

## **BILL ANALYSIS**

Senate Research Center  
82R6416 TJB-F

S.B. 732  
By: Nichols  
Intergovernmental Relations  
3/21/2011  
As Filed

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

The extraterritorial jurisdiction (ETJ) of a city is determined by Chapter 42 (Extraterritorial Jurisdiction of Municipalities), Local Government Code, and is a predetermined unincorporated area contiguous to the corporate boundaries of a city. Section 212.003 (Extension of Rules to Extraterritorial Jurisdiction), Local Government Code, limits the ordinances that a city may extend to the ETJ. That section of state law allows a city to extend certain rules governing plats and subdivisions of land to the ETJ, as well as other ordinances relating to public road access and certain uses of groundwater. Section 212.003, however, also lists numerous activities regarding land use and water/wastewater facility construction that, unless otherwise authorized by state law, a city may not regulate in the ETJ. The list of regulations a city is prohibited from extending into the ETJ includes such things as the use of buildings or property, building height and size, and building density.

Recently, a city began enforcing its city tree ordinance in the ETJ; an action that was upheld by the Fourth Court of Appeals of Texas in a 2009 opinion. If left unaddressed, this decision will allow other cities to extend their respective tree ordinances beyond their city limits into the ETJ.

As proposed, S.B. 732 amends current law relating to the prohibition of certain regulations by a municipality in its extraterritorial jurisdiction involving trees and vegetation.

### **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 212.003(a), Local Government Code, as follows:

- (a) Authorizes the governing body of a municipality by ordinance to extend to the extraterritorial jurisdiction of the municipality the application of municipal ordinances adopted under Section 212.002 (Rules) and other municipal ordinances relating to access to public roads or the pumping, extraction, and use of groundwater by persons other than retail public utilities, as defined by Section 13.002 (Definitions), Water Code, for the purpose of preventing the use or contact with groundwater that presents an actual or potential threat to human health. Prohibits a municipality, in its extraterritorial jurisdiction, unless otherwise authorized by state law, from regulating certain entities and activities, including the planting, clearing, or harvesting of trees or vegetation or other uses of trees or vegetation on a particular tract of land.

SECTION 2. Effective date: upon passage or September 1, 2011.