

By: Eckhardt

S.B. No. 45

A BILL TO BE ENTITLED

AN ACT

relating to the authority of a county to establish drainage utilities, impose drainage fees, and regulate land use for the purpose of flood management.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter Z, Chapter 240, Local Government Code, is amended by adding Section 240.906 to read as follows:

Sec. 240.906. LAND USE REGULATION FOR FLOOD CONTROL. (a) The commissioners court of a county by order may adopt land use regulations for the purpose of flood management. The order may include:

(1) impervious cover regulations that do not prohibit all development in a floodplain or flood zone;

(2) setback and lot size standards;

(3) landscaping standards; and

(4) any other land use issue applicable to flood management.

(b) A commissioners court may not adopt an order under this section unless the regulations included in the order are rationally related to flood management.

(c) To the extent of a conflict between a county order adopted under this section and a municipal ordinance or other regulation regulating the same conduct, the municipal ordinance or regulation prevails.

SECTION 2. The heading to Section 395.079, Local Government Code, is amended to read as follows:

Sec. 395.079. IMPACT FEE FOR STORM WATER, DRAINAGE, AND FLOOD CONTROL [~~IN POPULOUS COUNTY~~].

SECTION 3. Section 395.079(a), Local Government Code, is amended to read as follows:

(a) A [Any] county or [~~that has a population of 3.3 million or more or that borders a county with a population of 3.3 million or more, and~~] any district or authority created under Article XVI, Section 59, of the Texas Constitution [~~within any such county~~] that is authorized to provide storm water, drainage, and flood control facilities[~~7~~] is authorized to impose impact fees to provide storm water, drainage, and flood control improvements necessary to accommodate new development.

SECTION 4. Chapter 561, Local Government Code, is amended by adding Section 561.0075 to read as follows:

Sec. 561.0075. COUNTY DRAINAGE SYSTEM. (a) Subject to the provisions of this section, a county may acquire, own, finance, or operate, or contract for the operation of, a drainage utility system to serve an unincorporated area of the county in the same manner as a municipality under Subchapter C, Chapter 552, that has adopted that subchapter, and for the purposes of this section the provisions of that subchapter apply to a county.

(b) The service area of a county drainage utility system may include the unincorporated areas of the county which, as a result of topography or hydraulics, contribute overland flow into the watersheds served by the drainage system of the county, except that

1 the service area may not include a municipality's extraterritorial
2 jurisdiction. The service area must be established in the order
3 establishing the drainage utility.

4 (c) The commissioners court of a county by order may adopt
5 regulations it considers appropriate to operate a drainage utility
6 system.

7 (d) A user residing in the service area of an affected
8 county, as defined by Section 13.002, Water Code, may appeal the
9 county's rates established for drainage charges under Section
10 13.043(b) of that code.

11 (e) Section 552.053(e) does not apply to a county drainage
12 charge, order, or rule.

13 (f) This section does not preclude a county from:

14 (1) using revenues, other than drainage utility
15 revenues, for drainage purposes; or

16 (2) imposing impact fees or other charges for drainage
17 authorized by law.

18 SECTION 5. This Act takes effect on the 91st day after the
19 last day of the legislative session.