

SUBJECT: Prohibiting localities from imposing certain fees on new construction

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 8 ayes — Y. Davis, Bohac, Darby, Murr, Raymond, Shine, Springer, Stephenson

0 nays

3 absent — D. Bonnen, E. Johnson, Murphy

WITNESSES: For —Justin MacDonald, Hill Country Builders Association; Gerry Poe, KB Home; Scott Norman, Texas Association of Builders; Dana Ambs; Mike Dishberger; Leland Freeman; Frank Harren; (*Registered, but did not testify*: Michael Chatron, AGC Texas Building Branch; Trey Lary, Allen Boone Humphries Robinson LLP; Tim Jackson, Dallas Builders Association; Bradley Pepper, Greater Houston Builders Association; Carol Baker and Emily Lubbers, Home Builders Association of Greater Austin; Jim Short, Houston Real Estate Council; Joshua Sanders, Houstonians for Responsible Growth; Stephen Scurlock, Independent Bankers Association of Texas; Blanca Laborde, Commercial Real Estate Development Association, The Real Estate Council-Dallas; Annie Spilman, National Federation of Independent Business-Texas; Josiah Neeley, R Street Institute; Chelsy Hutchison, Real Estate Council of San Antonio; Howard Cohen, Schwartz, Page & Harding, L.L.P.; Bobby Bowling, Frank Jackson, and Todd Kercheval, Texas Affiliation of Affordable Housing Providers; Daniel Gonzalez, Texas Association of Realtors; Stephanie Simpson, Texas Association of Manufacturers; Julia Parenteau, Texas Association of Realtors; Robert Braziel, Texas Automobile Dealers Association; John Heasley, Texas Bankers Association; Crystal Ford, Texas Building Owners and Managers Association; John Colyandro, Texas Conservative Coalition; Traci Kelley, Texas Institute of Building Design; Shea Place, Texas Land Title Association; DJ Pendleton, Texas Manufactured Housing Association; Olivia Chriss, Texas Restaurant Association; George Kelemen, Texas Retailers Association; Rick McGuire, West Texas Home Builders

Association; and nine individuals)

Against — Charlie Duncan, Texas Low Income Housing Information Service; Arthur Carpenter; Ed Wendler; (*Registered, but did not testify*: Brie Franco, City of Austin; TJ Patterson, City of Fort Worth; Shanna Igo, Texas Municipal League; Joseph Green, Travis County Commissioners Court)

DIGEST: CSHB 1449 would prohibit localities from adopting or enforcing a fee on new construction to offset the cost or rent of any residential housing.

The bill would not apply to density bonus programs involving zoning waivers or the voluntary provision of affordable housing or other defined public benefit.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017. The bill would not apply to agreements relating to the provision of subsidized housing entered into before the bill's effective date.

SUPPORTERS SAY: CSHB 1449 would prevent localities from imposing short-sighted and counterproductive fees on new construction. Although no Texas city currently imposes linkage fees, they would drive up the price of housing and reduce the supply of new homes. According to estimates from the National Association of Home Builders, for every \$1,000 increase in median new home price in Texas, more than 13,000 households are priced out of the market. These fees, which are a de facto tax and directly increase the price of new construction, exacerbate the shortage of affordable housing seen in several Texas cities.

While opponents contend that linkage fees are a way to collect revenue from a broad cross-section of the market, these fees actually skew the market by only taxing new entrants. A home built after a linkage fee is enacted would suddenly cost more than an identical home next door. This merely drives up the valuation of existing homes, increasing their property

tax burden, and disconnects the value of homes from their actual cost to build.

The state imposes many restrictions on the ability of localities to collect revenue, like property tax and sales tax rate caps, so this would not be an unreasonable infringement on local control. Linkage fees in cities in other states have shown a disturbing trend of starting low and quickly rising to a stifling level. In any case, local control is a means to more effective government, not an end in and of itself.

Finally, localities with shortages of affordable housing typically have many alternatives to reduce the cost of housing. They could expedite permits and zoning, reduce fees, or simply spend more money on affordable housing from other revenue sources. Localities do not need to be allowed to levy a counterproductive fee.

OPPONENTS
SAY:

CSHB 1449 would be an unnecessary infringement on local control, prohibiting cities from collecting revenue that is necessary to fund affordable housing. Linkage fees are not counterproductive, and they do not impede economic development as they are low and broadly applicable across all forms of new construction. They also are easier to administer than alternatives and provide more market certainty than density bonuses, which are optional and on a case-by-case basis.

In any case, it should be left to cities to decide the best way to fund affordable housing. The state should not intervene to address policies that have a strictly local effect on the municipality,

The bill would take away one of the only viable revenue sources for affordable housing. Linkage fees are used in many high-growth cities and have proven more effective than other alternatives. Moreover, affordable housing assistance programs -- both on the state and federal level -- are facing cuts to an already insufficient level of funding. Voluntary programs like density bonus programs are ineffective because developers usually merely choose to pay a fee or not participate in the program at all, rather than provide affordable housing.

NOTES: A companion bill, SB 852 by Nelson, was referred to the Senate Business and Commerce Committee on February 27.