

BILL ANALYSIS

Senate Research Center
77R11699 JMG-D

C.S.S.B. 800
By: Wentworth
Intergovernmental Relations
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Committee Report (Substituted)

DIGEST AND PURPOSE

Currently, many of the newer subdivisions being built in Texas are being constructed in the unincorporated areas of counties, and county governments lack sufficient authority to provide protection for the purchaser of lots or dwellings in these subdivisions. C.S.S.B. 800 gives commissioners courts the authority to require a plat for land that is subdivided into two or more lots, each of which is 5 acres or less, and intended for residential use. This bill also requires developers to build roads of a quality suited for the function of a particular roadway, requires adequate right-of-way widths for roadways, and requires developers to inform purchasers of lots when water, sewer, electricity, and gas services will be made available to the subdivision.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Natural Resource Conservation Commission in SECTION 7 (Section 232.0256, Local Government Code)

SECTION BY SECTION ANALYSIS

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

SUBCHAPTER A. SUBDIVISION PLATTING REQUIREMENTS APPLYING TO NONRESIDENTIAL SUBDIVISIONS

SECTION 2. Amends Chapter 232A, Local Government Code, by adding Section 232.0001, as follows:

Sec. 232.0001. **APPLICABILITY.** Provides that this subchapter does not apply to a subdivision of land to which Subchapter B applies.

SECTION 3. Amends the heading to Chapter 232B, Local Government Code, to read as follows:

SUBCHAPTER B. SUBDIVISION PLATTING REQUIREMENTS APPLYING TO RESIDENTIAL SUBDIVISIONS

SECTION 4. Amends Section 232.022, Local Government Code, to delete existing Subsection (a). Deletes text in existing Subsection (b) regarding the circumstances in which this subchapter does not apply.

SECTION 5. Amends Chapter 232B, Local Government Code, by adding Sections 232.0225, 232.0235, and 232.0245, as follows:

Sec. 232.0225. **MINIMUM STATE STANDARDS.** (a) Provides that, to the extent this subchapter refers to minimum state standards or refers to the application of a provision of Chapter 16 (Provisions Generally Applicable to Water Development), Water Code, the references apply to all counties regardless of any limitation established by Chapter 16, Water

Code, including the limitation established by Section 16.343(f) (regarding counties that may adopt the model rules under “Minimum State Standards and Model Political Subdivision Rules”), Water Code.

(b) Provides that this section and the other provisions of this subchapter do not authorize a county to participate in any financial assistance program or any other program authorized by Chapter 15 (Texas Water Assistance Program) , 16, or 17 (Public Funding), Water Code, unless the county qualifies under the Water Code.

Sec. 232.0235. EXCEPTIONS TO PLATTING REQUIREMENTS. Provides that a division of land that is excepted from the platting requirements of Subchapter A by or under Section 232.0015, is also excepted from the platting requirements of this subchapter.

Sec. 232.0245. TIMELY APPROVAL OF PLATS. Provides that Section 232.0025 applies to the platting process established by this subchapter in the same manner in which it applies to the process under Subchapter A.

SECTION 6. Amends Section 232.025, Local Government Code, to require the commissioner’s court, for each subdivision, by an order adopted and entered in the minutes of the commissioners court, and after a notice is published in English and Spanish in a newspaper of general circulation in the county, to follow a certain stated procedure.

SECTION 7. Amends Chapter 232B, Local Government Code, by adding Sections 232.0255 and 232.0256, as follows:

Sec. 232.0255. STANDARD FOR ROADS IN SUBDIVISION. Prohibits a county from imposing under Section 232.025 a higher standard for streets or roads in a subdivision than the county imposes on itself for the construction of streets or roads with a similar type and amount of traffic.

Sec. 232.0256. ADDITIONAL REQUIREMENTS; USE OF GROUNDWATER.

(a) Authorizes the commissioners court of a county, if a person submits a plat for the subdivision of a tract of land for which the source of the water supply intended for the subdivision is groundwater under that land, to by order require the plat application to have attached to it a statement that meets certain requirements.

(b) Requires the Texas Natural Resource Conservation Commission by rule to establish the appropriate form and content of a certification to be attached to a plat application under this section.

SECTION 8. Amends Section 232.038, Local Government Code, as follows:

Sec. 232.038. New heading: SUIT BY PRIVATE PERSON. Provides that this section applies only to certain persons. Provides that a person described by this section may bring suit in the district court in which the property is located or in a district court in Travis County for certain purposes.

