

CHAPTER 917

H.B. No. 2622

AN ACT

relating to the authority of counties to regulate various matters; providing criminal penalties.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 2.401(d), County Road and Bridge Act (Article 6702-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) The commissioners court of the county may, by an order duly adopted and entered upon the minutes of the court, after a notice published in a newspaper of general circulation in the county, be specifically authorized to make the following requirements:

(1) to provide for right of way on main artery streets or roads within such subdivision of a width of not less than 50 feet nor more than 100 feet;

(2) to provide for right of way on all other streets or roads in such subdivision of not less than 40 feet nor more than 70 feet;

(3) to provide that the shoulder-to-shoulder width on collectors or on main arteries within the right of way be not less than 32 feet nor more than 56 feet;

(4) to provide for the shoulder-to-shoulder width on all other streets or roads within such subdivision within the right of way to be not less than 25 feet nor more than 35 feet;

(5) to promulgate reasonable specifications to be followed in the construction of any such roads or streets within such subdivision, considering the amount and kind of travel over said streets;

(6) to promulgate reasonable specifications to provide adequate drainage in accordance with standard engineering practices for all roads or streets in said subdivision or addition;

(7) *to require that the plat and that each purchase contract made between the subdivider and a purchaser of land in the subdivision contain a statement describing the extent to which water will be made available to the subdivision and, if it will be made available, how and when; and*

(8) to require the owner or owners of any such tract of land which may be so subdivided to give a good and sufficient bond for the proper construction of such roads or streets affected, with such sureties as may be approved by the court. In the event a surety bond by a corporate surety is required, such bond shall be executed by a surety company authorized to do business in the State of Texas. Such bond shall be made payable to the county judge or his successors in office, of the county wherein such subdivision lies, and conditioned that the owner or owners of any such tract of land to be subdivided will *perform the construction* [~~construct any roads or streets within such subdivision~~] in accordance with the specifications promulgated by and within a reasonable time as may be allowed by the commissioners court of the county. The bond shall be in such an amount as may be determined by the commissioners court not to exceed the estimated cost of *the construction* [~~constructing such roads or streets~~]. *In lieu of the bond an owner may deposit cash; a letter of credit issued by a federally insured financial institution, or other acceptable financial guarantee. If a letter of credit is used, it must list as the sole beneficiary the county judge, or his successors in office, of the county in which the subdivision is located and must be conditioned that the owner or owners of the tract of land to be subdivided will construct any roads or streets within the subdivision in accordance with the specifications promulgated by, and within a reasonable time as may be allowed by, the commissioners court of the county.*

SECTION 2. Section 2.402(d), County Road and Bridge Act (Article 6702-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) The commissioners court of the county may, by an order adopted and entered on the minutes of the court and after publishing a notice in a newspaper of general circulation in the county, establish requirements:

(1) to provide for a right-of-way on main artery streets or roads within the subdivision or addition of a width of not less than 50 feet nor more than 100 feet;

(2) to provide for a right-of-way on all other streets or roads in the subdivision or addition of not less than 40 feet nor more than 50 feet;

(3) to provide that the street cut on main arteries within the right-of-way be not less than 30 feet nor more than 45 feet;

(4) to provide for the street cut on all other streets or roads within the subdivision or addition within the right-of-way to be not less than 25 feet nor more than 35 feet;

(5) to promulgate reasonable specifications to be followed in the construction of any roads or streets within the subdivision or addition, considering the amount and kind of travel over the streets;

(6) to promulgate reasonable specifications to provide adequate drainage in accordance with standard engineering practices for all roads or streets in the subdivision or addition; [and]

(7) *to require that the plat and that each purchase contract made between the subdivider and a purchaser of land in the subdivision or addition contain a statement describing the extent to which water will be made available to the subdivision and, if it will be made available, how and when; and*

