

SUBJECT: Establishing certain fees for municipal and county construction

COMMITTEE: Land & Resource Management — favorable, without amendment

VOTE: 8 ayes — Burns, Rogers, C. Bell, K. Bell, Buckley, Ortega, Reynolds, Schofield

1 nay — Sherman

WITNESSES: For — Frank Murphy, Dallas Builders Association; Ned Muñoz, Texas Association of Builders (*Registered, but did not testify*: Trey Lary, Allen Boone Humphries Robinson LLP; Phil Crone, Donnie Evans, Dallas Builders Association; Don Allen, Greater Fort Worth Builders Association; Brett Martin, Greater Houston Builders Association; T. Justin MacDonald, Hill Country Builders Association; Ben Stratmann, Texans for Reasonable Solutions; Scott Norman, Texas Association of Builders; Julia Parenteau, Texas Realtors; Linda Vo)

Against — (*Registered, but did not testify*: Brie Franco, City of Austin; Clifford Sparks, City of Dallas; Andrew Fortune, City of Plano)

BACKGROUND: Concerns have been raised that certain regulatory fees assessed by municipalities and counties for construction may constitute an unauthorized occupations tax.

DIGEST: HB 3492 would prohibit a municipality or county from considering the cost of constructing or improving the public infrastructure for a subdivision, lot, or related property development in determining the amount of a fee. The municipality or county would determine the fee by considering the actual cost to review and process the engineering or construction plan or to inspect the public infrastructure improvement. A municipality's or county's actual cost for reviewing and processing such a plan or inspecting public infrastructure improvement would be calculated at the lowest amount of:

- the fee that would be charged by a qualified third-party entity for

those services;

- the hourly rate for the estimated actual direct time of the municipality's or county's employees performing those services; or
- the actual costs assessed to the municipality or county by a third-party entity that provided those services.

A municipality or county could not require the disclosure of information related to the value or cost of constructing or improving residential dwellings or public infrastructure improvements as a condition of obtaining approval for construction or for the acceptance of improvements except as required by the Federal Emergency Management Agency for participation in the National Flood Insurance Program.

A municipality or county that imposed a fee for reviewing or processing an engineering or construction plan or inspecting a public infrastructure improvement would be required to annually publish the fee, along with the hourly rate and estimated direct time incurred by the municipal or county employees for a fee, as calculated under the bill's provisions. The municipality or county would be required to publish the information on its website or a certain general circulation newspaper.

The bill would apply only to a fee assessed by a municipality or county on or after the effective date of the bill.

The bill would take effect September 1, 2023.