

BILL ANALYSIS

Senate Research Center

H.B. 52
By: Cuellar (Lucio)
Border Affairs - Special
5/4/1999
Engrossed

DIGEST

Currently, Texas law allows developers to subdivide land for residential purposes with no county oversight. Problems created by the existing lack of county supervision include development of residential subdivisions with lots that do not meet minimum requirements for the installation of a permitted septic system, inadequate drainage systems which cause flooding with normal rainfall, and inadequate access for emergency vehicles. These problems present threats to the safety of county residents, who are left with the responsibility of paying the additional costs of providing services. H.B. 52 would authorize the commissioners court of a county to establish a planning commission to review, evaluate, approve, or deny subdivision plats.

PURPOSE

As proposed, H.B. 52 sets forth provisions regarding the expansion of subdivision requirements in counties near an international border and the establishment of a county planning commission to regulate subdivision platting and development.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the commissioners court of a county in SECTION 14 (Section 232.091(c), Local Government Code); and to a county planning commission in SECTION 14 (Section 232.095(e), Local Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Subchapter B, Chapter 232, Local Government Code, as follows:

SUBCHAPTER B. New heading: SUBDIVISION PLATTING REQUIREMENTS IN COUNTY
NEAR INTERNATIONAL BORDER

SECTION 2. Amends Section 232.021, Local Government Code, to redefine "utility." Deletes the definition of "affected county." Makes conforming changes.

SECTION 3. Amends Section 232.022, Local Government Code, to provide that this subchapter applies only to a county any part of which is located within 50 miles of an international border. Provides that this subchapter applies only to a subdivision of two or more lots, rather than land that is subdivided into four or more lots, that are intended primarily for residential use in the jurisdiction of the county, rather than an affected county. Authorizes a county to waive any requirement under this subchapter, for a subdivision otherwise subject to this subchapter in which each lot is larger than 10 acres. Deletes text regarding land outside the extraterritorial jurisdiction of municipalities. Makes conforming changes.

SECTION 4. Amends Section 232.023(a), Local Government Code, to make a conforming change.

SECTION 5. Amends Section 232.024, Local Government Code, by adding Subsection (d), to authorize the commissioners court of the county in which the land is located to establish a planning commission as provided by Subchapter D. Provides that the planning commission is subject to the same provisions applicable to the commissioners court under this subchapter, including Section 232.034 relating to conflicts of interest.

SECTION 6. Amends Section 232.026(c), Local Government Code, to make a conforming change.

SECTION 7. Amends Section 232.028, Local Government Code, by adding Subsection (g), to authorize the commissioners court to impose a fee for certificates issued for land in the extraterritorial jurisdiction of a municipality. Prohibits the fee from being greater than any fee imposed by a municipality for a certificate issued under Section 212.0115. Provides that a person who obtains a certificate issued under this section for land in the extraterritorial jurisdiction of a municipality is not required to obtain a certificate under Section 212.0115.

SECTION 8. Amends Section 232.035(b), Local Government Code, to make a conforming change.

SECTION 9. Amends Section 232.037(a), Local Government Code, to make a conforming change.

SECTION 10. Amends Section 232.038, Local Government Code, to make a conforming change.

SECTION 11. Amends Section 232.039(a), Local Government Code, to make a conforming change.

SECTION 12. Amends the heading to Subchapter C, Chapter 232, Local Government Code, as follows:

SUBCHAPTER C. New heading: SUBDIVISION PLATTING REQUIREMENTS IN CERTAIN
ECONOMICALLY DISTRESSED COUNTIES

SECTION 13. Amends Section 232.073, Local Government Code, to authorize the commissioners court of the county in which the land is located to establish a planning commission as provided by Subchapter D. Provides that the planning commission is subject to the same provisions applicable to the commissioners court under this subchapter, including Section 232.078 relating to conflicts of interest.

SECTION 14. Amends Chapter 232, Local Government Code, by adding Subchapter D, as follows:

SUBCHAPTER D. COUNTY PLANNING COMMISSION

Sec. 232.091. **APPLICABILITY.** Provides that this subchapter applies only to a county authorized to establish a planning commission under Subchapters B or C, or in which the commissioners court by order elects to operate under this subchapter.

Sec. 232.092. **ESTABLISHMENT OF PLANNING COMMISSION.** Authorizes the commissioners court of a county by order to establish a planning commission under this section to promote the general public welfare. Authorizes the commissioners court to authorize the planning commission to act on behalf of the commissioners court in matters relating to the duties and authority of the commissioners court under Subchapters A, B, or C, and land use, health and safety, planning and development, or other enforcement provisions specifically authorized by law. Requires the commissioners court by order to adopt reasonable rules and procedures necessary to administer this subchapter, if the commissioners court establishes a planning commission. Provides that this subchapter does not grant a commissioners court or a planning commission the power to regulate the use of property for which a permit has been issued to engage in a federally licensed activity.

