

BILL ANALYSIS

Senate Research Center
85S10320 JTS-F

S.B. 14
By: Hall
Business & Commerce
7/21/2017
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Private property rights are foundational to all other rights of a free people. Article I, § 17 of the Texas Constitution states "No person's property shall be taken, damaged or destroyed for or applied to public use without adequate compensation being made." And yet, according to the Texas Chapter of the International Society of Arboriculture, approximately 50 Texas cities have adopted burdensome regulations that restrict or prohibit a property owner's right to prune or remove trees on their land.

Such restrictions prohibit or increase the cost of development of private property. When an individual buys a piece of property in Texas, they own title to the property and the corresponding dirt and trees that make up the property. That ownership gives an individual the right to enjoy and develop the property as they see fit. Local ordinances prohibiting or hindering the development of the property inappropriately thwart the right to the use of the property.

S.B. 14 would amend the Local Government Code to prohibit municipalities and other political entities, and the Property Code to prohibit a homeowners association, from restricting the ability of a property owner to remove a tree or vegetation from his or her private property.

As proposed, S.B. 14 amends current law relating to a property owner's right to remove a tree or vegetation.

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 Section 240.909(b), Local Government Code, to authorize the commissioners court of a county subject to this section, notwithstanding Section 250.009, to prohibit or restrict the clear-cutting of live oak trees in the unincorporated area of the county.

SECTION 2. Amends the heading to Chapter 250, Local Government Code, to read as follows:

CHAPTER 250. MISCELLANEOUS LOCAL GOVERNMENT REGULATORY AUTHORITY

SECTION 3. Amends Chapter 250, Local Government Code, by adding Section 250.009, as follows:

Sec. 250.009. **REMOVAL OF TREE OR VEGETATION.** (a) Prohibits a municipality, county, or other political subdivision, except as provided by Subsection (b) and Section 240.909 (Regulation of Tree Cutting in Certain Counties), from enacting or enforcing any ordinance, rule, or other regulation that restricts the ability of a property owner to remove a tree or vegetation on the owner's property, including a regulation that requires the owner to file an affidavit or notice before removing the tree or vegetation.

(b) Provides that this section does not prevent the enforcement of an ordinance, rule, or other regulation designed to mitigate tree-borne diseases as recommended by the Texas A&M Forest Service.

SECTION 4. Amends Chapter 202, Property Code, by adding Section 202.013, as follows:

Sec. 202.013. REGULATION OF TREE OR VEGETATION REMOVAL. (a) Prohibits a property owner's association from including or enforcing a provision in a dedicatory instrument that restricts the ability of a property owner to remove a tree or vegetation on the owner's property, including a provision that requires the owner to file an affidavit or notice before removing the tree or vegetation.

(b) Provides that this section does not apply to a provision in a dedicatory instrument designed to mitigate tree-borne disease as recommended by the Texas A&M Forest Service or an area of an owner's property that is in a specified drainage or conservation easement shown on a plat recorded with the applicable political subdivision.

SECTION 5. Provides that Section 202.013, Property Code, as added by this Act, applies to a dedicatory instrument without regard to whether the dedicatory instrument takes effect or is renewed before, on, or after the effective date of this Act.

SECTION 6. Effective date: December 1, 2017.