

BILL ANALYSIS

Senate Research Center

H.B. 1278
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Finance
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Engrossed

DIGEST AND PURPOSE

Current law allows cities to regulate the construction, reconstruction, alteration, or razing of buildings or other structures that have historical, cultural, or architectural significance. In recent years, several instances have arisen in which an attempted church expansion is hindered by a historic zoning designation granted by a municipality. In 1997, a dispute between a church in Boerne and the City of Boerne over the church's alteration resulted in a ruling by the United States Supreme Court which overturned an Act of Congress on which the church had relied.

Other religious entities throughout Texas are preparing for future growth by purchasing land for expansion, and some local taxing entities are taxing this undeveloped property.

H.B. 1278 provides that a property owned by a tax-exempt religious organization is exempt from municipal regulation as a place of historical, cultural, or historical significance and is exempt from municipal platting requirements. H.B. 1278 also prohibits local entities from taxing non-revenue generating property owned by religious organizations.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 211.003(b), Local Government Code, to authorize the governing body of a municipality, in the case of designated places and areas of historical, cultural, or architectural importance and significance, to regulate the construction, reconstruction, alteration, or razing of buildings and other structures, other than a building or other structure that is owned by a religious organization and is exempt from ad valorem taxation under Section 11.20 (Religious Organization), Tax Code.

SECTION 2. Amends Subchapter A, Chapter 212, Local Government Code, as follows:

Sec. 212.0047. EXCEPTION TO PLAT REQUIREMENT: TAX-EXEMPT RELIGIOUS ORGANIZATION PROPERTY. (a) Provides that an owner of an unplatted tract of land that is exempt from ad valorem taxation under Section 11.20, Tax Code, is not required to prepare a plat to obtain a building permit or any other permit for developing the tract.

(b) Requires the owner of the property, if the property loses its exemption from taxation under Section 11.20, Tax Code, to comply with all applicable platting requirements.

SECTION 3. Amends Subchapter B, Chapter 212, Local Government Code, by adding Section 212.0415, as follows:

Sec. 212.0415. APPLICATION OF SUBCHAPTER TO TAX-EXEMPT RELIGIOUS ORGANIZATION PROPERTY. Provides that this subchapter does not apply to an

unplatted tract of land that is exempt from ad valorem taxation under Section 11.20, Tax Code. Provides that if the property loses its exemption from taxation under Section 11.20, Tax Code, this subchapter begins to apply to the property on the day after the date on which the exemption is lost.

SECTION 4. Amends Section 12.002, Property Code, by adding Subsection (h) to authorize a person, notwithstanding this section, to file for record or have recorded in the county clerk's office a plat if the plat is exempted from approval under Section 212.0047, Local Government Code. Requires an unapproved plat to be stamped "unapproved plat" by the county clerk or a deputy of the clerk before it may be filed, and requires the clerk or deputy to note on the plat that the property was exempt under Section 212.0047, Local Government Code.

SECTION 5. Amends Section 11.20, Tax Code, by amending Subsections (a) and (g) and adding Subsection (h) and (i), as follows:

(a) Provides that a person, rather than an organization that qualifies as a religious organization as provided by Subsection (c) of this section, is entitled to an exemption from taxation on certain property under certain conditions.

(g) Makes a conforming change.

(h) Prohibits a tract of land that is not contiguous to the tract of land on which the religious organization's place of regular religious worship is located from being exempted under Subsection (a)(6) for more than three years. Provides that for purposes of this subsection, a tract of land is considered to be contiguous with another tract of land if the tracts are divided only by a road, railroad track, river, or stream.

(i) Provides that for purposes of Subsection (a)(6), an application or statement accompanying an application for the exemption stating that the land is owned for the purposes described by Subsection (a)(6) and signed by an authorized officer of the organization is sufficient to establish that the land is owned for those purposes.

SECTION 6. Amends Subchapter B, Chapter 11, Tax Code, by adding Section 11.201, as follows:

Sec. 11.201. ADDITIONAL TAX ON SALE OF CERTAIN RELIGIOUS ORGANIZATION PROPERTY. (a) Provides that if land is sold or otherwise transferred to another person in a year in which the land receives an exemption under Section 11.20(a)(6), an additional tax is imposed on the land equal to the tax that would have been imposed on the land had the land been taxed for each of the five years preceding the year in which the sale or transfer occurs in which the land received an exemption under that subsection, plus interest at an annual rate of seven percent calculated from the dates on which the taxes would have become due.

(b) Provides that a tax lien attaches to the land on the date the sale or transfer occurs to secure payment of the tax and interest imposed by this section and any penalties incurred. Provides that the lien exists in favor of all taxing units for which the tax is imposed.

(c) Provides that if only part of a parcel of land that is exempted under Section 11.20(a)(6) is sold or transferred, the tax applies only to that part of the parcel and equals the taxes that would have been imposed had that part been taxed.

(d) Requires the assessor for each taxing unit to prepare and deliver a bill for the additional taxes plus interest as soon as practicable after the sale or transfer occurs. Provides that the taxes and interest are due and become delinquent and incur penalties and interest as provided by law for ad valorem taxes imposed by the taxing unit if not paid before the next February 1 that is at least 20 days after the date the bill is delivered to the owner of the land.

(e) Provides that the sanctions provided by Subsection (a) do not apply if the sale or transfer occurs as the result of certain actions.

SECTION 7. (a) Provides that SECTION 1 of this Act takes effect upon passage or September 1, 2003.

(b) Provides that SECTIONS 2-4 of this Act take effect September 1, 2003.

(c) Provides that Sections 11.20(a)(1)-(5) and (g), Tax Code, as amended by this Act, take effect January 1, 2004. Makes application of Sections 11.20(a)(1)-(5) and (g), Tax Code, as amended by this Act, prospective.

(d) Provides that Sections 11.20(a)(6) and (7), (h) and (i), and Section 11.201, Tax Code, as added by this act take effect January 1, 2004, but only if a certain constitutional amendment is approved by voters.