

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 980  
By: Carona  
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### **DIGEST AND PURPOSE**

Currently, municipalities are not required to hold public hearings and provide notice before adopting a moratorium ordinance. This can cause uncertainty and potential hardship for property developers. As proposed, S.B. 980 conforms the moratorium adoption procedure to the zoning application procedure. S.B. 980 sets out certain procedures and requirements for municipalities to list the purposes of a moratorium and limits the time-frame for the moratorium and subsequent extensions.

### **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 Chapter 212, Local Government Code, by adding Subchapter E, as follows:

#### **SUBCHAPTER E. MORATORIUM ON PROPERTY DEVELOPMENT IN CERTAIN CIRCUMSTANCES**

Sec. 212.131. DEFINITION. Defines “essential public facilities.”

Sec. 212.132. MORATORIUM ON PROPERTY DEVELOPMENT. Provides that for purposes of this subchapter, a municipality is considered to have imposed a moratorium on property development if the municipality routinely delays the issuance of or stops issuing permits, authorizations, or approvals necessary for the subdivision of, site planning of, or construction on real property. Provides that a municipality is not considered to have imposed a moratorium on property development if the municipality denies or delays a permit, authorization, or approval because the permit, authorization, or approval is inconsistent with applicable statutes, rules, or ordinances, including zoning ordinances.

Sec. 212.133. PROCEDURE FOR ADOPTING MORATORIUM. Prohibits a municipality from adopting a moratorium on property development unless the municipality meets certain criteria.

Sec. 212.134. NOTICE AND PUBLIC HEARING REQUIREMENTS. Requires a municipality, before a moratorium on property development is authorized to be imposed, to conduct public hearings as provided by this section. Requires a public hearing to provide municipal residents and affected parties an opportunity to be heard. Requires the municipality to publish notice of the time and place of a hearing in a newspaper of general circulation in the municipality before the 15th day before the date of the hearing. Requires one public hearing to be held before the governing body of the municipality. Requires another public hearing to be held before the municipal zoning commission if the municipality has a zoning commission. Requires two public hearings separated by at least 14 days, if a general-law municipality does not have a zoning commission, to be held before the governing body of the municipality.

Requires an ordinance, before an ordinance adopting a moratorium is imposed, to be given at least two readings by the governing body of the municipality. Requires the readings to be separated by at least seven days.

Sec. 212.135. JUSTIFICATION FOR MORATORIUM; WRITTEN FINDINGS REQUIRED. Authorizes the moratorium, if a municipality adopts a moratorium on property development, to be justified by demonstrating a need to prevent a shortage of essential public facilities that would otherwise occur during the effective period of the moratorium. Requires the municipality to issue written findings based on reasonably available information. Requires the written findings to include a summary of certain evidence. Authorizes a moratorium that is not based on a shortage of essential public facilities to be justified only by demonstrating a compelling need for other public facilities, including police and fire facilities. Provides that for purposes of this subsection, a compelling need for public facilities is established if the failure to provide those public facilities would result in a clear and imminent danger to public health and safety. Requires the municipality to issue written findings based on reasonably available information. Requires the written findings to include a summary of certain evidence.

Sec. 212.136. EXPIRATION OF MORATORIUM; EXTENSION. Provides that a moratorium adopted under this subchapter expires on the 120th day after the moratorium is adopted unless the municipality extends the moratorium by performing certain procedures. Requires a municipality proposing an extension of a moratorium to publish notice in a newspaper of general circulation in the municipality not later than the 30th day before the date of the hearing.

Sec. 212.137. WAIVER PROCEDURES REQUIRED. Requires a moratorium adopted under this subchapter to provide a procedure that permits a landowner to apply for a waiver from the moratorium relating to the landowner's property by specifying certain information.

Sec. 212.138. JUDICIAL REVIEW. Authorizes a landowner aggrieved by a municipality's adoption of a moratorium under this subchapter to file an action in district court to contest the adoption of the moratorium not later than the 30th day after the date the ordinance imposing the moratorium is adopted. Requires the court to award to the prevailing party in an action under this section reasonable attorney's fees incurred in the trial and appeal of the action.

Sec. 212.139. EFFECT ON OTHER LAW. Provides that a moratorium adopted under this subchapter does not affect the rights acquired under Chapter 245.

SECTION 2. Amends Section 395.076, Local Government Code, to prohibit a moratorium from being placed on new development for the purpose of awaiting the completion of all or any part of the process necessary to develop, adopt, or update land use assumptions, a capital improvements plan or an impact fee.

SECTION 3. Effective date: upon passage or September 1, 2001.