

BILL ANALYSIS

Senate Research Center

S.B. 2215
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Local Government
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 2215 seeks to deter misconduct and violations of Texas law by municipalities, and provide additional clarification under existing caselaw by adding a provision to Chapter 211 of the Local Government Code. While property owners currently have certain protections afforded to them by statute that are set in place to ensure adequate due process through mandated notice and hearing provisions under Chapter 211, Local Government Code, and the Texas Constitution, the process for enforcing actions taken in violation of the provisions of Sections 211.006 and 211.007, Local Government Code, lacks clarity with respect to existing law.

For example, the case of *City of El Paso v. Heinrich*, 284 S.W.3d 366 (Tex. 2009), is often cited by municipalities in a plea to the jurisdiction filed in actions brought by property owners for relief to assert an argument that the Uniform Declaratory Judgments Act, Chapter 37, Texas Practice & Remedies Code, does not contain an express waiver of immunity and thus challenging the subject matter jurisdiction of a trial court. However, as the court made clear, and contrary to proposition often asserted by municipalities, the Declaratory Judgment Act requires that relevant governmental entities be included as parties in claims challenging the validity of an ordinance, which effectively waives their immunity.

Landowners have the capacity, and right afforded to them, to challenge the validity of municipal ordinances through causes of action brought under the UDJA, including amendatory, emergency, and temporary zoning ordinances if such measures are passed without complying with the mandatory requirements of Texas statutes under Chapter 211, Local Government Code (see *Bolton v. Sparks*, 362 S.W.2d at 949-50). However, there currently exists a lack of clarity of such rights under present day statutes.

S.B. 2215 would clarify existing law and reduce the unnecessary expense to both municipalities, by means of taxpayer dollars, and private property owners, incurred in frivolous interlocutory appeals brought for the purposes of undue delay. In substance and form the proposed provisions would be substantively similar to the provisions of Section 43.908, Local Government Code.

S.B. 2215 also reinforces private property rights by providing clarification to the property owners' existing right to challenge the validity of an ordinance by providing a clear and unambiguous waiver of immunity for claims brought against a city for declaratory relief.

Highlighted Provisions:

- Enforcement of the chapter can only be done through mandamus, declaratory, or injunctive relief.
- A political subdivision's immunity from suit is waived in actions under this chapter.
- The prevailing party may be awarded court costs and reasonable attorney's fees.

As proposed, S.B. 2215 amends current law relating to the right of property owners to challenge municipal zoning regulations and boundaries.

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 211, Local Government Code, by adding Section 211.020, as follows:

Sec. 211.020. ENFORCEMENT OF CHAPTER. (a) Provides that Chapter 211 (Municipal Zoning Authority) is authorized to be enforced only through mandamus or declaratory or injunctive relief.

(b) Provides that a political subdivision's immunity from suit is waived in regard to an action under this chapter.

(c) Authorizes a court to award court costs and reasonable and necessary attorney's fees to the prevailing party in an action under this chapter.

SECTION 2. Effective date: September 1, 2025.