

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1551
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Intergovernmental Relations
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.S.B. 1551 is the result of the Lower Rio Grande Valley Colonia Summit that was held on July 27, 2012, in the Texas Lower Rio Grande Valley (Lower Valley). The summit was a forum for colonia and community leaders to outline their most pressing problems and possible solutions for certain problems, include drainage problems with flooding, housing, economic development, and measures that will prevent substandard housing in the region.

C.S.S.B. 1551 seeks to improve the quality of life and living conditions in affected communities by establishing the research and advisory council within the Lower Rio Grande Valley Development Council to undertake certain planning and development coordination activities. The bill seeks to maximize the use of existing funds which are intended to be used to address the needs of colonias with increased coordination and cooperation among local, state, and federal entities. C.S.S.B. 1551 requires the Lower Rio Grande Valley Development Council to provide the legislature a report concerning the implementation of activities authorized under the bill.

C.S.S.B. 1551 amends current law relating to the provision of affordable housing and other services in the Lower Rio Grande Valley.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the planning council of the Lower Rio Grande Valley Development Council in SECTION 1 (Section 394A.007, Local Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle C, Title 12, Local Government Code, by adding Chapter 394A, as follows:

CHAPTER 394A. LOWER RIO GRANDE VALLEY COLONIA AND REGIONAL HOUSING DEVELOPMENT INITIATIVE

Sec. 394A.001. DEFINITIONS. Defines "development council" and "planning council" in this chapter.

Sec. 394A.002. APPLICABILITY. Provides that this chapter applies only to Cameron, Hidalgo, and Willacy Counties and the Lower Rio Grande Valley Development Council (development council).

Sec. 394A.003. POWERS AND DUTIES OF DEVELOPMENT COUNCIL. Requires the development council, in administering this chapter, to:

- (1) employ or contract for staff to support the planning council;
- (2) maintain on its website a list of associations representing low-income persons and colonias and all minutes and other records related to the meetings of the planning council; and

(3) approve the housing and colonia improvement plan adopted by the planning council under Section 394A.005.

Sec. 394A.004. POWERS AND DUTIES OF PLANNING COUNCIL. (a) Provides that the planning council is a research and advisory council of the development council.

(b) Requires the planning council, in carrying out its responsibilities under this chapter, to:

(1) provide for the maximum feasible participation of persons of low, very low, and extremely low income and residents of colonias in the development of the housing and colonia improvement plan under Section 394A.005;

(2) coordinate with local, state, and federal agencies, as needed;

(3) conduct public meetings and hold public hearings;

(4) develop, adopt, and submit for approval by the development council a housing and colonia improvement plan as required by Section 394A.005; and

(5) develop and review recommendations related to meeting the region's affordable housing needs, providing colonia residents with adequate public services, and improving living conditions in colonias and low-income neighborhoods in the region as provided in Section 394A.005.

Sec. 394A.005. HOUSING AND COLONIA IMPROVEMENT PLAN. Requires the planning council, provided sufficient resources are available, to develop and adopt a housing and colonia improvement plan to address the region's affordable housing needs and the provision of adequate public services in colonias. Requires the planning council, in developing and adopting the plan, to provide a recommendation for or against establishing or implementing:

(1) a periodic regional assessment of living conditions in colonias and low-income neighborhoods that includes an assessment of public services and facilities and housing availability, affordability, conditions, needs, and market demand;

(2) a coordinated regional affordable housing plan that encourages the production of both owner and renter occupied housing, addressing housing program allocations, housing policies, and community development policies impacting housing and prioritizing assistance to the worst-case housing needs of homeowners and renters;

(3) an agreement with the secretary of state to assign colonia ombudspersons currently working in the region to cooperate with the development council to carry out affordable housing programs;

(4) an agreement by which the colonia ombudspersons support the development council by producing, updating, and maintaining an accurate publicly available database of colonias that documents the availability, conditions, and adequacy of housing and public services in those colonias, including streetlights, storm drainage, garbage collection, public transportation, roads, sidewalks, and distance to essential services, including schools, hospitals, and grocery stores;

(5) a process for ensuring compliance with existing model subdivision rules in colonias and new subdivisions, including a survey of the effectiveness of existing model subdivision rules and an examination of health and safety conditions in subdivisions developed under existing rules;

- (6) a process by which the development council is authorized to recommend to the counties in its jurisdictions any necessary changes to model subdivision rules needed to protect the health, safety, and financial condition of the residents of affected subdivisions and colonias, and ensure that colonias are provided infrastructure that will facilitate their annexation into adjacent incorporated municipalities;
- (7) a process to investigate issues of noncompliance with the model subdivision rules and refer noncompliance issues to the appropriate county attorney or the Texas attorney general;
- (8) a process by which colonia residents are authorized to petition to initiate a legal action to enforce model subdivision rules;
- (9) a regional hiring plan that provides for outreach to workers and qualified businesses, job training activities, compliance certification, and reporting requirements for hiring for projects using any financial assistance provided by the development council;
- (10) a program to improve the administration of the money reserved under the community development block grant colonia set aside;
- (11) a program by which the Texas Department of Transportation and the Department of Public Safety of the State of Texas cooperate with the development council to identify funding resources, placing a priority on identifying existing regional funding for colonia public safety programs;
- (12) a regional authority to administer programs implemented based on recommendations made under this section;
- (13) a process by which residents of a colonia are authorized to petition to enact a restrictive covenant in the colonia that provides for:
 - (A) residential or commercial building standards or codes;
 - (B) maximum impervious cover on a lot;
 - (C) permitted land uses;
 - (D) non-permitted nuisances;
 - (E) a program and fee for solid waste services to be paid by residents and property owners; or
 - (F) a program and fee for street lighting to be paid by residents and property owners;
- (14) a colonia improvement district to facilitate comprehensive planning for housing, community development needs, public infrastructure, and public services in colonias through:
 - (A) establishment of a management district to carry out functions permitted under state law;
 - (B) adoption of a binding land use plan governing permitted land uses;
 - (C) establishment of minimum standards for residential and nonresidential structures and a contract with a municipality or county to enforce those standards; and