SECTION 9. Amends Chapter 232B, Local Government Code, by adding Section 232.0385, as follows:

Sec. 232.0385. EXCEPTIONS FOR COUNTIES WITH POPULATION OF MORE THAN 2.2 MILLION OR CONTIGUOUS COUNTIES. Provides that this section applies to certain counties under certain conditions. Provides that if a county elects to operate under this section, Section 232.036 does not apply to the county. Provides that the sections of this chapter preceding Section 232.036 do apply to the county in the same manner that they apply

to other counties, with certain stated exceptions.

SECTION 10. Amends Section 232.007, Local Government Code, by transferring the section to Chapter 232B, Local Government Code, redesignating the section as Section 232.0386, and amending it as follows:

Sec. 232.0386. MANUFACTURED HOME RENTAL COMMUNITIES. Provides that a manufactured home rental community is not a subdivision and that Sections 232.0001 - 232.006 and Sections 232.021 - 232.0385 (rather than Sections 232.001-232.006) do not apply to the community.

SECTION 11. Amends Section 232.0085, Local Government Code, by transferring the section to Chapter 232B, Local Government Code, redesignating the section as Section 232.0395, and amending it as follows:

Sec. 232.0395. CANCELLATION OF CERTAIN SUBDIVISIONS IF LAND REMAINS UNDEVELOPED. Provides that Section 232.0225 does not apply to this section.

SECTION 12. Amends Section 232.041, Local Government Code, by amending Subsection (b) and adding Subsection (e), as follows:

(b) Requires the court, except as provided by Subsection (e), if all or part of the subdivided tract has been sold to nondeveloper owners, to also give notice to each of those owners by certified or registered mail, return receipt requested, at the owner's address in the subdivided tract.

(e) Provides that the commissioners court is not required to give notice by mail under Subsection (b) if the plat revision only combines existing tracts.

SECTION 13. Amends Chapter 232B, Local Government Code, by adding Section 232.0415, as follows:

Sec. 232.0415. EXCEPTION TO PLAT REQUIREMENT; COUNTY DETERMINATION. Authorizes a commissioners court of the county to allow conveyance of portions of one or more previously platted lots by metes and bounds description without revising the plat.

SECTION 14. Amends Section 232.043(a), Local Government Code, to authorize the commissioners court of a county, on request of a subdivider who created an unplatted subdivision or a resident purchaser of a lot in the subdivision, to grant a delay or variance from compliance with the subdivision requirements prescribed by 232.0385(b)(2).

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 232.0001 - 232.005 (rather than Sections 232.001-232.005) or Sections 232.021-232.038 (rather than Subchapter B or C, Chapter 232).

(c) Makes conforming changes.

SECTION 16. Amends Section 242.002(a), Local Government Code, to provide that this section applies only to a county operating under Section 232.006 or Section 232.0385.

SECTION 17. Amends Section 13.002(26), Water Code, to redefine "affected county."

SECTION 18. Amends Section 13.2501, Water Code, to require the holder of a certificate of public convenience and necessity to refuse to serve a customer within its certified area if the holder of the certificate is prohibited from providing the service under Section 212.012 or 232.029 (rather than 232.0047), Local Government Code.

SECTION 19. Amends Section 16.352, Water Code, to delete text regarding Chapter 232C, Local Government Code.

SECTION 20. Amends Section 16.353(a), Water Code, to make a conforming change.

SECTION 21. Amends Section 16.3535, Water Code, to make a conforming change.

SECTION 22. 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 23. Amends Section 35.019(b), Water Code, to delete text concerning Chapter 232A, Local Government Code.

SECTION 24. Repealers: Section 232.0015(b) (regarding exception to application of the subchapter “Exceptions to Plat Requirement”), Local Government Code; and

Chapter 232C (Subdivision Platting Requirements in Certain Economically Distressed Counties), Local Government Code.

SECTION 25. Makes application of this Act prospective.

SECTION 26. Effective date: September 1, 2001.

SUMMARY OF COMMITTEE CHANGES

Amends As Filed S.B. 800 as follows:

SECTIONS 1 - 3, no change.

SECTION 4. Makes a nonsubstantive change.

SECTIONS 5 - 7, no change.

SECTION 8. Amends Section 232.038, Local Government Code, to provide that this section applies only to certain persons. Omits original proposed deletion of text regarding a subdivision located in an economically distressed area. Provides that a person described by this section may bring suit in the district court in which the property is located or in a district court in Travis County for certain purposes.

SECTION 9. No change.

SECTION 10. Deletes reference to Sections 232.001-232.006.

SECTION 11 - 14, no change.

SECTION 15. Deletes reference to Sections 232.001-232.005. Makes a conforming change.

SECTIONS 16 - 26, no change.