

SUBJECT: Allowing counties to regulate certain undeveloped lots in subdivisions

COMMITTEE: County Affairs — committee substitute recommended

VOTE: 5 ayes — Coleman, Farias, Burrows, Romero, Wu
2 nays — Spitzer, Tinderholt
2 absent — Schubert, Stickland

SENATE VOTE: On final passage, May 5 — 20-11 (Bettencourt, Birdwell, Burton, Creighton, Hall, Hancock, Huffines, Kolkhorst, Perry, Schwertner, V. Taylor)

WITNESSES: For — Steve Bresnen and Erich Morales, El Paso County

Against — (*Registered, but did not testify*: Kwame Walker, Mesquite Properties LP)

On — Pat Haggerty, Mike Mowles

BACKGROUND: Local Government Code, ch. 232, subch. B contains requirements for subdivisions in certain counties located near the Mexico border. Sec. 232.030 requires these counties to adopt and enforce model rules under Water Code, sec. 16.343, relating to water supply and sewer services.

Counties also must adopt other regulations related to potable water, solid waste disposal, sufficient roads, sewer facilities, electric and gas utilities, and flood management.

DIGEST: CSSB 1575 would allow certain county commissioners courts by order to implement a process to apply more current street, road, drainage, and other infrastructure requirements to a subdivision. This would apply to a subdivision where 50 percent or more of the lots were undeveloped or unoccupied for at least 25 years since the plat for the subdivision was recorded with the county.

The regulations or standards could not be less stringent than the applicable minimum standards or model rules for safe and sanitary water supply and sewer services under Water Code, sec. 16.343.

The regulations or standards would apply only to a lot that was owned by an entity or person that sold or leased lots as part of a common promotional plan. “Common promotional plan” would mean a plan or scheme of operation undertaken to sell more than two lots that were located near one another or were designated as a common unit or by a common name.

The bill would apply only to a county with a population of more than 800,000 that was adjacent to an international border.

The county could not apply a regulation or standard under this bill to a subdivision that was the subject of a pending judicial proceeding on May 1, 2015, to determine whether the subdivision was subject to a valid and existing subdivision plat.

The bill would take effect January 1, 2016.

**SUPPORTERS
SAY:**

CSSB 1575 would ensure that dormant property in El Paso County could be developed for residential and commercial use to support future growth. The bill would affect thousands of acres of land that are not being developed either because developers do not want to comply with minimum requirements or the owner’s identity is unknown.

Some developers in these areas bought property years ago and met minimum sewer and water requirements but never made other required improvements, such as paved streets and curbs. Once the properties were sold for a profit, the new residents requested these improvements from the local government. The bill would ensure that this trend did not continue and that these properties were being developed appropriately.

The county is unable to make improvements on the land when the identity

of the owner is unknown. Additionally, the county cannot even tax these properties because the administrative cost to tax the property is prohibitive.

**OPPONENTS
SAY:**

CSSB 1575 could allow the government to infringe upon property owners' rights because it did not like how the property was being treated.

Under this bill, developers could be required to build paved roads with curbs, which are costly. These roads would be more expensive than the county roads the county could build. It would be unfair to place this financial burden on developers because it would make their investments essentially worthless. Some developers could even lose financing because the lender would not be willing to finance the development project with the changes imposed by the bill.

The bill would allow for unequal treatment of developers. By using the word "may" instead of "shall," commissioners courts could apply new standards to some developers, but not others.