Sec. 232.093. **APPOINTMENT OF MEMBERS OF PLANNING COMMISSION.** Authorizes the commissioners court to appoint a planning commission consisting of five members. Provides that members are appointed for staggered terms of two years. Requires a person appointed as a member of the planning commission to be a citizen of the United States and reside in the county. Requires the commissioners court to file with the county clerk a certificate of appointment for each planning commission member. Requires the commissioners court to fill any vacancy on the planning commission. Requires the planning commission member to take the official oath, or swear in writing that the member will promote the interest of the county as a whole and not only a private interest or the interest of a special group or location in the county, before a planning commission member undertakes the duties of office. Provides that a member of the planning commission serves at the pleasure of the commissioners court and is subject to removal by a majority vote of the commissioners court.

Sec. 232.094. **FINANCIAL DISCLOSURE.** Requires a member of the planning commission to file a financial disclosure report in the same manner as required for county officers under Chapter 159B. Requires the planning commission member to file a financial disclosure report in the same

manner as required for county officers under Chapter 159A, if the commissioners court of the county in which the planning commission member serves has not adopted a financial disclosure reporting system under Chapter 159B.

Sec. 232.095. OFFICERS, QUORUM, AND MEETINGS. Requires the planning commission to elect a presiding officer and assistant presiding officer, at the first meeting of each calendar year. Provides that the presiding officer presides over the meetings and executes all documentation required on behalf of the planning commission. Provides that the assistant presiding officer represents the presiding officer during the presiding officer's absence. Provides that there is no limitation on the number of terms a member may serve on the planning commission. Requires minutes of the planning commission's proceedings to be filed with the county clerk or other county officer or employee designated by the commissioners court. Provides that the minutes of the planning commission's proceedings are a public record. Provides that the planning commission is subject to Chapters 551 and 552, Government Code. Authorizes the planning commission to adopt rules necessary to administer this subchapter.

Sec. 232.096. TIMELY APPROVAL OF PLATS. (a) Requires the planning commission to issue a written list of the documentation and other information that must be submitted with a plat application. Requires the documentation or other information to relate to a requirement authorized by law. Provides that an application submitted to the planning commission that contains the documents and other information on the list is considered complete.

(b) Requires the planning commission or its designee, no later than the 15th business day after the date the planning commission or its designee receives the application, to notify the applicant of the missing documents or other information, if a person submits an incomplete plat application to the planning commission. Requires the planning commission or its designee to allow an applicant to timely submit the missing documents or other information.

(c) Provides that an application is considered complete on the date all documentation and other information required by Subsection (a) is received by the planning commission.

(d) Requires the planning commission to take final action on a plat application, including the resolution of all appeals, no later than the 60th day after the date a completed plat application is received by the planning commission, if the approval of the plat is within the exclusive jurisdiction of the planning commission.

(e) Authorizes the time period prescribed by Subsection (d) to be extended for a reasonable period if requested by the applicant, and an additional 60 days if the county is required under Chapter 2007, Government Code, to perform a takings impact assessment in connection with a plat submitted for approval.

(f) Prohibits the planning commission from compelling an applicant to waive the time limit prescribed by this section.

(g) Authorizes the applicant to apply to a district court in the county in which the plat is located for an injunction to compel the planning commission to approve or disapprove the plat, if the planning commission fails to take final action on the completed plat application as required by this section. Requires a planning commission enjoined by a final order of a court under this subsection to make a decision approving or disapproving the plat no later than the 10th business day after the date a copy of the injunction is served on the presiding officer of the planning commission. Requires the planning commission, within the 10-day period prescribed by this subsection, to complete certain requirements, if the planning commission approves the plat.

(h) Defines "business day."

Sec. 232.097. REASONS FOR DISAPPROVAL OF PLAT REQUIRED. Requires the planning commission to provide to the person requesting approval a notice specifying the reason for the disapproval, if the planning commission refuses to approve a plat.

SECTION 15. Amends Sections 242.001(a) and (c), Local Government Code, as follows:

(a) Provides that this section applies only to a county operating under Sections 232.001-232.005 or Chapter 232B.

(c) Makes a conforming change.

SECTION 16. Amends Sections 212.012(a) and (c), Local Government Code, as follows:

(a) Prohibits an entity described by Subsection (b) from serving or connecting any land with utility services, unless the entity holds a certificate applicable to the land issued under Section 232.028, except as provided by Subsection (c).

(c) Makes a conforming change. Deletes the definition of “affected county.”

SECTION 17. Amends Section 12.002(d), Property Code, to delete the definition of “affected county.” Makes a conforming change.

SECTION 18. Amends Section 13.002(26), Water Code, to redefine “affected county.”

SECTION 19. Amends Section 26.001(20), Water Code, as added by Section 23, Chapter 979, Acts of the 74th Legislature, Regular Session, 1995, to redefine “affected county.”

SECTION 20. Amends Section 26.001(26), Water Code, as added by Section 24, Chapter 979, Acts of the 74th Legislature, Regular Session, 1995, to redefine “affected county.”

SECTION 21. Emergency clause.

Effective date: 90 days after adjournment.