

- SUBJECT:** Modifying requirements for establishing historic landmarks and districts
- COMMITTEE:** Culture, Recreation and Tourism — favorable, without amendment
- VOTE:** 5 ayes — K. King, Frullo, Krause, Martinez, C. Morales
- 0 nays
- 4 absent — Gervin-Hawkins, Burns, Clardy, Israel
- SENATE VOTE:** On final passage, April 21 — 26-5 (Eckhardt, Gutierrez, Menéndez, Whitmire, Zaffirini)
- WITNESSES:** No public hearing.
- BACKGROUND:** Local Government Code sec. 211.0165 establishes that a municipality may designate a property as a local historical landmark without the consent of the owner only if the designation is approved by a three-fourths vote of the municipality's governing body and zoning, planning, or historical commission, if any. The municipality must provide the owner with an impact statement containing certain specified information no later than the 15th day before the initial hearing on the proposed designation. A property owner may withdraw consent at any point in the designation process. A property owned by a religious organization cannot be designated a historical landmark by a municipality without the organization's consent.
- DIGEST:** SB 1585 would extend the provisions governing the designation of local historic landmarks under Local Government Code sec. 211.0165 to the inclusion by a municipality of a property in a local historic district.
- The bill also would require a municipality that had more than one zoning, planning, or historical commission to designate one of those commissions as the entity with exclusive authority to approve the designations of properties as local historic landmarks and the inclusion of properties in a local historic district.

The bill would take effect September 1, 2021, and would apply only to a proposal to include property in a local historic district or designate a property as a local historic landmark made on or after that date.

**SUPPORTERS
SAY:**

SB 1585 would enhance the rights of property owners by requiring a supermajority vote by a municipal governing body and, if applicable, its zoning, planning, or historical commission in order to include a property in a local historical district without the owner's consent. The bill also would provide a clear, uniform, and predictable process for all parties by preventing municipalities that have multiple relevant commissions from "shopping around" for the commission most likely to provide the required vote in each case of landmark designation or inclusion of property in a historic district or taking up votes on multiple committees to achieve the city's desired result.

Local historic districts as created by many municipalities regulate use in ways that can impose burdens on property owners, so a higher approval threshold for including property in a historic district would be justified. The extension of this exemption to religious organizations conforms to current provisions for landmark designations, and religious organizations need flexibility to expand and adapt the single-use building that is usually their only major asset.

The bill would not prevent the creation of historical districts or even the inclusion of property against an owner's wishes but simply would set a higher threshold to ensure that such inclusion has ample community support. SB 1585 still would allow local governments considerable flexibility in creating historic districts, including the ability to negotiate with individual property owners on specific aspects of district requirements.

**CRITICS
SAY:**

By requiring a supermajority vote of a city governing body and commission to include a property in a local historic district without the owner's consent, SB 1585 would place a higher burden on historic district designations, which do not regulate use, than is required for other types of

zoning, including those that restrict use. Allowing individual property owners to opt out of inclusion in a historic district would defeat the purpose, which is to preserve the historical character and integrity of an entire area.

The bill would extend provisions on designation of local historic landmarks to allow religious organizations to prevent property they own from being included in a historic district without owner consent. However, churches and other sacred spaces often are among the buildings most appropriate for a historical designation, and local communities should be able to decide if a church should be considered historic. State law should not make it more difficult to create cohesive historical districts that enhance community identity and contribute to local economies through tourism and increased property values.

Local governments already provide means for public input on district designations, including specific provisions for property owners to object to their inclusion in a district. SB 1585 could undermine local control by restricting the ability of cities to determine for themselves the procedures needed to create a district.

NOTES:

The House companion bill, HB 1474 by Cyrier, was considered by the House Culture, Recreation, and Tourism Committee in a public hearing on March 22, reported favorably on March 29, and sent to the Calendars Committee.