

BILL ANALYSIS

Senate Research Center

H.B. 1204
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Intergovernmental Relations
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Engrossed

DIGEST AND PURPOSE

The 77th Texas Legislature passed legislation which enabled subdivisions in the extraterritorial jurisdiction (ETJ) of a municipality to not be subject to both municipal and county development regulations by consolidating development regulations. H.B. 1204 clarifies who approves subdivision plats in the ETJ. Since less populous counties are not experiencing the same level of development as are urban counties, problems with dual regulation are not as apparent. In those counties, dual regulation of subdivisions would be allowed. In populous counties, however, regulation of subdivisions in the ETJ would become the exclusive responsibility of the county.

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 the heading of Section 242.001, Local Government Code, to read as follows:

Sec. 242.001. REGULATION OF SUBDIVISIONS IN EXTRATERRITORIAL JURISDICTION GENERALLY.

SECTION 2. Reenacts and amends Section 242.001(a), Local Government Code, as amended by Chapters 736 and 1028, Acts of the 77th Legislature, Regular Session, 2001, as follows:

(a) Provides that this section applies only to a county operating under Sections 232.001-232.005 or Subchapter B, C, or E, Chapter 232, and a municipality that has extraterritorial jurisdiction in that county. Provides that Subsections (b)-(g) do not apply to certain counties.

(b) Provides that this section takes effect only if House Bill No. 1197, Acts of the 78th Legislature, Regular Session, 2003, does not become law. Provides that if that bill becomes law, this section has no effect.

SECTION 3. Reenacts and amends Section 242.001(a), Local Government Code, as amended by Chapters 736 and 1028, Acts of the 77th Legislature, Regular Session, 2001, as follows:

(a) Adds a new Subdivision (3) to provide that Subsections (b)-(g) do not apply to a tract of land subject to a development agreement under Subchapter G, Chapter 212, or other provisions of this code.

(b) Provides that this section takes effect only if House Bill No. 1197, Acts of the 78th Legislature, Regular Session, 2003, becomes law. Provides that if that bill does not become law, this section has no effect.

SECTION 4. Reenacts and amends Section 242.001(c), Local Government Code, as amended by Chapters 736 and 1028, Acts of the 77th Legislature, Regular Session, 2001, by amending Subsections (d), (f), and (g) and adding Subsection (h), as follows:

(c) Prohibits a municipality, except as provided by Subsections (d)(3) and (4), from regulating subdivisions and approving related permits in the extraterritorial jurisdiction of a municipality. Requires the municipality and county, on reaching an agreement, to certify that the agreement complies with the requirements of this chapter. Provides that any expansion or reduction in the municipality's extraterritorial jurisdiction that affects property that is subject to a preliminary or final plat, a plat application, or an application for a related permit filed with the county or that was previously approved under Chapter 232 does not affect an rights accrued under Chapter 245. Makes a conforming change.

(d) Adds new criteria to existing Subdivision (4) relating to an interlocal agreement between a municipality and county.

(f) Requires the municipality and the county, if a certified agreement between a county and municipality as required by Subsection (c) is not in effect on or before January 1, 2004, to enter into arbitration as provided by Section 242.0015. Provides that if the arbitrator or arbitration panel, as applicable, has not reached a decision in the 60-day period as provided by Section 242.0015, the county has exclusive authority to regulate plats and subdivisions and approve related permits in the extraterritorial jurisdiction of the municipality in accordance with Chapter 232 and other statutes applicable to counties. Provides that the county retains that exclusive authority only until the arbitrator or arbitration panel reaches a decision. Deletes current text.

(g) Provides that if a regulation or agreement adopted under this section relating to plats and subdivisions of land or subdivision development establishes a plan for future roads that conflicts with a proposal or plan for future roads adopted by a metropolitan planning organization, the proposal or plan of the metropolitan planning organization prevails. Deletes existing text.

