

BILL ANALYSIS

Senate Research Center

H.B. 2236
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Business & Commerce
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Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Under current law, many Texas political subdivisions (including cities and counties) require homebuilders or residential developers to obtain one or more permits before that homebuilder or developer may initiate residential development. These political subdivisions often charge fees for these permits. However, very few statutory requirements require political subdivisions to justify an increase in fees. The absence of any statutory requirements has led to a significant fee increase over very short periods of time, despite no significant rise in the cost to issue a particular permit.

H.B. 2236 sets forth new provisions intended to impose reasonable limitations on the levels of permit fees imposed by political subdivisions on residential construction permits, as well as providing interested parties with more notice regarding when, and under what circumstances, any increases in these permit fees will be adopted.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle C, Title 7, Local Government Code, by adding Chapter 247, as follows:

CHAPTER 247. FEES FOR LOCAL PERMITS

Sec. 247.001. DEFINITIONS. Defines "permit," "permit fee," "political subdivision," and "regulatory agency."

Sec. 247.002. LIMITATION ON AUTHORITY TO IMPOSE PERMIT FEE. (a) Authorizes a regulatory agency to impose a permit fee only under specific circumstances.

(b) Prohibits a fee collected by a regulatory agency for a permit from being used for a purpose other than to pay certain costs.

(c) Requires that nothing in this chapter be construed as a grant of authority to a regulatory agency or a political subdivision to impose a permit fee or any other fee unless specific circumstances exist.

Sec. 247.003. ANNUAL BUDGET AND ACCOUNTING. (a) Requires a regulatory agency to adopt a budget for certain permit fees, before the first day of the political subdivision's fiscal year.

(b) Requires the regulatory agency to conduct an audit of the permit fees collected and certain costs, as soon as practicable after the last day of the political subdivision's fiscal year. Requires the audit to identify a surplus or deficit in the budget for each permit fee.

Sec. 247.004. LIMITATION ON INCREASE IN PERMIT FEES. (a) Authorizes a regulatory agency to increase a permit fee only if the political subdivision holds two

public hearings as specified. Prohibits the second hearing from being held before the 15th day after the date on which the first hearing is held.

(b) Requires the regulatory agency to publish notice of the time and place of each hearing as specified, before the 30th day before the date of each hearing. Requires the political subdivision to mail notice to any person who requests, in writing, notice of public hearing on the increase of a permit fee.

(c) Requires the regulatory agency proposing a permit fee increase to make available to the public, not later than the 30th day before the first hearing, a study that meets specific criteria.

(d) Prohibits an increase in a permit fee from taking effect before the 30th day after the date on which the regulatory agency approves the increase.

(e) Prohibits a regulatory agency from increasing a permit fee before the first anniversary of the effective date of the previous increase of the permit fee.

Sec. 247.005. ENFORCEMENT. (a) Authorizes any person to notify the attorney general of a violation of this chapter. Authorizes the attorney general to initiate a proceeding in district court to compel performance of this chapter, upon making a certain determination. Authorizes the attorney general to seek an order from a district court directing the regulatory agency to immediately reimburse certain persons.

(b) Authorizes certain persons to bring an action in district court against a regulatory agency for a violation of this chapter. Provides that a person is not required to notify the attorney general under Subsection (a) before being authorized to file an action under this subsection.

(c) Provides that a regulatory agency that violates this chapter is liable for attorney's fees incurred by a person in the enforcement of this chapter.

SECTION 2. (a) Requires that a regulatory agency adopt a budget for each permit imposed by the agency as required by Section 247.003(a), Local Government Code, as added by this Act, before January 1, 2006.

(b) Requires a regulatory agency to conduct audits, as required by Section 247.003(b), Local Government Code, as added by this Act, beginning as soon as practicable after January 1, 2006.

SECTION 3. Effective date: September 1, 2005.