

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 980
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Business & Commerce
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Committee Report (Substituted)

DIGEST AND PURPOSE

Currently, municipalities are not required to hold public hearings and provide notice before adopting a moratorium ordinance. This can cause uncertainty and potential hardship for property developers. C.S.S.B. 980 conforms the moratorium adoption procedure to the zoning application procedure. C.S.S.B. 980 sets out certain procedures and requirements for municipalities to list the purposes of a moratorium and limits the time-frame for the moratorium and subsequent extensions.

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 Chapter 212, Local Government Code, by adding Subchapter E, as follows:

SUBCHAPTER E. MORATORIUM ON PROPERTY DEVELOPMENT IN CERTAIN CIRCUMSTANCES

Sec. 212.131. DEFINITION. Defines “essential public facilities.”

Sec. 212.132. APPLICABILITY. Provides that this subchapter applies only to a moratorium imposed on property development affecting only residential property.

Sec. 212.133. PROCEDURE FOR ADOPTING MORATORIUM. Prohibits a municipality from adopting a moratorium on property development unless the municipality meets certain criteria.

Sec. 212.134. NOTICE AND PUBLIC HEARING REQUIREMENTS. Requires a municipality, before a moratorium on property development is authorized to be imposed, to conduct public hearings as provided by this section. Requires a public hearing to provide municipal residents and affected parties an opportunity to be heard. Requires the municipality to publish notice of the time and place of a hearing in a newspaper of general circulation in the municipality on the fourth day before the date of the hearing. Provides that beginning on the fifth business day after the date a notice is published under Subsection (b), a temporary moratorium takes effect. Authorizes a municipality, during the period of the temporary moratorium, to stop accepting permits, authorizations, and approvals necessary for the subdivision of, site planning of, or construction on real property. Requires one public hearing to be held before the governing body of the municipality. Requires another public hearing to be held before the municipal zoning commission if the municipality has a zoning commission. Requires two public hearings separated by at least four days, if a general-law municipality does not have a zoning commission, to be held before the governing body of the municipality. Requires the municipality, within 12 days after the date of the first public hearing, to make a final determination on the imposition of a moratorium. Requires an ordinance, before an ordinance adopting a moratorium

is imposed, to be given at least two readings by the governing body of the municipality. Requires the readings to be separated by at least four days. Provides that if the municipality fails to adopt an ordinance imposing a moratorium within the period prescribed by this subsection, an ordinance imposing a moratorium is prohibited from being adopted, and the temporary moratorium imposed under Subsection (c) expires.

Sec. 212.135. JUSTIFICATION FOR MORATORIUM; WRITTEN FINDINGS REQUIRED. Authorizes the moratorium, if a municipality adopts a moratorium on property development, to be justified by demonstrating a need to prevent a shortage of essential public facilities that would otherwise occur during the effective period of the moratorium. Requires the municipality to issue written findings based on reasonably available information. Requires the written findings to include a summary of certain evidence. Authorizes a moratorium that is not based on a shortage of essential public facilities to be justified only by demonstrating a significant need for other public facilities, including police and fire facilities. Provides that for purposes of this subsection, a compelling need for public facilities is established if the failure to provide those public facilities would result in an overcapacity of public facilities proximately caused by the new development. Requires the municipality to issue written findings based on reasonably available information. Requires the written findings to include a summary of certain evidence.

Sec. 212.136. EXPIRATION OF MORATORIUM; EXTENSION. Provides that a moratorium adopted under this subchapter expires on the 120th day after the moratorium is adopted unless the municipality extends the moratorium by performing certain procedures. Requires a municipality proposing an extension of a moratorium to publish notice in a newspaper of general circulation in the municipality not later than the 15th day before the date of the hearing.

Sec. 212.137. WAIVER PROCEDURES REQUIRED. Requires a moratorium adopted under this subchapter to allow a permit applicant to apply for a waiver from the moratorium relating to the property subject to the permit by specifying certain information. Requires the permit applicant to submit the reasons for the request to the governing body of the municipality in writing. Requires the governing body of the municipality to vote on whether to grant the waiver request within 10 days after receiving the written request.

Sec. 212.138. EFFECT ON OTHER LAW. Provides that a moratorium adopted under this subchapter does not affect the rights acquired under Chapter 245 or common law.

SECTION 2. Amends Section 395.076, Local Government Code, to prohibit a moratorium from being placed on new development for the purpose of awaiting the completion of all or any part of the process necessary to develop, adopt, or update land use assumptions, a capital improvements plan or an impact fee.

SECTION 3. Effective date: upon passage or September 1, 2001.

SUMMARY OF COMMITTEE CHANGES

SECTION 1. Amends As Filed 980, Chapter 212, Local Government Code, by amending proposed Subchapter E (MORATORIUM ON PROPERTY DEVELOPMENT IN CERTAIN CIRCUMSTANCES).