

BILL ANALYSIS

Senate Research Center
86R12100 JTS-F

S.B. 1510
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Intergovernmental Relations
3/29/2019
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Infrastructure development is the most expensive part of the land development process. Developers spend millions of dollars on roads and transportation improvements, water and wastewater improvements, storm water and drainage improvements, etc. It is sound public policy to require a developer to build or pay for infrastructure required by a particular development. However, local governments have often demanded that a developer build or pay for expensive public infrastructure improvements that go well beyond the infrastructure needs of a particular development.

These exactions by cities became so burdensome that in 2005 the legislature enacted Local Government Code, Section 212.904, which provides that a municipality cannot require a developer to bear a disproportionate share of municipal infrastructure costs. Unfortunately, Section 212.904 does not extend to counties and other public or quasi-governmental entities that also require developers to build or pay for expensive public infrastructure improvements.

S.B. 1510 would extend the sound and fair public policy expressed in Section 212.904 to all counties and other public or quasi-governmental entities that also require developers to build or pay for expensive public infrastructure improvements.

As proposed, S.B. 1510 amends current law relating to the apportionment of infrastructure costs in regard to certain property development projects.

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 212.904(a), Local Government Code, as follows:

(a) Prohibits the developer's portion of the costs from exceeding a certain amount if the municipality requires, including under an agreement under Chapter 242 (Authority of Municipality to Regulate Subdivisions in and Outside Municipality's Extraterritorial Jurisdiction), as a condition of approval for a property development project that the developer bear a portion of the costs of municipal infrastructure improvements, rather than from exceeding a certain amount if the municipality requires as a condition of approval that the developer bear a portion of the costs.

SECTION 2. Amends Subchapter E, Chapter 232, Local Government Code, by adding Section 232.110, as follows:

Sec. 232.110. APPORTIONMENT OF COUNTY INFRASTRUCTURE COSTS. (a) Prohibits a developer's portion of the costs, if a county requires, including under an agreement under Chapter 242, as a condition of approval for a property development project that the developer bear a portion of the costs of county infrastructure improvements by the making of dedications, the payment of fees, or the payment of construction costs, from exceeding the amount required for infrastructure improvements

that are roughly proportionate to the proposed development as approved by a professional engineer who holds a license issued under Chapter 1001 (Engineers), Occupations Code, and is retained by the county.

(b) Authorizes a developer who disputes the determination made under Subsection (a) to appeal to the commissioners court of the county. Authorizes the developer, at the appeal, to present evidence and testimony under procedures adopted by the commissioners court. Requires the commissioners court, after hearing any testimony and reviewing the evidence, to make the applicable determination within 30 days following the final submission of any testimony or evidence by the developer.

(c) Authorizes a developer to appeal the determination of the commissioners court to a county or district court of the county in which the development project is located within 30 days of the final determination by the commissioners court.

(d) Prohibits a county from requiring a developer to waive the right of appeal authorized by this section as a condition of approval for a development project.

(e) Provides that a developer who prevails in an appeal under this section is entitled to applicable costs and to reasonable attorney's fees, including expert witness fees.

(f) Provides that this section does not diminish the authority or modify the procedures specified by Chapter 395 (Financing Capital Improvements Required by New Development in Municipalities, Counties, and Certain Other Local Governments).

SECTION 3. Amends Subchapter C, Chapter 161, Utilities Code, by adding Section 161.126, as follows:

Sec. 161.126. APPORTIONMENT OF INFRASTRUCTURE COSTS. (a) Prohibits a developer's portion of the costs, if an electric cooperative requires as a condition of approval for a property development project that the developer bear a portion of the costs of infrastructure improvements by the making of dedications, the payment of fees, or the payment of construction costs, from exceeding the amount required for infrastructure improvements that are roughly proportionate to the proposed development as approved by a professional engineer who holds a license issued under Chapter 1001, Occupations Code, and is retained by the electric cooperative.

(b) Authorizes a developer who disputes the determination made under Subsection (a) to appeal to the board of directors of the electric cooperative. Authorizes the developer, at the appeal, to present evidence and testimony under procedures adopted by the board of directors. Requires the board of directors, after hearing any testimony and reviewing the evidence, to make the applicable determination within 30 days following the final submission of any testimony or evidence by the developer.

(c) Authorizes a developer to appeal the determination of the board of directors to a county or district court of the county in which the development project is located within 30 days of the final determination by the board of directors.

(d) Prohibits an electric cooperative from requiring a developer to waive the right of appeal authorized by this section as a condition of approval for a development project.

(e) Entitles a developer who prevails in an appeal under this section is to applicable costs and to reasonable attorney's fees, including expert witness fees.

SECTION 4. Provides that this Act applies to the approval of a development project that is not finally adjudicated before the effective date of this Act.

SECTION 5. Effective date: upon passage or September 1, 2019.