

BILL ANALYSIS

Senate Research Center

S.B. 2639
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Local Government
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Many cities around the state, particularly the larger ones, have adopted policies and ordinances to designate properties as historic. These designations can either happen on an individual property or through the designation of a historic zone, which covers multiple properties. Additionally, these designations can either happen with the consent of the property owner or against the owner's wishes. Some cities and citizen groups have weaponized this process to delay or stop development that could lead to greater affordability in our state.

Typically, a developer will acquire a group of properties to redevelop. After they have acquired those properties and submitted development documents to the city, an anti-growth city or citizen group will petition to have one or more of those properties designated as historical, even if there is dubious historical significance. These actions are taken against the wishes of the property owner and at the very least greatly delay development; at the worst they stop it completely if the designation is granted.

S.B. 2639 adds additional transparency to the process by adding additional disclosures to the historic designation impact statement and outlines a process to ensure that property owners are justly compensated for the taking of their property interests.

As proposed, S.B. 2639 amends current law relating to the designation of a property as a historic landmark and the inclusion of a property in a historic district or similar preservation district by 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 Sections 211.0165(a) and (d), Local Government Code, as follows:

(a) Prohibits a municipality that has established a process for designating certain places or areas through the adoption of zoning regulations or zoning district boundaries, except as provided by Subsection (b) (relating to authorizing a municipality to designate a certain property as a local historic landmark or include the property in a local historic district) and subject to Section 211.01651, from designating a property as a local historic landmark or including a property within the boundaries of a local historic district unless certain requirements are fulfilled.

(d) Requires that the historic designation impact include lists of the:

(1)-(2) makes no changes to these subdivisions;

(3)-(4) makes nonsubstantive changes to these subdivisions;

(5) code violations that would be required to bring the property into compliance if the property was designated as historic or included in a local historic district;

(6) estimated cost to repair or restore the property if designated as historic prepared by an independent appraiser, adjustor, and/or construction expert; and

(7) an independent appraisal of the value of the property immediately before and immediately after the designation.

SECTION 2. Amends Subchapter A, Chapter 211, Local Government Code, by adding Section 211.01651, as follows:

Sec. 211.01651. DESIGNATION OF HISTORIC LANDMARK OR DISTRICT IN CERTAIN MUNICIPALITIES. (a) Provides that this section applies only to a property located in a municipality with a population of 950,000 or more.

(b) Prohibits a municipality from designating a property as a local historic landmark or including a property within the boundaries of a local historic district without the consent of the owner of the property unless the municipality complies with Section 211.0165 (Designation of Historic Landmark or District) and the procedures in this section for assessing damages and determining compensation to the property owner.

(c) Requires a municipality, if the governing body of the municipality approves the designation of a property as a local historic landmark or inclusion of the property within the boundaries of a local historic district as provided by Section 211.0165(a) and the owner of the property does not consent, to make a bona fide offer to compensate the property owner for damages attributable to the designation or inclusion. Provides that a municipality has made a bona fide offer if the municipality:

(1) provides to the property owner in writing an initial offer of compensation for damages equal to or greater than the amount detailed in the historic designation impact statement and a final offer of compensation for damages, equal to or greater than the amount detailed in the historic designation impact statement, on or after the 30th day after the date the municipality makes a written initial offer to the property owner; and

(2) provides the property owner with at least 14 days to respond to the final offer and the property owner does not agree to the terms of the final offer within that period.

(d) Authorizes a municipality, if the municipality is unable to agree with a property owner on the amount of damages under Subsection (c), to bring an action to authorize the municipality to designate a property as a local historic landmark or include a property within the boundaries of a local historic district without the consent of the property owner by filing in the proper court a petition that includes certain information and statements.

(e) Requires a municipality that files a petition under Subsection (d) to provide a copy of the petition to the property owner by certified mail, return receipt requested, and first class mail. Requires the municipality, if municipality has received written notice that the property owner is represented by counsel, to provide a copy of the petition to the property owner's attorney by first class mail, commercial delivery service, or e-mail.

(f) Requires the court in which a petition is filed under this section not later than the 30th day after the date the petition is filed to appoint three special commissioners, as provided by Section 21.014 (Special Commissioners), Property Code, to assess the damages of the owner of the property that the municipality seeks to designate as a local historic landmark or include within the boundaries of a local historic district.

(g) Requires the special commissioners appointed under Subsection (f) to as soon as practicable but not later than the 20th day after the date the special commissioners are appointed hold a hearing to assess damages and provide written notice of the hearing to the municipality and the property owner as provided by Section 21.016 (Notice), Property Code.

(h) Authorizes a municipality or property owner to appeal the findings from the special commissioners as provided by Section 21.018 (Appeal From Commissioners' Findings), Property Code, or move to dismiss the proceedings in an action filed under Subsection (d), as provided by Section 21.019 (Dismissal of Condemnation Proceedings), Property Code.

(i) Requires the special commissioners, as the basis for assessing actual damages to a property owner from a designation of a property as a local historic landmark or inclusion of a property within the boundaries of a local historic district, to admit evidence on certain property details.

(j) Requires the special commissioners to assess damages in a proceeding under this section according to the evidence presented at the hearing and as provided by Section 21.042 (Assessment of Damages), Property Code, as applicable.

(k) Requires the special commissioners in a proceeding under this section to adjudge the costs of the proceeding against a party as follows:

(i) Requires the municipality, if the commissioners award greater damages than the municipality offered to pay or a court on appeal awards greater damages than the commissioners awarded, to pay all costs, including attorneys fees, expert fees, and costs of court.

(ii) Requires the property owner, if the commissioners' award or the court's determination of the damages is less than or equal to the amount the municipality offered before proceedings began, to pay the costs of court.

(l) Requires a municipality to pay the initial cost of serving a property owner with notice of a condemnation proceeding. Authorizes the municipality, if the property owner is ordered to pay the costs of the proceeding, to recover the expense of notice from the property owner as part of the costs of court.

(m) Requires a court, if the court hearing a suit under this section determines that a municipality did not make a bona fide offer to compensate the property owner for damages as required by Subsection (c), to abate the suit, order the municipality to make a bona fide offer, and order the municipality to pay all costs as provided by Subsection (k) and any reasonable attorney's fees and other professional fees incurred by the property owner that are directly related to the violation.

(n) Requires the special commissioners in a proceeding under this section to file with the court a written statement of damages and costs as provided by Section 21.048 (Statement of Damages and Costs), Property Code.

(o) Requires the court in a proceeding under this section to:

(1) send notice of a decision by the special commissioners to the parties as provided by Section 21.049 (Notice of Decision of Special Commissioners), Property Code; and

(2) if no party files timely objections to the findings of the special commissioners, adopt the commissioners' findings as the judgment of the

court, record the judgment in the minutes of the court, and issue the process necessary to enforce any judgment of damages awarded to the property owner and authorize the municipality to designate the property owner's property as a local historic landmark or include the property within the boundaries of a local historic district under Section 211.0165.

SECTION 3. (a) Makes application of this Act, except as provided by Subsection (b) of this section, prospective.

(b) Authorizes a property owner, if the property owner filed an action to challenge the designation of the property owner's property as a local historic landmark or the inclusion of the property within the boundaries of a local historic district before the effective date of this Act and the action is pending on the effective date of this Act, to elect to dismiss the action and seek relief as provided by Section 211.01651, Local Government Code, as added by this Act.

SECTION 4. Effective date: upon passage or September 1, 2025.