

SUBJECT: Allowing counties to charge a plat application fee

COMMITTEE: County Affairs — favorable, without amendment

VOTE: 6 ayes — Lewis, Casteel, Farabee, Flynn, Olivo, Quintanilla

0 nays

3 absent — W. Smith, Chisum, Farrar

SENATE VOTE: On final passage, May 21 — voice vote

WITNESSES: (*On House companion bill, HB 1968:*)

For — Jim Allison, County Judges and Commissioners Association of Texas; Renee D. Green, Bexar County; Seth Mitchell, Bexar County Commissioners Court

Against — None

BACKGROUND: Under Local Government Code, sec. 232.001, the owner of a tract of land located outside the limits of a municipality must have a plat of the subdivision prepared if the owner divides the tract into two or more parts to create a subdivision of the tract, lots, or parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, or other parts.

The commissioners court of the county in which the land is located must approve a required plat by an order entered in the minutes of the court, except that it may refuse to approve a plat if it does not meet the requirements under ch. 232, including a bond filing requirement. The commissioners court or the court's designee must take final action on a plat application, including resolving all appeals, within 60 days after the date when a completed plat application is received. If the commissioners court or the court's designee disapproves a plat application, the applicant must receive a complete list of the reasons for the disapproval.

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DIGEST: SB 954 would allow a county commissioners court to impose an application fee to cover the cost of the county's review of a subdivision plat and inspection of street, road, and drainage improvements described by the plat. The fee could vary based on the number of proposed lots in the subdivision, acreage described by the plat, type or extent of proposed street and drainage improvements, or other reasonable criteria as determined by the court. The owner of the tract to be subdivided would have to pay the fee at a time directed by the county, before the county conducted a review of the plat. The fee could be refunded.

The bill would take effect September 1, 2003.

SUPPORTERS SAY: SB 954 would enable county commissioners courts to recover expenses created by performing a duty mostly for the benefit of land developers. Bexar County, for example, must review about 150 plat applications each year, sometimes distracting county officials from other pressing projects. The county estimates that it spends about \$800 of time and resources to review one plat application, which must be completed, including consideration of any appeal, within 60 days. Accordingly, counties should have the authority to recover all or part of theirs expenses due to reviewing plat applications submitted by developers.

The bill would ensure only necessary assessment of the fee by requiring the approval of the county commissioners court. If the fee was perceived as an unnecessary tax, county voters could remove the commissioners who assessed it. Because counties may perform only functions they are authorized to perform either expressly or by necessary implication, counties require the explicit relief that SB 954 would provide.

OPPONENTS SAY: Developers who seek plat approval in compliance with government mandate pass on to home buyers the additional expenses they incur in building homes and other structures. County residents already pay property taxes and other taxes to support the functions of county government, including the review of plat applications. Counties that require additional time to perform reviews may do so in most cases by obtaining the applicant's written permission, as provided by law. As a result, counties generally can complete on a timely basis all duties that county residents and the law require.

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NOTES: The companion bill, HB 1968 by Uresti, was reported favorably, without amendment, by the House County Affairs Committee on April 2.