

BILL ANALYSIS

Senate Research Center

H.B. 1704
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State Affairs
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Engrossed

DIGEST

In 1997, Chapter 481I, Government Code, was repealed by the 75th Legislature. As a result, current law allows a political subdivision to apply changes in its regulations and permit requirements retroactively. H.B. 1704 sets forth provisions regarding the approval of certain permit applications by local governments.

PURPOSE

As proposed, H.B. 1704 sets forth provisions regarding the approval of certain permit applications by local governments.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. FINDINGS; INTENT. Sets forth legislative findings relating to the former Subchapter I, Chapter 481, Government Code, which was repealed by Section 51(b), Chapter 1041, Acts of the 75th Legislature, Regular Session, 1997. Sets forth legislative intent relating to this Act.

SECTION 2. AMENDMENT. Amends Title 7C, Local Government Code, by adding Chapter 245, as follows:

CHAPTER 245. ISSUANCE OF LOCAL PERMITS

Sec. 245.001. DEFINITIONS. Defines “permit,” “political subdivision,” “project,” and “regulatory agency.”

Sec. 245.002. UNIFORMITY OF REQUIREMENTS. Sets forth requirements for each regulatory agency to approve, disapprove, and conditionally approve an application for certain permits regarding subdivision plats, site plans, and other development plans. Prohibits a regulatory agency from shortening the duration of any permit required for a project after an application for a project is filed. Authorizes a permit holder to take advantage of certain recorded documents, laws, rules, and regulations without forfeiting any rights under this chapter, notwithstanding any provision of this chapter to the contrary.

Sec. 245.003. APPLICABILITY OF CHAPTER. Provides that this chapter applies only to a project in progress or commenced after September 1, 1997. Provides that, for purposes of this chapter, a project was in progress on September 1, 1997, if it meets certain requirements.

Sec. 245.004. EXEMPTIONS. Sets forth exemptions to this chapter.

Sec. 245.005. DORMANT PROJECTS. Authorizes a regulatory agency to enact an ordinance, rule, or regulation that places an expiration date on a permit if, as of the first anniversary of the effective date of this chapter, certain conditions are met, notwithstanding any other provision of this chapter. Requires any ordinance, rule, or regulation enacted pursuant to this section to place an expiration date of no earlier than the fifth anniversary of the effective date of this chapter. Requires progress towards completion of the project to include certain activities.

Sec. 245.006. ENFORCEMENT OF CHAPTER. Authorizes this chapter to be enforced only

through mandamus or declaratory or injunctive relief.

SECTION 3. Prohibits the repeal of Chapter 484I, Government Code, and actions taken by a regulatory agency for the issuance of a permits after that repeal from causing or requiring the expiration or termination of a project or permit covered by SECTION2 of this Act. Provides that an action by a regulatory agency that violates this SECTION is void to the extent necessary to give effect to this SECTION. Provides that this Act does not affect final court judgments or pending litigation involving an interpretation of Chapter 481I, Government Code, as it existed before its repeal by the 75th Legislature.

SECTION 4. CONSTRUCTION OF ACT. Provides that nothing in this Act shall be construed to apply to a condition or provision of an ordinance, rule, or regulation that is enacted by a regulatory agency, as that term is defined by Section 245.001, Local Government Code, as added by SECTION 2 of this Act, which is specifically required by uniformly applicable regulations adopted by a state agency after the effective date of this Act.

SECTION 5. EFFECT ON COASTAL ZONE MANAGEMENT ACT. Provides that nothing in this Act shall be construed to limit or otherwise affect the authority of certain political entities with respect to the federal Coastal Zone Management Act or to apply to a permit, order, rule, regulation, or other action issued, adopted, or undertaken in connection with the federal Coastal Zone Management Act.

SECTION 6. Emergency clause.

Effective date: upon passage.