

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 574  
By: Armbrister  
Intergovernmental Relations  
4/5/2005  
Committee Report (Substituted)

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

The current statutes related to "vested rights" were created to protect the private property and development rights of landowners from the application of retroactive rulemaking by cities and other governmental entities. Despite the clear intent of the language found in Chapter 245 to prevent punitive retroactive rulemaking by cities that is oftentimes intended to restrict, or even stop development, there has been a troubling rise in cities' attempts to circumvent the original intent of the statute.

C.S.S.B. 574 amends the existing exemptions to clarify that zoning regulations or other land use regulations, annexation regulations, or regulations to prevent the imminent destruction of property or injury to persons affecting "landscaping or tree preservation" or "open space or park dedication" are not exempt from the application of the Act. It also makes clarifying and updating changes in regard to the language on dormant projects. Finally, the bill clarifies that political subdivisions are not immune from suit for enforcement of Chapter 245.

### **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 Sections 245.004, 245.005, and 245.006, Local Government Code, as follows:

Sec. 245.004. EXEMPTIONS. Provides that this chapter does not apply to municipal zoning regulations that do not affect landscaping or tree preservation, open space or park dedication. Makes conforming changes.

Sec. 245.005. DORMANT PROJECTS. (a) Authorizes a regulatory agency, after the first anniversary of the effective date of this chapter, rather than notwithstanding any other provision of this chapter, to enact an ordinance, rule, or regulation that places an expiration date on a permit if as of the first anniversary of the effective date of this chapter, the permit does not have an expiration date, and no progress has been made towards completion of the project. Requires any ordinance, rule, or regulation enacted pursuant to this subsection, rather than section, to place an expiration date on a permit of no earlier than the fifth anniversary of the effective date of this chapter. Makes nonsubstantive changes.

(b) Authorizes a regulatory agency to enact an ordinance, rule or regulation that places an expiration date of not less than two years on a permit if no progress has been made towards completion of the project. Requires any ordinance, rule, or regulation enacted pursuant to this section to place an expiration date on a project of no earlier than the fifth anniversary of the date the first permit application was filed for the project if no progress has been made towards completion of the project.

(c) Creates this subsection from existing text. Requires the progress towards completion of the project to include any one, rather than any one or more, of certain actions.

Sec. 245.006. ENFORCEMENT OF CHAPTER. (a) Creates this subsection from existing text.

(b) Provides that a political subdivision's immunity from suit is waived in regard to an action under this chapter.

SECTION 2. Make application of this Act prospective.

SECTION 3. Effective date: September 1, 2005.