

BILL ANALYSIS

C.S.H.B. 2052
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Urban Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that a tree mitigation fee for tree removal imposed by a municipality could harm the residential construction and development industry's ability to provide affordable housing. C.S.H.B. 2052 seeks to address this issue by requiring a municipality that imposes such a fee to allow a person to apply for a credit for tree planting to offset the amount of the fee.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2052 amends the Local Government Code to require a municipality that imposes a tree mitigation fee for tree removal that is necessary for development or construction on a person's property to allow that person to apply for a credit for tree planting to offset the amount of the fee. The bill requires the application for a credit to be in the form and manner prescribed by the municipality. The bill requires a tree, to qualify for a credit, to be planted on property for which the tree mitigation fee was assessed or be planted on property mutually agreed upon by the municipality and the person, and requires the tree to be at least two inches in diameter at the point on the trunk 4.5 feet above ground. For purposes of a tree to be planted on property mutually agreed upon by the municipality and the person, the bill authorizes the municipality and the person to consult with an academic organization, state agency, or nonprofit organization to identify an area for which tree planting will best address the science-based benefits of trees and other reforestation needs of the municipality. The bill requires the amount of a credit provided to a person to be applied in the same manner as the tree mitigation fee assessed against the person and be at least 50 percent of the amount of the tree mitigation fee assessed against the person. The bill establishes that as long as a municipality meets the requirement to provide a person a credit the bill expressly does not affect the ability of or require a municipality to determine the size, number, and type of trees required to be planted to receive a credit, except as otherwise provided; the requirements for tree removal and corresponding tree mitigation fees, if applicable; or the requirements for tree planting methods and best management practices to ensure that the tree grows to the anticipated height at maturity. The bill exempts from its provisions property within five miles of a federal military base in active use as of September 1, 2017.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2052 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter Z, Chapter 212, Local Government Code, is amended by adding Section 212.905 to read as follows:

Sec. 212.905. TREE MITIGATION FEE CREDIT FOR PLANTED TREES. (a) A municipality that imposes a tree mitigation fee for tree removal that is necessary for development or construction on a person's property that is located in the municipality must allow that person to apply for a credit for tree planting under this section to offset the amount of the fee.

(b) An application for a credit under Subsection (a) must be in the form and manner prescribed by the municipality. The tree must be planted on property located in the municipality either owned by the person or mutually agreed upon by the municipality and the person.

(c) The amount of a credit provided to a person under this section must be applied in the same manner as the tree mitigation fee assessed against the person. If the amount of the tree mitigation fee is based on the size of the tree being removed, the amount of the credit must be based on at least 60 percent of the projected size of the planted tree at full maturity.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter Z, Chapter 212, Local Government Code, is amended by adding Section 212.905 to read as follows:

Sec. 212.905. TREE MITIGATION FEE CREDIT FOR PLANTED TREES. (a) A municipality that imposes a tree mitigation fee for tree removal that is necessary for development or construction on a person's property must allow that person to apply for a credit for tree planting under this section to offset the amount of the fee.

(b) An application for a credit under Subsection (a) must be in the form and manner prescribed by the municipality. To qualify for a credit under this section, a tree must be:

(1) planted on property:

(A) for which the tree mitigation fee was assessed; or

(B) mutually agreed upon by the municipality and the person; and

(2) at least two inches in diameter at the point on the trunk 4.5 feet above ground.

(c) For purposes of Subsection (b)(1)(B), the municipality and the person may consult with an academic organization, state agency, or nonprofit organization to identify an area for which tree planting will best address the science-based benefits of trees and other reforestation needs of the municipality.

(d) The amount of a credit provided to a person under this section must be:

(1) applied in the same manner as the tree mitigation fee assessed against the person; and

(2) at least 50 percent of the amount of the tree mitigation fee assessed against the person.

(e) As long as the municipality meets the requirement to provide a person a credit under Subsection (a), this section does not affect the ability of or require a municipality to determine:

(1) the size, number, and type of trees that

must be planted to receive a credit under this section, except as provided by Subsection (b);

(2) the requirements for tree removal and corresponding tree mitigation fees, if applicable; or

(3) the requirements for tree planting methods and best management practices to ensure that the tree grows to the anticipated height at maturity.

(f) This section does not apply to property within five miles of a federal military base in active use as of September 1, 2017.

SECTION 2. The changes in law made by this Act apply only to a tree mitigation fee assessed by a municipality on or after the effective date of this Act.

SECTION 2. Same as introduced version.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

SECTION 3. Same as introduced version.