(8) to require the owner or owners of any tract of land that may be so divided to give a good and sufficient bond for the proper construction of the roads or streets affected,

with such sureties as may be approved by the court. If a surety bond by a corporate surety is required, the bond shall be executed by a surety company authorized to do business in this state. The bond shall be made payable to the county judge, or his successor in office, of the county in which the subdivision or addition lies and shall be conditioned that the owner or owners of the tract of land to be divided will *perform the construction* [~~construct any roads or streets within the subdivision or addition~~] in accordance with the specifications promulgated by the commissioners court of the county. The bond shall be in an amount as may be determined by the commissioners court not to exceed the estimated cost of *the construction* [~~constructing the roads or streets~~]. *In lieu of the bond an owner may deposit cash, a letter of credit issued by a federally insured financial institution, or other acceptable financial guarantee. If a letter of credit is used, it must list as the sole beneficiary the county judge, or his successors in office, of the county in which the subdivision is located and must be conditioned that the owner or owners of the tract of land to be subdivided will construct any roads or streets within the subdivision in accordance with the specifications promulgated by, and within a reasonable time as may be allowed by, the commissioners court of the county.*

SECTION 3. Subchapter D, Chapter 2, County Road and Bridge Act (Article 6702-1, Vernon's Texas Civil Statutes), is amended by adding Section 2.3015 to read as follows:

*Sec. 2.3015. REGULATION OF ROADSIDE VENDORS IN POPULOUS COUNTIES. (a) To promote the public safety, the commissioners court of a county with a population of more than 1.4 million, according to the most recent federal census, by order may regulate:*

*(1) the extent to which a vendor of food or merchandise of any kind may:*

*(A) sell the items on a public highway or road in the unincorporated area of the county or in the right of way of the highway or road; and*

*(B) erect, maintain, or place a structure on the highway or road or in the right of way; and*

*(2) the extent to which a person may solicit funds on a public highway or road in the unincorporated area of the county or in the right of way of the highway or road.*

*(b) As part of the regulations, the commissioners court may:*

*(1) require a vendor or a person soliciting funds to obtain a permit to sell the food or merchandise or to solicit the funds;*

*(2) charge a reasonable fee for the permit; and*

*(3) provide for the removal of any structure that is on a public highway or road or in a right of way of a public highway or road in violation of the regulations.*

*(c) If a regulation adopted under this section conflicts with a statute or a state agency rule, the statute or rule prevails to the extent of the conflict.*

*(d) A person commits an offense if the person intentionally or knowingly violates a regulation adopted under this section or obstructs or threatens to obstruct the removal of a structure that is on a public highway or road or in the right of way of a public highway or road in violation of a regulation adopted under this section. Each day a violation continues constitutes a separate offense. An offense under this subsection is a Class C misdemeanor.*

SECTION 4. Sections 1, 2, and 3, Chapter 269, Acts of the 53rd Legislature, Regular Session, 1953 (Article 6812c, Vernon's Texas Civil Statutes), are amended to read as follows:

*Sec. 1. Whenever the Commissioners Court in any county [~~having a population of not less than 350,000 according to the last Federal Decennial Census and which is adjacent to another county having a population of not less than 350,000 according to the last Federal Decennial Census,~~] deems that the general welfare will be promoted thereby, it is hereby authorized and empowered to establish *by order* building lines or set-back lines on the public roads, including major highways and roads, in such county. The building or set-back lines may not exceed twenty-five (25) feet from the edge of the right-of-way on all public roads other than major highways and roads. The building or set-back lines may[, ] not [~~to~~] exceed fifty (50) [~~one hundred fifty (150)] feet from the edge of the~~*

*right-of-way* [~~center line~~] of such major highways and roads. *The Commissioners Court may designate the public roads that are major highways and roads. The Commissioners Court may*, [~~and to~~] prohibit any new building being located within such building or set-back lines. *The authority to establish building and set-back lines applies only outside of the corporate limits of any city, village or* [~~incorporated~~] *town and, if the lines conflict with lines adopted by a city, village, or town, the municipal lines prevail if they are in the extraterritorial jurisdiction of the city, village, or town. [Such Commissioners Court is further authorized and empowered to regulate and limit and to change and amend by order such building or set-back lines on such major highways or roads and to prohibit any new buildings being located within such building or set-back lines outside the corporate limits of any city, village or incorporated town.]*

