

BILL ANALYSIS

Senate Research Center

C.S.S.B. 570

By: Truan

International Relations, Trade & Technology

3-12-97

Committee Report (Substituted)

DIGEST

Currently, Texas law governing model subdivision rules in counties that are eligible for funding under the Economically Distressed Areas Program (EDAP) gives EDAP-eligible counties within 50 miles of an international border the authority and obligation to enforce certain model subdivision rules. As a result, EDAP-eligible counties that are not within 50 miles of the Texas/Mexico border are limited in their ability to prevent the creation of new substandard subdivisions. This bill would authorize EDAP-eligible counties which do not lie within 50 miles of the Texas/Mexico border to enforce certain model subdivision rules to prevent further creation of substandard subdivisions.

PURPOSE

As proposed, C.S.S.B. 570 authorizes counties eligible for funding under the Economically Distressed Areas Program that do not lie within 50 miles of the Texas/Mexico border to enforce certain model subdivision rules.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the commissioners court under SECTION 1 (Section 232.076(f), Local Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 232, Local Government Code, by adding Subchapter C, as follows:

SUBCHAPTER C. ALTERNATE SUBDIVISION PLATTING REQUIREMENTS IN CERTAIN OTHER ECONOMICALLY DISTRESSED COUNTIES

Sec. 232.071. **APPLICABILITY.** Provides that this subchapter applies only to the subdivision of land located outside a municipality or the extraterritorial jurisdiction of a municipality; and in a county eligible for financial assistance under Section 15.407, Water Code, or Chapter 17K, Water Code; and to which Chapter B does not apply.

Sec. 232.072. **PLAT REQUIRED.** Requires the owner of a tract of land that divides the tract in any manner that creates lots of five acres or less intended for residential purposes to have a plat of the subdivision prepared. Provides that a subdivision of a tract, under this section, includes a subdivision of real property by any method of conveyance. Sets forth requirements for a plat under this section. Requires a plat required by this section to be filed and recorded with the county clerk of the county in which the tract is located. Provides that that plat is subject to the filing and recording provisions of Section 12.002, Property Code.

Sec. 232.073. **APPROVAL BY COUNTY REQUIRED.** Provides that a plat filed under Section 232.072 is not valid unless the commissioners court of the county in which the land is located approves the plat by an order entered in the minutes of the court. Requires the commissioners court to refuse to approve a plat if it does not meet certain requirements.

Sec. 232.074. **BOND REQUIREMENTS.** Requires the commissioners court, unless a person has completed the installation of all water and sewer service facilities required by this subchapter on the date that person applies for final approval of a plat, to require the

subdivider of the tract to execute and maintain in effect a bond or, in the alternative, require a person to make a cash deposit in a specified amount. Prohibits a person from meeting the requirements of this subsection through the use of a letter of credit except under certain conditions. Requires the subdivider to comply with the requirement before subdividing the tract. Requires the bond to be conditioned on the construction or installation of water and sewer service facilities that will be in compliance with certain rules.

Sec. 232.075. WATER AND SEWER SERVICE EXTENSION. Authorizes the commissioners court to extend, beyond the date specified on the plat or on the document attached to the plat, the date by which the water and sewer service facilities must be fully operable if the commissioners court finds the extension is reasonable and not contrary to the public interest. Prohibits the commissioners court from granting an extension under Subsection (a) if it would allow an occupied residence to be without water or sewer services.

Sec. 232.076. CERTIFICATION REGARDING COMPLIANCE WITH PLAT REQUIREMENTS. Requires the commissioners court, upon approval of a plat by the commissioners court, to issue to the person applying for the approval a certificate stating that the plat has been reviewed and approved by the commissioners court. Requires the commissioners court, under certain conditions, to make certain determinations in regard to whether a plat is required and whether it has been reviewed and approved by the commissioners court. Requires the request made under Subsection (b) to adequately identify the land that is subject of the request. Requires the commissioners court, whenever a request is made under Subsection (b), to issue the requesting party a written certificate of its determination. Sets forth requirements regarding the certificate. Authorizes the commissioners court to adopt rules it considers necessary to administer its duties under this section.

Sec. 232.077. CONNECTION OF UTILITIES IN CERTAIN COUNTIES. Provides that this section applies only to a tract of land for which a plat is required under this subchapter. Prohibits an entity described by Subsection (c) from serving or connecting any land with water, sewer, electricity, gas, or other utility service unless the entity has been presented with or otherwise holds a certificate applicable to the land issued under Section 232.076 stating that a plat has been reviewed and approved for the land. Provides that the prohibition established by Subsection (b) applies only to certain entities. Provides that the prohibition established by Subsection (b) applies only to land that an entity described by Subsection (c) first serves or connects with services within or after certain dates.

Sec. 232.078. CONFLICT OF INTEREST; PENALTY. Defines "subdivided tract." Provides that a person has an interest in a subdivided tract under certain conditions. Sets forth requirements applicable if a member of the commissioners court has an interest in a subdivided tract. Provides that a member of the commissioners court of a county commits a Class A misdemeanor if the member violates Subsection (d). Provides that the finding by a court of a violation of this section does not render voidable an action of the commissioners court unless the measure would not have passed the commissioners court but for the vote of the member who violated this section. Provides that a conviction under Subsection (e) constitutes official misconduct by the member and is grounds for removal from office.

Sec. 232.079. CIVIL PENALTIES. Prohibits a subdivider or an agent of a subdivider from causing, suffering, allowing, or permitting a lot to be sold in a subdivision if the subdivision has not been platted as required by this subchapter. Sets forth the penalty for a subdivider who fails to provide for the construction or installation of water or sewer service facilities. Sets forth the available venues for an action under this section.

Sec. 232.080. ENFORCEMENT. Authorizes the attorney general, or the district attorney, criminal district attorney, or county attorney to take any action necessary in a court of competent jurisdiction on behalf of the state or on behalf of residents for certain violations or threatened violations, to recover certain penalties, fees, or costs, and to require platting as required by this chapter. Sets forth provisions regarding the filing of a motion against a provider of utilities to halt termination of preexisting utility services. Provides that this

subsection does not prohibit a provider of utilities from terminating services under other law to a resident who has failed to timely pay for services.

SECTION 2. Emergency clause.

Effective date: upon passage.

SUMMARY OF COMMITTEE CHANGES

Amends SECTION 1, Section 232.072, Local Government Code, to set forth requirements for a plat under this section and remove a proposed exception. Removes proposed Subsection (c) and requires a plat required under this section to be filed and recorded with the county clerk. Provides that the plat is subject to the filing and recording provisions of Section 12.002, Property Code.

Amends SECTION 1, Section 232.078, Local Government Code, to remove proposed Section 232.078 and define "subdivided tract." Sets forth provisions regarding whether a person has an interest in a subdivided tract. Sets forth provisions regarding an interest in a subdivided tract by a member of the commissioners court.