- (D) establishment and administration of a tax increment reinvestment zone or tax increment financing to fund housing improvements and repairs or provide public services and facilities;
- (15) a comprehensive needs assessment and planning study that employs community planners to work in cooperation with colonia residents, county officials, and officials from adjacent municipalities to assess certain housing, public services, and public infrastructure needs;
- (16) a program to facilitate the cooperation of colonia residents and adjacent municipalities to provide planning and financial assistance to encourage the annexation of the colonia by a municipality when appropriate and consistent with the interest and desires of the residents;
- (17) a program of cooperation between the development council and the Texas Department of Housing and Community Affairs (TDHCA) for the direction of the activities of colonia self-help centers;
- (18) a program to designate one or more areas within the extraterritorial jurisdiction of a municipality as an enhanced urban residential development district to prevent the proliferation of substandard colonias and suburban sprawl in unincorporated areas and promote quality, affordable, and orderly residential development through building standards, land use planning, and financial incentives for public improvements and housing assistance;
- (19) a colonia land bank to provide affordable housing in any part of the region served by the development council;
- (20) a comprehensive regional drainage plan to establish certain standards, examine and consider certain approaches to storm water protection, mitigate storm water flooding within colonias, develop certain cost estimates for each colonia in the region, and identify, apply for, secure, and administer grants and other funding to carry out any plan developed under this section;
- (21) a plan to cooperate with the Public Utility Commission of Texas, local public housing authorities, affordable housing providers, and homeowners to establish, evaluate and report on an energy self-sufficiency program to evaluate certain technologies, evaluate certain power purchase agreements, and prioritize certain households for participation in the program; and
- (22) in cooperation with TDHCA, a process to provide through the qualified allocation plan any regional scoring incentives necessary to ensure that low income housing tax credits are awarded to developments in the Lower Rio Grande Valley region.

Sec. 394A.006. QUALIFICATIONS OF PLANNING COUNCIL MEMBERS. (a) Requires the development council to appoint to the planning council from each county, any part of which is located in the Lower Rio Grande Valley:

- (1) the county judge;
- (2) the mayor of the most populous municipality;
- (3) an elected official from a municipality not described by Subdivision (2);
- (4) a resident of a colonia;

(5) a representative of a nonprofit organization representing colonia residents; and

(6) a person of extremely low or very low income living in an incorporated area.

(b) Requires at least one member selected under Subsection (a)(3) to be from a municipality with a population of less than 5,000.

(c) Authorizes members selected under Subsections (a)(1), (2), and (3) to designate another elected official from their jurisdiction to represent them at meetings of the planning council other than for purposes of voting for the adoption of the housing and colonia improvement plan under Section 394A.005.

Sec. 394A.007. MEETINGS OF PLANNING COUNCIL. (a) Provides that meetings of the planning council are subject to the open meetings law, Chapter 551 (Open Meetings), Government Code. Requires planning council members to receive training in the requirements of that chapter.

(b) Provides that the planning council is:

(1) authorized to hold meetings when called by the presiding officer or seven of the members;

(2) required to keep minutes of meetings;

(3) required to post on the development council's website not later than the third day before the date of a planning council meeting all materials provided to the planning council that are relevant to a matter proposed for discussion at the meeting;

(4) required to make available in hard copy format to the members of the public in attendance at the meeting any materials provided to the planning council by the development council at the meeting;

(5) required to provide for public comment for each item on the planning council's agenda at the meeting; and

(6) required to adopt rules that give the public a reasonable amount of time for testimony at meetings.

Sec. 394A.008. ADOPTION OF RECOMMENDATIONS AND PLAN; HEARING REQUIRED. (a) Requires the planning council to hold a public hearing in each county any part of which is located in the Lower Rio Grande Valley before adopting the housing and colonia improvement plan developed under Section 394A.005 and in an area that is convenient and proximate to large populations of colonia residents.

(b) Prohibits hearings from being held earlier than 5:30 p.m.

(c) Requires the planning council to mail a notice of the hearing in English and Spanish to any association listed on the development council website that represents low-income persons and colonias.

(d) Requires that professional simultaneous translation from English to Spanish and from Spanish to English be provided at the hearing.

SECTION 2. (a) Provides that if sufficient funding is not available, the development council is not required to appoint an advisory council to develop and adopt the plan required by Section 394A.005, Local Government Code, as added by this Act. Requires the development council to provide to the governor, the lieutenant governor, the speaker of the house of representatives, and

the committee in each house of the legislature that has primary jurisdiction over housing matters a statement that the development council is unable to implement Chapter 394A, Local Government Code, as added by this Act, if sufficient funding to develop and adopt the plan is not available.

(b) Requires the development council, subject to Subsection (a) of this section, not later than March 1, 2015, to provide to the governor, the lieutenant governor, the speaker of the house of representatives, and the committee in each house of the legislature that has primary jurisdiction over housing matters the report and recommendations developed under Chapter 394A, Local Government Code, as added by this Act, and make recommendations regarding additional authority needed to achieve the purposes of that chapter.

SECTION 3. Effective date: upon passage or September 1, 2013.