

SUBJECT: Enforcing National Flood Insurance Program regulations

COMMITTEE: Land and Resource Management — favorable, without amendment

VOTE: 8 ayes — Bosse, B. Turner, Hamric, Howard, Jackson, Krusee, Mowery, Staples
0 nays
1 absent — Crabb

WITNESSES: For — Tarrant County Commissioner Marti VanRavenswaay; Jody R. Hamilton, City of Austin Drainage Utility
Against — None

BACKGROUND : The National Flood Insurance Program makes flood insurance available to residents of communities that adopt and enforce floodplain management ordinances. As a condition of participation in the program, communities agree to require permits for development in flood hazard areas. The Texas Water Code authorizes political subdivisions, including counties, to take actions to comply with the requirements of the National Flood Insurance Program. Currently, counties can discourage development in flood plains through land use controls and can adopt rules to carry out the National Flood Insurance Program. However, they have no statutory authority to enforce these regulations.

DIGEST: HB 218 would authorize civil penalties to enforce flood plain regulations. Persons violating flood plain rules and regulations would be subject to a civil penalty of not more than \$100 for each violation and each day in violation.

HB 218 also would give Tarrant County, as defined in the bill, additional enforcement authority. Besides being able to impose civil penalties, Tarrant County could institute a civil suit in district court to restrain a person from further violations and to assess and recover civil penalties. The suit could include an order directing the person to remove illegal improvements and restore preexisting conditions.

The bill would take effect September 1, 1997.

**SUPPORTERS
SAY:**

HB 218 would give Tarrant County the statutory authority it needs to effectively enforce flood plain regulations and generally allow imposition of civil penalties for violations. Illegal construction in the flood plain has been a particular problem in the unincorporated areas of Tarrant County. Illegal construction can change the shape of a flood plain, subjecting unsuspecting residents in nearby areas and downstream to unnatural flooding conditions. But under current law, the county cannot take effective action when a violation of a flood plain regulation is brought to its attention. The district attorney can only send a letter asking a violator to cease and desist.

In addition, the civil penalties provided by HB 218 would act as a deterrent for other would-be violators. HB 218 would fill a gap in current law that prevents effective enforcement of flood plain regulations.

**OPPONENTS
SAY:**

All counties and other political subdivisions statewide, not just in Tarrant County, should be able to institute a civil suit to restrain violations of flood plain regulations in unincorporated areas. While the civil penalties in HB 218 would apply statewide, the authority to enforce flood plain regulations by injunction relief is an important enforcement tool that should also be generally available.

NOTES:

A related bill, SB 347 by Harris, would allow counties and other political subdivisions to use civil penalties and injunctive relief to enforce flood plain regulations. The Senate Natural Resources Committee amended the injunctive relief provision to apply only to Tarrant County, then reported the bill favorably on March 13.

During the 74th legislative session, the House Land and Resource Management Committee reported two bills identical to HB 218, SB 623 by Harris and HB 463 by Brimer. Both bills were placed on the General State Calendar but were not considered by the House.