.

(d) If the municipal authority responsible for approving plats fails to approve, approve with conditions, or disapprove a [~~plan~~-or] plat within the prescribed period, the authority on the applicant's request shall issue a certificate stating the date the [~~plan~~-or] plat was filed and that the authority failed to act on the [~~plan~~-or] plat within the period. The certificate is effective in place of the endorsement required by Subsection (c).

Explanation: This change is necessary to conform to other changes made in the bill.

(4) Senate Rule 12.03(1) is suspended to permit the committee to change, alter, or amend text which is not in disagreement in proposed SECTION 8 of the bill, in amended Section 212.009(b-2), Local Government Code, by striking "a period" and substituting "one or more periods, each [~~a period~~]".

Explanation: This change is necessary to provide for multiple extensions for the deadlines provided by Section 212.009, Local Government Code.

(5) Senate Rule 12.03(1) is suspended to permit the committee to change, alter, or amend text which is not in disagreement in proposed SECTION 12 of the bill, in added Section 212.010(e), Local Government Code, by striking "The prevailing party may recover reasonable and necessary attorney's fees and court costs in the action." and substituting the following:

The applicant shall recover reasonable attorney's fees and court costs in the action if the applicant prevails. The municipality may recover reasonable attorney's fees and court costs in the action if the municipality prevails and the court finds the action is frivolous.

Explanation: This change is necessary to provide different standards for recovery of attorney's fees and court costs for an applicant and a municipality.

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President of the Senate

I hereby certify that the
above Resolution was adopted by
the Senate on May 28, 2023, by the
following vote: Yeas 31, Nays 0.

Secretary of the Senate