

BILL ANALYSIS

Senate Research Center
87R13765 DRS-F

C.S.S.B. 1922
By: Lucio
State Affairs
4/20/2021
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

All Texas cities have extraterritorial jurisdiction ("ETJ") authority by statute. Since the inception of ETJs in 1963, municipalities have had a history of enacting certain regulations affecting the activities and structures that landowners may perform or construct in their ETJ. These regulations have led to protracted and expensive litigation adding to our already overburdened judicial system. Since ETJ residents are not permitted to vote in city elections, they do not have a voice in electing the officials who are ultimately enacting these regulations.

S.B. 1922 seeks to remedy this issue by noting that a municipality may not regulate an activity structure in an area in which the residents are ineligible or have only limited eligibility to vote in the municipal elections. This bill is not a blanket prohibition on the ability of municipalities to regulate in their ETJ as it provides exceptions by which municipalities may still regulate some activities and structures that are necessary for general health, safety, and welfare of landowners. This allows cities to continue regulating certain enumerated activities and structures in their ETJ but will ensure that cities do not exceed their regulatory authority and interfere with the private property rights of the ETJ residents.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1922 amends current law relating to restrictions on municipal regulation in certain areas.

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 Subchapter Z, Chapter 42, Local Government Code, by adding Section 42.905, as follows:

Sec. 42.905. RESTRICTION ON MUNICIPAL REGULATION IN CERTAIN AREAS.

(a) Prohibits a municipality, notwithstanding any other law, from regulating an activity or structure in an area in which the residents are ineligible or have only limited eligibility to vote in municipal elections.

(b) Provides that this section does not apply to municipal regulation of an activity or structure under:

(1) Section 431.0359 (Fire Hydrant Flow Standards), Section 364.0341 (Solid Waste Disposal Services in Extraterritorial Jurisdiction of Certain Municipalities), or Section 713.009 (Local Possession and Control of Unkept or Abandoned Cemetery), Health and Safety Code;

(2) Section 212.002 (Rules), Section 212.003 (Extension of Rules to Extraterritorial Jurisdiction), Section 212.044 (Plans, Rules, and Ordinances), Section 215.003 (Rendering Plants), Section 215.072

(Dairies; Slaughterhouses), Section 217.042 (Nuisance), Section 242.001 (Regulation of Subdivisions in Extraterritorial Jurisdiction Generally), Section 242.002 (Regulation of Subdivisions in Populous Counties or Contiguous Counties), Section 242.003 (Authority of Certain Border Counties and Municipalities to Regulate Subdivisions in Extraterritorial Jurisdiction by Agreement), Section 251.001 (Right of Eminent Domain), Section 273.001 (Acquisition of Property; Exercise of Police Power), Section 331.001 (General Authority), Section 341.903 (Authority of Home-Rule Municipality to Police Municipally Owned Property Outside Municipality), Section 372.003 (Authorized Improvements), Section 377.002 (Scope), Section 380.001 (Economic Development Programs), Section 382.109 (Road Projects), Section 386.002 (Jurisdiction of Municipality), Section 395.011 (Authorization of Fee), Section 551.002 (Protection of Streams and Watersheds by Home-Rule Municipality), Section 551.004 (Protection of Playa Lakes by Certain Home-Rule Municipalities), Section 551.005 (Restriction on Pumping, Extraction, or Use of Groundwater), Section 551.006 (Irrigation Systems), Section 551.007 (Water Conservation by Home-Rule Municipality), Section 552.001 (Municipal Utility Systems; General Powers), or Section 552.011 (Use of Eminent Domain Power), Local Government Code.

(3) Section 61.015 (Beach Access and Use Plans), Natural Resources Code;

(4) Section 351.0025 (Extraterritorial Jurisdiction), Tax Code;

(5) Section 26.177 (Water Pollution Control Duties of Cities), Water Code;

(6) Article 1524e (Regulation by Municipalities or Counties), Revised Statutes.

SECTION 2. Effective date: September 1, 2021.