

SUBJECT: Prohibiting certain land regulations by a municipality or commissioners court

COMMITTEE: Land & Resource Management — favorable, without amendment

VOTE: 5 ayes — Burns, Rogers, C. Bell, Buckley, Schofield

2 nays — Ortega, Reynolds

2 absent — K. Bell, Sherman

SENATE VOTE: On final passage (May 4) — 20 - 11

WITNESSES: For — Grant Rollo, Randolph Texas Development; Ned Muñoz, Texas Association of Builders; Russell Spillers, Texas Land Developers' Association (*Registered, but did not testify*: Matthew Long, William “Dub” Robinson, Cayetano Development; Howard Cohen, Schwartz, Page & Harding, L.L.P.; Charles Maley, South Texans’ Property Rights Association; Emily Dove, Texas 2036; Kyle Jackson, Texas Apartment Association; M. Scott Norman, Jr., Texas Association of Builders; Drew DeBerry, Texas City Limits Coalition; Chuck Rice, Texas Land Developers Association; James Quintero, Texas Public Policy Foundation; Seth Juergens, Texas REALTORS, Brian Bodine; Trey Lary)

Against — Adam Haynes, Conference of Urban Counties; Stephanie Fisher, The City of Johnson City (*Registered, but did not testify*: Brie Franco, City of Austin; Clifford Sparks, City of Dallas; LaRessa Quintana, City of Denton; Guadalupe Cuellar, City of El Paso; TJ Patterson, City of Fort Worth; Nadia Islam, City of San Antonio; Rick Ramirez, City of Sugar Land; Rick Thompson, County Judges and Commissioners Association of Texas; Rebekah Chenelle, Dallas County Commissioners Court; Claudia Russell, El Paso County; Paul Sugg, Harris County Commissioners Court; Cyrus Reed, Lone Star Chapter Sierra Club; Bill Kelly, Mayor’s Office, City of Houston; Kelly Traylor, North and East Texas Judges and Commissioners of Texas; Randy Lee, San Antonio Water System; Julie Wheeler, Travis County Commissioners Court; Roger Morris, West Texas Judges and Commissioners Association

of Texas)

BACKGROUND: Under Local Government Code sec. 212.003(a), a municipality may not regulate the size, type, or construction method of a wastewater facility in its extraterritorial jurisdiction that can be constructed to serve a developed tract of land if the facility meets the minimum standards established for water or wastewater facilities by state and federal regulatory entities and the developed tract of land is:

- located in a county with a population of 2.8 million or more; and
- served by on-site septic systems or water wells constructed before September 1, 2001 that fail to provide adequate services or an adequate supply of safe drinking water.

Some have suggested that certain municipalities in their extraterritorial jurisdictions and certain counties in their unincorporated areas should be restricted from regulating lot size and density.

DIGEST: SB 2307 would establish that a municipality in its extraterritorial jurisdiction or a commissioners court could not directly or indirectly regulate the minimum size of a lot, dimensions of a lot, minimum width of a lot frontage, the minimum distance a lot must be set back from a road or property line, or another component of lot density on a particular tract of land.

SB 2307 would revise Local Government Code sec. 212.003(a) by removing the criteria under which a municipality could not regulate a wastewater facility in its extraterritorial jurisdiction that a developed tract of land served by a wastewater facility was located in a county with a population of 2.8 million or more and was served by certain on-site septic systems or water wells.

SB 2307 would remove an exception allowing a commissioners court to adopt such regulations if the commissioners court was authorized to do so by state law and repeal related provisions.

The bill would revise the authority of the commissioners court to adopt rules governing plats and land subdivisions in the county's unincorporated area by removing its authorization to adopt rules to promote the health, safety, morals, or general welfare of the county and the safe, orderly, and healthful development of the unincorporated area of the county. Instead, the court could adopt such rules as authorized by the revised provisions under the bill.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2023. The bill would apply only to a plat application filed on or after the effective date of the bill.