

BILL ANALYSIS

Senate Research Center
79R2523 MXM-D

S.B. 1238
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Counties have the authority to approve plats for developments in unincorporated areas, including the dedication of drainage easements as necessary to safely and effectively manage stormwater. County efforts to provide for the public safety by establishing a system of infrastructure for management can be frustrated by the property owners, who do not improve their easement as agreed, fill or otherwise block the easement, or do not maintain the improved easements. For example, a drainage channel dedicated through easement may become clogged with debris, sediment, and/or vegetation. Currently, without landowner approval the county does not have the authority to access, maintain, or improve the county infrastructure dedicated during the platting process.

Current law does not recognize a blocked, non-maintained, or unimproved drainage easement as a public nuisance. As proposed, S.B. 1238 redefines public nuisance to include blocked, non-maintained, or unimproved drainage easements. S.B. 1238 allows counties to have access to maintain and improve drainage easements that have been dedicated to the public as part of the floodwater management system but have not been maintained or improved by the property owner. S.B. 1238 makes it easier for counties to reduce and prevent flooding due to blocked or non-functioning drainageways.

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 Section 343.011(c), Health and Safety Code, to redefine "public nuisance."

SECTION 2. Effective date: September 1, 2005.