

BILL ANALYSIS

Senate Research Center

S.B. 2037
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Local Government
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Concerns have been raised about onerous lot size and lot density requirements being imposed by municipalities in the extraterritorial jurisdiction and counties in unincorporated areas, without following the restrictions in the Local Government Code.

Clarifications are necessary to ensure that a municipality in the extraterritorial jurisdiction and a county in the unincorporated area may not regulate lot density, including through minimum lot sizes, lot dimensions, lot frontages, lot setbacks.

S.B. 2037 amends Section 212.003, Local Government Code, to prohibit a municipality in its extraterritorial jurisdiction from regulating, directly or indirectly, minimum lot sizes, lot dimensions, lot frontages, lot setbacks, or other components of lot density.

S.B. 2037 also amends Section 232.101, Local Government Code, to prohibit a county in the unincorporated area from regulating, directly or indirectly, minimum lot sizes, lot dimensions, lot frontages, lot setbacks, or other components of lot density.

S.B. 2037 further repeals certain purposes for which a county may adopt rules governing plats and subdivisions of land within the unincorporated area of the county.

As proposed, S.B. 2037 amends current law relating to the regulation of platting and subdivisions of land by a municipality or county.

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) Prohibits a municipality, in its extraterritorial jurisdiction, from regulating, either directly or indirectly, minimum lot sizes, lot dimensions, lot frontages, lot setbacks, or other components of lot density.

Deletes existing text authorizing 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.

Deletes existing text prohibiting a municipality in its extraterritorial jurisdiction, however, unless otherwise authorized by state law, from regulating, the size, type, or method of construction of a water or wastewater facility that can be constructed to serve a developed tract of land if the developed tract of land is located in a county with a

population of 2.8 million or more and served by on-site septic systems constructed before September 1, 2001, that fail to provide adequate services or on-site water wells constructed before September 1, 2001, that fail to provide an adequate supply of safe drinking water. Makes nonsubstantive changes.

SECTION 2. Amends Sections 232.101(a) and (b), Local Government Code, as follows:

(a) Authorizes the commissioners court, by an order adopted and entered in the minutes of the commissioners court and after a notice is published in a newspaper of general circulation in the county, to adopt rules governing plats and subdivisions of land within the unincorporated area of the county as authorized in Subchapter E (Infrastructure Planning Provisions in Certain Urban Counties).

Deletes existing text authorizing the commissioners court, by an order adopted and entered in the minutes of the commissioners court and after a notice is published in a newspaper of general circulation in the county, to adopt rules governing plats and subdivisions of land within the unincorporated area of the county unincorporated area of the county to promote the health, safety, morals, or general welfare of the county and the safe, orderly, and healthful development of the unincorporated area of the county.

(b) Prohibits a commissioners court from regulating, either directly or indirectly, minimum lot sizes, lot dimensions, lot frontages, lot setbacks, or other components of lot density. Deletes existing text prohibiting a commissioners court, unless otherwise authorized by state law, from regulating certain provisions under Section 232.101 (Rules).

SECTION 3. Makes application of Sections 212.003(a) and 232.101(a) and (b), Local Government Code, as amended by this Act, prospective.

SECTION 4. Effective date: upon passage or September 1, 2023.