

BILL ANALYSIS

Senate Research Center
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S.B. 1296
By: Deuell
Intergovernmental Relations
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As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

As proposed, S.B. 1296 authorizes certain counties to regulate land use in unincorporated areas of the county.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioners court of a county in SECTION 1 (Section 232.159. Local Government Code) of this bill.

SECTION BY SECTION ANALYSIS

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

SUBCHAPTER F. LAND USE REGULATIONS IN CERTAIN COUNTIES

Sec. 232.151. DEFINITIONS. Defines "major metropolitan area" and "nonurban county."

Sec. 232.152. APPLICABILITY OF SUBCHAPTER. Provides that this subchapter applies only to a nonurban county located adjacent to a major metropolitan county.

Sec. 232.153. AREAS SUBJECT TO REGULATION. (a) Provides that this subchapter applies only to the unincorporated area of a county that is within three miles of a lake or the corporate boundaries of a municipality.

(b) Prohibits a county from exercising its authority under this subchapter in the unincorporated area of a county that is within three miles of the corporate boundaries of a municipality unless certain requirements are met.

Sec. 232.154. DEVELOPMENT REGULATIONS. Authorizes the commissioners court of a county (court) to take certain actions by order.

Sec. 232.155. AUTHORITY TO REGULATE NOISE. (a) Authorizes the court by order to regulate, as permitted by this subchapter, sound levels to promote the public health, safety, or welfare.

(b) Authorizes the regulations to prohibit any act that produces a sound that a reasonable person would find objectionable. Authorizes certain factors to be considered in determining whether a sound is objectionable to a reasonable person.

(c) Authorizes the court by order to establish an exemption to a regulation adopted under this section if the court determines that the public interest justifies the exemption.

Sec. 232.156. COMPLIANCE WITH COUNTY PLAN. Sets forth certain requirements for development regulations.

Sec. 232.157. DISTRICTS. (a) Authorizes the court to divide the unincorporated area of the county into districts of a number, shape, and size the court considers best for carrying out this subchapter.

(b) Authorizes regulations adopted under this subchapter to vary from district to district.

Sec. 232.158. PROCEDURE GOVERNING ADOPTION OF REGULATIONS AND DISTRICT BOUNDARIES. (a) Provides that a regulation adopted under this subchapter is not effective until it is adopted by the court after a public hearing. Requires the court to publish notice of the hearing in a newspaper of general circulation in the county before the 15th day before the date of the hearing.

(b) Authorizes the court to establish or amend a regulation only by an order passed by a majority vote of the full membership of the court.

Sec. 232.159. DEVELOPMENT COMMISSION. (a) Authorizes the court to appoint a development commission (commission) to assist in the implementation and enforcement of development regulations adopted under Section 232.154.

(b) Sets forth the membership of the commission.

(c) Provides that, except for initial members, a member of the commission is appointed for a two-year term expiring February 1 of each odd-numbered year. Provides that initial members serve terms expiring February 1 of the first odd-numbered year following the date of their appointment.

(d) Requires the commission annually to elect a chair and a vice chair from among its members.

(e) Sets forth certain requirements and authorizations for the court. Requires the court to adopt rules governing the operations of the commission.

(f) Provides that the commission is advisory only and is authorized to recommend appropriate development regulations for the county.

(g) Provides that members of the commission are subject to the same requirements relating to conflicts of interest that are applicable to the court under Chapter 171 (Regulation and Conflicts of Interest of Officers of Municipalities, Counties, and Certain Other Local Governments).

Sec. 232.160. SPECIAL EXCEPTION. (a) Authorizes a person aggrieved by a development regulation adopted under Section 232.154 to petition the court or the commission, if the court has established a commission, for a special exception to a development regulation adopted by the commissioners court.

(b) Requires the court to adopt procedures governing applications, notice, hearings, and other matters relating to the grant of a special exception.

Sec. 232.161. ENFORCEMENT; PENALTY. (a) Authorizes the court to adopt orders to enforce this subchapter or an order or regulation adopted under this subchapter.

(b) Provides that a person commits an offense if the person violates this subchapter or an order or regulation adopted under this subchapter. Provides that an offense under this subsection is a misdemeanor punishable by a fine of not less than \$500 or more than \$1,000. Provides that each day that a violation occurs constitutes a separate offense, except that each hour that a violation of a regulation adopted under Section 232.155 occurs constitutes a separate offense. Requires trial to be in the district court.

Sec. 232.162. COOPERATION WITH MUNICIPALITIES. Authorizes the court by order to enter into agreements with any municipality located in the county to assist in the implementation and enforcement of regulations adopted under this subchapter.

Sec. 232.163. CONFLICT WITH OTHER LAWS. Provides that if a regulation adopted under this subchapter imposes higher standards than those required under another statute or local order or regulation, the regulation adopted under this subchapter controls. Provides that if the other statute or local order or regulation imposes higher standards, that statute, order, or regulation controls.

SECTION 2. Amends Section 395.001(7), Local Government Code, to redefine "political subdivision."

SECTION 3. Amends Section 395.011(b), Local Government Code, to delete existing text referring to corporate boundaries of a political subdivision.

SECTION 4. Amends Sections 395.016(c) and (d), Local Government Code, to make conforming and nonsubstantive changes.

SECTION 5. Amends the heading to Chapter 232, Local Government Code, to read as follows:

CHAPTER 232. COUNTY REGULATION OF SUBDIVISIONS
AND PROPERTY DEVELOPMENT

SECTION 6. Effective date: upon passage or September 1, 2005.