

## **BILL ANALYSIS**

Senate Research Center  
82R10811 AJZ-D

S.B. 1462  
By: Lucio  
International Relations & Trade  
4/1/2011  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Senate Committee on International Relations and Trade (IRT) has conducted interim studies concerning the need to provide local units of government the necessary local control tools to curtail the spread of substandard, colonia-like developments in their jurisdictions. By working with local county officials, state agencies and interested parties, IRT has discovered that the counties with the greatest number of colonias in the nation, those along the Texas-Mexico border region (also known as the Subchapter B counties of Chapter 232 (County Regulation of Subdivisions), Local Government Code) continue to struggle with combating the proliferation of substandard housing due to the lack of local control tools and available resources.

Historically, the state has treated Subchapter B counties differently than other counties of the state. For example, unlike other counties, since 1995, these have been statutorily mandated to adopt the Model Subdivision Rules as part of the state's colonial prevention measures. The large number and mass concentration of border colonias, along with the health risk associated with their distressed conditions, were among the reasons behind the variation in treatment by the state.

As reported in previous IRT interim studies, the border region has some of the most economically distressed counties in the state. IRT learned, during the interim, that the current penalties for violating the state's colonia prevention laws may not be strong enough to deter those who are determined to violate them, even against those whom the attorney general has successfully received a judgment. Information provided in interim hearings indicates that current law does not provide the attorney general and county district attorneys with the authority to seek an unscrupulous developer's monetary gains from violating Texas law, or the authority to even rescind and void contracts.

As proposed, S.B. 1462 amends current law relating to the enforcement of subdivision platting requirements in certain counties near the international border of this state.

### **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. Provides that the purpose of this Act is to allow the state and certain counties to be affected parties in claims against unscrupulous developers who violate subdivision platting requirements under Subchapter B (Subdivision Platting Requirements in County Near International Border), Chapter 232 (County Regulation of Subdivisions), Local Government Code, since the state and counties may reasonably be expected to mitigate or ameliorate the conditions created by those developers.

SECTION 2. Amends Section 232.037, Local Government Code, by amending Subsection (a) and adding Subsection (e) as follows:

- (a) Authorizes the attorney general, or the district attorney, criminal district attorney, county attorney with felony responsibilities, or county attorney of the county to take any

action necessary in a court of competent jurisdiction on behalf of the state, an affected county subject to this subchapter, or affected, rather than on behalf of, residents, to:

- (1) enjoin the violation or threatened violation of the model rules adopted under Section 16.343 (Minimum State Standards and Model Political Subdivision Rules), Water Code;
- (2) enjoin the violation or threatened violation of a requirement of this subchapter or a rule adopted by the commissioners court under this subchapter;
- (3) recover civil or criminal penalties, attorney's fees, litigation costs, and investigation costs;
- (4) require platting or replatting under Section 232.040 (Replatting);
- (5) recover funds paid to the subdivider or an agent of the subdivider, with interest;
- (6) freeze the assets of the subdivider or an agent of the subdivider; and
- (7) void or rescind contracts.

(e) Requires funds recovered under Subsection (a)(5), if the state or a county is a party to the claim, to be divided between the affected residents and the governmental entity or entities, with 50 percent of the recovery to be paid to the affected residents and the other 50 percent to be paid to the governmental entity or entities. Requires multiple governmental entities that are party to the claim to divide money received under this subsection equally among the entities.

SECTION 3. Effective date: September 1, 2011.