

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1585
By: Hughes
Natural Resources & Economic Development
4/15/2021
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 1987, the Texas Legislature authorized city councils to regulate historical structures of significance through zoning regulations. This was largely seen as a critical step to preserving our heritage for generations to come, as well as ensuring that there would be a process for the preservation and rehabilitation of these structures. In order for a building to be designated as a historic structure, it can be initiated by the city or the property owner. Currently, if the property owner opposes designation being initiated by the city, the property must receive a supermajority vote of either the zoning, planning, or historical commission, in addition to the supermajority vote at city council.

During the 86th Regular Session, H.B. 2496 was passed to require municipalities to receive a supermajority vote at the commission level (city council was already required) when designating a structure as historic against a property owner's wishes. The bill specifically provided three options for municipalities at the commission level: planning commission, zoning and platting commission, or historic landmark commission. The goal of this provision was to provide cities with flexibility due to the fact that some cities may only have one board that serves all three purposes or may have a separate board for each.

However, some cities have interpreted this provision to mean that they may "shop around" the vote depending on schedule and preference. It has been noted that while some cities have a single board, others that have all three boards will frequently choose a different board depending on where the city feels the vote will be most successful. This is a major disadvantage for property owners whose property is designated against their will.

C.S.S.B. 1585 would amend Section 211.0165, Local Government Code, by requiring that any municipality that has more than one commission must then designate one commission as having the sole responsibility for designating properties as historic landmarks. C.S.S.B. 1585 also expands on the protections for landmark designations by also requiring property owner consent or a three-fourths supermajority at the commission and council level to include a property in a historic district when a property owner opposes being included.

C.S.S.B. 1585 amends current law relating to requirements for the designation of a property as a historic landmark and the inclusion of a property in a historic district by a municipality.

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 the heading to Section 211.0165, Local Government Code, to read as follows:

Sec. 211.0165. DESIGNATION OF HISTORIC LANDMARK OR DISTRICT.

SECTION 2. Amends Section 211.0165, Local Government Code, by amending Subsections (a), (b), and (c) and adding Subsection (a-1), as follows:

(a) Prohibits a municipality that has established a process for designating places or areas of historical, cultural, or architectural importance and significance through the adoption of zoning regulations or zoning district boundaries, except as provided by Subsection (b), from designating a property as a local historic landmark or including a property within the boundaries of a local historic district unless:

(1) the owner of the property consents to the designation or inclusion; or

(2) if the owner does not consent, the designation or inclusion of the owner's property is approved by a three-fourths vote of the governing body of the municipality, and the zoning, planning, or historical commission of the municipality, if any.

(a-1) Requires a municipality, if it has more than one commission as described by Subsection (a)(2)(B) (relating to the zoning, planning, or historical commission of the municipality, if any) to designate one of those commissions as the entity with exclusive authority to approve the designations of properties as local historic landmarks and the inclusion of properties in a local historic district under that paragraph.

(b) Authorizes the municipality, if the property is owned by an organization that qualifies as a religious organization under Section 11.20 (Religious Organizations), Tax Code, to designate the property as a local historic landmark or include the property in a local historic district only if the organization consents to the designation or inclusion.

(c) Requires the municipality to provide the property owner a statement that describes the impact that a historic designation or inclusion in a local historic district of the owner's property may have on the owner and the owner's property. Requires the municipality to provide the statement to the owner not later than the 15th day before the date of the initial hearing on the historic designation or inclusion in a local historic district of the property of the zoning, planning, or historical commission, if any, or the governing body of the municipality.

SECTION 3. Provides that Section 211.0165, Local Government Code, as amended by this Act, applies only to a proposal to include property in a historic district or to designate a property as a local historic landmark made on or after the effective date of this Act.

SECTION 4. Effective date: September 1, 2021.