

## **BILL ANALYSIS**

Senate Research Center

S.B. 1918  
By: Campbell  
State Affairs  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In 1997, the Texas Legislature adopted a recodification bill of the Local Government Code and inadvertently omitted Chapter 245 (Issuance of Local Permits) which regulates the issuance of local permits. Before the legislature could reconvene in 1999 to address the oversight, a city adopted an ordinance which permitted putting an expiration on a permit regardless of the progress on the project. This ordinance has remained in effect despite its contradiction to Chapter 245 which allows a property owner to lock in the property owner's regulatory certainty by grandfathering the construction regulations once the property owner met criteria outlined in the code which demonstrates progress. This ordinance was particularly damaging to individuals who had donated land at the city's request.

After many disputes, Representative Oliveira requested an Attorney General's Opinion on the ordinance. GA-0980, issued on December 10, 2012, found that "a court would likely conclude that the ordinance is void to the extent it causes a project to expire sooner than it would under the provisions of Section 245.005 of the Local Government Code. Likewise, a court would likely conclude that the ordinance is void to the extent it causes a project to expire regardless of whether the project meets the Section of 245.005 criteria for progress towards completion of the project."

As proposed, S.B. 1918 amends current law relating to certain regulatory requirements placing expiration dates on land development permits and the use of land conveyed to the state or a political subdivision for a public purpose.

### **RULEMAKING AUTHORITY**

Rulemaking authority to the governing body of, or a bureau, department, division, board, commission, or other agency of, a political subdivision acting in its capacity of processing, approving, or issuing a permit (regulatory agency) is restricted in SECTION 1 (Section 245.005, Local Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 245.005, Local Government Code, by amending Subsection (c) and adding Subsection (d), as follows:

- (c) Requires that progress towards completion of a project include any one of the following:
  - (1) an application for a final plat or a site plan is submitted to a the governing body of, or a bureau, department, division, board, commission, or other agency of, a political subdivision acting in its capacity of processing, approving, or issuing a permit (regulatory agency);
  - (2) a final plat is recorded in the county clerk's property records; or
  - (3)-(6) Makes nonsubstantive changes.

(d) Prohibits a regulatory agency from enforcing an ordinance, rule, or regulation that places an expiration date on a permit if any condition described by Subsection (c) is met.

SECTION 2. Amends Chapter 245, Local Government Code, by adding Section 245.008, as follows:

Sec. 245.008. PROJECTS CONSIDERED IN PROGRESS AND NOT DORMANT BY CONVEYANCE FOR PUBLIC PURPOSE. (a) Provides that, if an owner of an interest in a contiguous tract of land conveys five percent or more of the tract to the state or to a political subdivision for a public purpose, the remaining portion of the tract is deemed a project in progress for purposes of this chapter and is not subject to an expiration date authorized under Section 245.005.

(b) Requires that a conveyance under this section be made by a plat dedication or a gift deed reciting nominal consideration.

(c) Provides that a division of a tract by a public right-of-way or public easement does not affect contiguity of the tract for purposes of Subsection (a).

SECTION 3. Effective date: upon passage or September 1, 2013.