(h) Provides that this subsection applies only to a county to which Subsections (b)-(g) do not apply, except that this subsection does not apply to a county subject to Section 242.002. Provides that for an area in a municipality's extraterritorial jurisdiction, as defined by Section 212.001, a plat may not be filed with the county clerk without the approval of both the municipality and the county. Provides that if a municipal regulation and a county regulation relating to plats and subdivisions of land conflict, the more stringent regulation prevails. Provides that however, if one governmental entity requires a plat to be filed for the subdivision of a particular tract of land in the extraterritorial jurisdiction of the municipality and the other government entity does not require the filing of a plat for that subdivision, the authority responsible for approving plats for the governmental entity that does not require the filing must issue on request of the subdivider a written certification stating that a plat is not required to be filed for that subdivision of the land. Requires the certification to be attached to a plat required to be filed under this subsection.

SECTION 5. Amends Chapter 242, Local Government Code, by adding Section 242.0015, as follows:

Sec. 242.0015. ARBITRATION REGARDING SUBDIVISION REGULATION AGREEMENT. (a) Provides that this section applies only to a county and a municipality that are required to make an agreement as described under Section 242.001(f). Requires the parties, if a certified agreement between a county and municipality is not in effect on or before January 1, 2004, to arbitrate the disputed issues. Prohibits a party from refusing to participate in arbitration requested under this section. Provides that an arbitration decision under this section is binding on the parties.

(b) Requires the county and the municipality to agree on an individual to serve as arbitrator. Provides that if the county and the municipality cannot agree on an individual to serve as arbitrator, the county and the municipality must each select an arbitrator and the arbitrators selected must select a third arbitrator.

(c) Provides that the third arbitrator selected under Subsection (b) presides over the arbitration panel.

(d) Requires the arbitrator or arbitration panel, as applicable, not later than the 30th day after the date the county and the municipality are required to have an agreement in effect under Section 242.001(f), to be selected.

(e) Provides that the authority of the arbitrator or arbitration panel is limited to issuing a decision relating only to the disputed issues between the county and the municipality regarding the authority of the county or municipality to regulate plats, subdivisions, or development plans.

(f) Provides that each party is equally liable for the costs of an arbitration conducted under this section.

(g) Provides the party whose regulatory standards prevail in an arbitration conducted under this section relating to regulation of infrastructure in the subdivision is responsible for maintaining the aspect of the infrastructure that is covered by the regulation.

(h) Requires the arbitrator or arbitration panel, as applicable, to render a decision under this section not later than the 60th day after the date the arbitrator or arbitration panel is selected. Provides that if after a good faith effort the arbitrator or panel has not reached a decision as provided under this subsection, the arbitrator or panel must continue to arbitrate the matter until the arbitrator or panel reaches a decision.

(i) Prohibits a municipality and a county from arbitrating the subdivision of an individual plat under this section.

SECTION 6. Amends Subchapter A, Chapter 212, Local Government Code, by adding Section 212.0025, as follows:

Sec. 212.0025. CHAPTER-WIDE PROVISION RELATING TO REGULATION OF PLATS AND SUBDIVISIONS IN EXTRATERRITORIAL JURISDICTION. Provides that the authority of a municipality under this chapter relating to the regulation of plats or subdivisions in the municipality's extraterritorial jurisdiction is subject to any applicable limitation prescribed by an agreement under Section 242.001.

SECTION 7. Amends Subchapter A, Chapter 232, Local Government Code, by adding Section 232.0013, as follows:

Sec. 232.0013. CHAPTER-WIDE PROVISION RELATING TO REGULATION OF PLATS AND SUBDIVISIONS IN EXTRATERRITORIAL JURISDICTION. Provides that the authority of a county under this chapter relating to the regulation of plats or subdivisions in the extraterritorial jurisdiction of a municipality is subject to any applicable limitation prescribed by an agreement under Section 242.001 or by Section 242.002.

SECTION 8. Amends Section 232.0015(b), Local Government Code, to provide that except as provided by Section 232.0013, this subchapter does not apply to a subdivision of land to which Subchapter B applies.

SECTION 9. Provides that if any provision of this Act or its application to any county, municipality, or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

SECTION 10. Makes application of the changes in law made by this Act to Chapters 212, 232,

and 242, Local Government Code, prospective.

SECTION 11. Effective date: upon passage or September 1, 2003.