

BILL ANALYSIS

C.S.S.B. 1510
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Land & Resource Management
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns have been raised that in some cases the apportionment of infrastructure costs to a developer may not be fair, reasonable, or proportionate to the projected impact of the proposed development. C.S.S.B. 1510 seeks to address this issue by providing for a certain cap on the developer's portion of such costs.

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.S.B. 1510 amends the Local Government Code to prohibit, if, under any authority expressly authorized by provisions relating to county regulation of subdivisions, a county requires, including under an agreement under provisions relating to the authority of a municipality and county to regulate subdivisions in and outside a municipality's extraterritorial jurisdiction, as a condition of approval for a property development project that the developer bear a portion of the costs of county infrastructure improvements by the making of dedications, the payment of fees, or the payment of construction costs, the developer's portion of the costs from exceeding the amount required for infrastructure improvements that are roughly proportionate to the proposed development as approved by a professional engineer who holds a license issued under The Texas Engineering Practice Act and is retained by the county. The bill requires the county's determination to be completed within 30 days following the submission of the developer's application for determination under these provisions of the bill.

C.S.S.B. 1510 authorizes a developer who disputes the determination to appeal to the commissioners court of the county. The bill authorizes the developer to present evidence and testimony at the appeal under procedures adopted by the commissioners court. The bill requires the commissioners court, after hearing any testimony and reviewing the evidence, to make the applicable determination within 30 days following the final submission of any testimony or evidence by the developer. The bill authorizes a developer to appeal the determination of the commissioners court to a county or district court of the county in which the development project is located within 30 days of the final determination by the commissioners court. The bill prohibits a county from requiring a developer to waive the right of appeal as a condition of approval for a development project. The bill entitles a developer who prevails in an appeal to applicable costs and to reasonable attorney's fees, including expert witness fees. The bill establishes that its provisions relating to the apportionment of county infrastructure costs do not

diminish the authority or modify the procedures specified by statutory provisions relating to the financing of capital improvements required by new development in municipalities, counties, and certain other local governments. The bill establishes that such bill provisions do not increase or expand, and prohibits the provisions from being interpreted to increase or expand, the authority of a county to regulate plats or subdivisions under provisions relating to county regulation of subdivisions.

C.S.S.B. 1510 specifies that, in the event a municipality requires as a condition of approval for a property development project that the developer bear a portion of the costs of municipal infrastructure improvements by the making of dedications, the payment of fees, or the payment of construction costs and for purposes of the prohibition against the developer's portion of the costs exceeding the applicable amount required for infrastructure improvements that are roughly proportionate to the proposed development, such a municipal requirement includes a requirement under an agreement under statutory provisions relating to the authority of a municipality and county to regulate subdivisions in and outside a municipality's extraterritorial jurisdiction. The bill requires the municipality's determination to be completed within 30 days following the submission of the developer's application for determination.

C.S.S.B. 1510 applies to the approval of a development project that is not finally adjudicated before the bill's effective date.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2019.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 1510 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute specifies that the prohibition against a developer's portion of the costs of county infrastructure improvements exceeding a certain amount if a county requires as a condition of approval for a property development project that the developer bear a portion of the costs applies if the county makes such a requirement under any authority expressly authorized by provisions relating to county regulation of subdivisions. The substitute includes a provision requiring the county's determination, and a provision requiring a similar municipal determination, to be completed within 30 days following the submission of the developer's application for determination. The substitute includes a provision establishing that the bill's provisions relating to the apportionment of county infrastructure costs do not increase or expand, and prohibiting the provisions from being interpreted to increase or expand, the authority of a county to regulate plats or subdivisions under provisions relating to county regulation of subdivisions.