

## **BILL ANALYSIS**

Senate Research Center  
76R11208 CAG-D

C.S.S.B. 1174  
By: Wentworth  
Intergovernmental Relations  
4/1/1999  
Committee Report (Substituted)

### **DIGEST**

Currently, in Texas, certain areas, such as the Texas Hill Country, have become popular for development, but have groundwater that cannot support growth without causing damage to the aquifer. Often because of the popularity of the area, buyers purchase property from unscrupulous business interests without the infrastructure necessary for responsible development. This bill would provide to commissioners courts the authority to require plans for water, wastewater, storm drainage, and other utilities, in areas designated as priority groundwater management areas.

### **PURPOSE**

As proposed, C.S.S.B. 1174 authorizes commissioners courts to require plans for water, wastewater, storm drainage, and other utilities, in areas designated as priority groundwater management areas.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the commissioners courts in SECTION 1 (Section 232.094(d), Local Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 232, Local Government Code, by adding Subchapter D, as follows:

#### **SUBCHAPTER D. ALTERNATE SUBDIVISION PLATTING REQUIREMENTS IN PRIORITY GROUNDWATER MANAGEMENT AREAS**

Sec. 232.091. DEFINITIONS. Defines "floodplain," "lot," "minimum state standards," "plat," "priority groundwater management area," "sell," "sewer," "sewer services," "sewer facilities," "subdivide," "subdivider," "subdivision," "utility," and "utility easement."

Sec. 232.092. APPLICABILITY. Provides that this subchapter applies only to land that is subdivided in the jurisdiction of a county and that is located in a priority groundwater management area. Authorizes the commissioners court of a county to determine, by order, if the county will apply the provisions of this subchapter to the subdivision of property that is incident to or the result of the conveyance of the land as a gift between persons related to each other within the third degree by affinity or consanguinity. Sets forth the instances in which land is considered in the jurisdiction of a county. Authorizes this subchapter to be applied in conjunction with Sections 232.003, 232.004, 232.005, 232.008, and 232.009.

Sec. 232.093. PLAT REQUIRED. Requires a subdivider of land located in the jurisdiction of a county and located in a priority groundwater management area to have a plat of the subdivision prepared. Provides that a subdivision of a tract under this section includes a subdivision of real property by any method of conveyance, including a contract for deed, oral contract, contract of sale, or other type of executory contract. Sets forth certain requirements for the required plat. Requires the subdivider of the tract to acknowledge the plat by signing the plat and attached documents and attest to the veracity and completeness of the matters asserted in the attached documents and in the plat. Requires the plat to be filed and recorded with the county clerk of the county in which the tract is located. Provides that the plat is subject to the filing and recording provisions of Section 12.002, Property Code.

Sec. 232.094. APPROVAL BY COUNTY REQUIRED. Provides that a plat filed under

Section 232.093 is not valid unless the commissioners court of the county in which the land is located approves the plat by an order entered in the minutes of the court. Requires the commissioners court to refuse to approve the plat if it does not meet the requirements prescribed by or under this subchapter or if any bond required under this subchapter is not filed with the county clerk. Prohibits the commissioners court from approving the plat if any part of a plat applies to land intended for residential housing and any part of that land lies in a floodplain, unless the plat evidences a restrictive covenant as required by this section. Requires the restrictive covenant to prohibit the construction of residential housing in any area of the subdivision that is in a floodplain unless the housing qualifies for insurance under the National Flood Insurance Act of 1968 (42 U.S.C. Section 4001 et seq.). Requires the commissioners court of a county to make a written determination of the application of Subsection (b) to the land proposed to be platted, on the written request of a person requesting a plat under Subsection (b). Authorizes a commissioners court of a county to adopt any rules necessary to administer this section.

SECTION 2. Makes application of this Act prospective to September 1, 1999.  
Effective date: 90 days after adjournment.

### **SUMMARY OF COMMITTEE CHANGES**

#### SECTION 1.

Amends Section 232.091, Chapter 232D, Local Government Code, to define “utility easement” and delete the definitions of “common promotional plan” and “lease.”

Amends Section 232.092, Chapter 232D, Local Government Code, to provide that this subchapter applies only to land that is subdivided in the jurisdiction of a county and that is located in a priority groundwater management area. Authorizes the commissioners court of a county to determine, by order, if the county will apply the provisions of this subchapter to the subdivision of property that is incident to or the result of the conveyance of the land as a gift between persons related to each other within the third degree by affinity or consanguinity, rather than providing that this subchapter does not apply to such gifts. Deletes text regarding the applicability of this subchapter to only land that is subdivided into four or more lots intended primarily for residential use.

Amends Section 232.093, Chapter 232D, Local Government Code, to set forth certain requirements for the required plat, including the dimensions and an accurate description of each utility easement for the use of purchasers or owners of lots within the subdivision, or for use by the general public, a description of whether the facilities to service the subdivision will be individual water wells and on-site sewage facilities, a certification by a surveyor or engineer registered in this state describing any area of the subdivision that is in a floodway or stating that no area is in a floodway, a certification that an adequate water supply of sufficient quantity and quality is available to supply the number of lots proposed in the platted area, and that sewer connections to the lots or septic tanks meet or exceed, or will meet or exceed the minimum requirements of state standards. Deletes text authorizing the subdivider to meet the requirements of Subsection (b)(12)(B) by obtaining a certificate issued by the appropriate county or state official having jurisdiction over the approval of septic systems stating that lots in the subdivision can be adequately and legally served by septic systems. Makes conforming and nonsubstantive changes.

Amends Section 232.094, Chapter 232D, Local Government Code, to require the commissioners court of a county to make a written determination of the application of Subsection (b) to the land proposed to be platted, on the written request of a person requesting a plat under Subsection (b). Deletes text requiring the county clerk, on request, to provide the attorney general or the Texas Water Development Board certain information.

Deletes proposed Sections 232.095 through 232.112, regarding subdivision requirements, extension of the date for required water and sewer service, certification of compliance with the plat requirements, the connection of utilities, regulations of subdivisions and county authority, requirements to be met prior to a sale or lease, the services provided by a subdivider, the advertising standards and other requirements before a sale and the creation of an offense for a violation of those requirements, conflict of interest and the penalty for a violation of those standards, civil penalties, criminal penalties, enforcement, cancellation of a subdivision, replatting, revision of the plat, and variances.

