

BILL ANALYSIS

C.S.H.B. 4447
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Land & Resource Management
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Last session the Texas Legislature passed certain legislation which was brought forth in response to concerns raised by stakeholders that some local governments in Texas had been failing to adhere to the state's established statutory timelines for approving certain types of land development applications. That legislation as enacted was intended to provide certainty and clarity regarding these timelines but, since the enactment, there are indications that numerous municipalities and counties have issued new policies and criteria for land development applications that fail to adhere to the legislation's intent. C.S.H.B. 4447 seeks to address this issue and provide better certainty and clarity by amending the procedure for the approval of certain land development applications by a municipality or county.

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. 4447 amends the Local Government Code to set out provisions relating to the procedure for approval of certain land development applications by a municipality or county. The bill revises provisions relating to municipal and county approval of a plat application to apply to the approval of a land development application and makes related changes. The bill, except as otherwise provided, prohibits a municipal body or a commissioners court or the court's designee, as applicable, from requiring a person to submit a required document or fulfill any other prerequisites or conditions before the person submits a copy of a land development application. The bill defines "land development application" as an application or other document relating to land development under applicable provisions that is required to be approved by a municipal body or by the commissioners court or the court's designee, as applicable, before the land development may commence. The term includes a title or description used by municipalities and counties to refer to those applications or other documents, including, among other terms and as applicable, "plat" and "plan." The term does not include the following:

- an application or other document for which approval by a municipal body or the commissioners court or the court's designee does not authorize the land development to commence; or
- a subdivision construction plan, subdivision engineering plan, or similar or related plan.

The bill defines "municipal body" as the applicable municipal authority for approving a land development application and specifies that the term includes a municipal planning commission or its designee, a municipality authority for approving land development applications or its

designee, and the governing body of the municipality or its designee. The bill also defines for purposes of municipal and county provisions, as applicable, "land development," "required document," and "submit."

C.S.H.B. 4447 authorizes a municipal body to require a person desiring approval of a land development application to submit a required document for the application only under the following conditions:

- the municipality's governing body has adopted the requirement by ordinance; and
- the municipality made the following available to the person before the submission of the application:
 - a list of all required documents for the application; or
 - publications of all required documents for the application.

The bill requires documentation and other information that must be submitted with a county land development application to have been adopted as a requirement by the county by order and provides for the issuance by a county commissioners court or a person designated by the commissioners court of a publication of the required documents and other information as an alternative to the issuance of a written list of the documents and information.

C.S.H.B. 4447 prohibits a municipal body or a commissioners court or the court's designee, as applicable, from requiring a person to submit new or additional required documents for which applicable municipal or county requirements have not been met. The bill prohibits a municipal body or a commissioners court or the court's designee, as applicable, from doing the following on the grounds that a person has failed to submit for a land development application a required document for which those requirements have not been met:

- refusing to accept, acknowledge, receive, or process the application or other required documents;
- disapproving the application or other required documents;
- considering the application or other required documents incomplete; or
- refusing to comply with the applicable procedures and timelines prescribed for land development applications and required documents.

C.S.H.B. 4447 authorizes a person desiring municipal or county approval of a land development application to submit required documents with the application or after submitting the application. The bill authorizes a municipal body and the commissioners court or the court's designee, as applicable, if the person elects to submit the documents afterwards, to conditionally approve the application on the condition that the applicant submit the documents in accordance with specified bill provisions. The bill establishes that an election by a person to submit the required documents after submitting a land development application is not grounds for a municipal body or the commissioners court or the court's designee, as applicable, to do the following:

- refuse to accept, acknowledge, receive, or process the application or documents;
- disapprove the application or documents;
- consider the application or documents incomplete; or
- refuse to comply with the applicable procedures and timelines prescribed for land development applications and required documents.

The bill requires a municipal body or the commissioners court or the court's designee that conditionally approves a land development application to do the following:

- make an approval determination on each individual required document under the same approval procedures and timelines as those prescribed for a land development application under applicable provisions;
- approve or disapprove, but not conditionally approve, each individual required document;
- provide to the applicant comments on a required document not later than the 30th day after the date the applicant submits the document; and
- make an approval determination on a required document not later than the 60th day after the date the applicant submits the document.

The bill authorizes an applicant, on disapproval of a required document, to submit to the municipal body or the commissioners court or the court's designee, as applicable, a written response that remedies each reason for disapproval. The bill prohibits the municipal body or the commissioners court or the court's designee, as applicable, from establishing a deadline for the applicant to submit the response. The bill requires a municipal body or a commissioners court or the court's designee, as applicable, on receipt of a response, to determine whether to approve or disapprove the applicant's previously disapproved required document not later than the 15th day after the date the applicant submits the response.

C.S.H.B. 4447 requires a municipality or county, as applicable, after receiving a request from at least five applicants and conducting a public hearing on the matter at which interested parties must be heard, to establish a bifurcated approval procedure under applicable provisions, including a phased approach to the approval of a land development application. Each phase of an adopted bifurcated approval procedure must be subject to the approval procedures prescribed by those provisions. An applicant may, but is not required to, opt in to the bifurcated approval procedure.

C.S.H.B. 4447 prohibits an applicant from waiving a deadline or other approval procedure or any other provision or requirement under provisions relating to municipal regulation of subdivisions or from waiving the time limits or approval procedures contained in provisions relating to general county subdivision platting requirements.

C.S.H.B. 4447 repeals Section 212.001(2), Local Government Code.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4447 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute differs from the original by revising provisions relating to municipal and county approval of a plat application to apply to the approval of a land development application by an applicable municipal or county entity and making related changes, whereas the original did not address land development applications as such. The substitute does the following:

- includes definitions for "land development," "land development application," "municipal body," and "submit," whereas the original did not include these definitions;
- revises the original's definitions of "required planning document" as a "required document" as applicable with respect to municipal and county provisions; and
- includes a repeal not included in the original of the definition of "plan," as applicable to provisions relating to municipal regulation of subdivisions, which the substitute incorporates into its applicable definition of "land development application."

The substitute differs from the original by setting out provisions not included in the original relating to municipal and county approval procedures for required documents and expanding on the original's provisions regarding the conditional approval of an application and the submission of required documents after the application's submission.

The substitute includes prohibitions not included in the original against an applicant waiving a deadline or other approval procedure or any other provision or requirement under provisions relating to municipal regulation of subdivisions or waiving the time limits or approval procedures contained in provisions relating to general county subdivision platting requirements.