Sec. 2. Before the *establishment or change* [~~adoption of any plan for major highways and the establishing~~] of building or set-back lines [~~thereon~~] the Commissioners Court shall hold at least one public hearing related thereto, fifteen days notice of the time and place of which shall be published in at least one newspaper having general circulation within the county. Such hearing may be adjourned from time to time. [~~Adoption of the major highway plan shall be by resolution carried by not less than a majority vote of the full membership of the court.~~] The *establishment or change* of building or set-back lines shall be by order passed by not less than a majority vote of the full membership of the court. [~~After adoption of a major highway plan or plans an attested copy shall be filed with the County Clerk. Thereafter, the Commissioners Court may upon like approval, publication and notice change, amend, supplement or alter the major highway plan and building lines relating thereto.~~]

Sec. 3. The property owners of all property fronting upon any [~~major highway or~~] road on which a building line or set-back line has been established shall be charged with notice of the requirement of the building *or set-back* line order. All building *or set-back* lines established pursuant to this Act shall be shown in a general manner upon a map and the same shall be filed with the County Clerk. *In* [~~and notice thereof shall be published in at least one newspaper having general circulation within the county, and such notice shall also be posted in at least three conspicuous places along each highway affected; provided, however, that in~~] the event the county should fail to begin the construction of the improvement or widening of the road on which any building or set-back line has been established within four (4) years from the date when said building or set-back line had been fixed, such designation of the building or set-back line shall cease and be of no force or effect unless the time is extended therefor by agreement of the county and the property owners interested.

SECTION 5. Section 26.031(a), Water Code, is amended to read as follows:

(a) As used in this section and *Sections* [~~Section~~] 26.032 and 26.0325 of this code, "private sewage facilities" means septic tanks, pit privies, cesspools, sewage holding tanks, injection wells used to dispose of sewage, chemical toilets, treatment tanks, and all other facilities, systems, and methods used for the disposal of sewage other than disposal systems operated under a permit issued by the commission.

SECTION 6. Sections 26.032(a) and (b), Water Code, are amended to read as follows:

(a) Whenever it appears to the commissioners court of any county that the use of private sewage facilities in an area within the county is causing or may cause pollution or is injuring or may injure the public health, the county may proceed in the same manner and in accordance with the same procedures as the commission to hold a public hearing and *adopt* [~~enter~~] an order, resolution, or other rule as it may consider appropriate to abate or prevent pollution or injury to public health.

(b) The order, resolution, or other rule may provide the same restrictions and requirements as are authorized for an order of the commission *adopted* [~~entered~~] under *Section 26.031 of this code* [~~section~~].

SECTION 7. Article 1, Chapter 221, Acts of the 69th Legislature, Regular Session, 1985 (Article 10150, Vernon's Texas Civil Statutes), is amended by adding Section 2A to read as follows:

*Sec. 2A. AUTHORITY NOT APPLICABLE TO ON-PREMISE SIGNS UNDER CERTAIN CIRCUMSTANCES.* The authority granted to a municipality by this article to require the relocation, reconstruction, or removal of signs does not apply to on-premise signs in the extraterritorial jurisdiction of municipalities in counties described by Section 17, Article 2, Chapter 221, Acts of the 69th Legislature, Regular Session, 1985 (Article 6674v-3, Vernon's Texas Civil Statutes), if the circumstances described by that section occur.

SECTION 8. Article 3, Chapter 221, Acts of the 69th Legislature, Regular Session, 1985 (Article 10150-1, Vernon's Texas Civil Statutes), is amended by adding Section 3 to read as follows:

*Sec. 3. AUTHORITY NOT APPLICABLE TO ON-PREMISE SIGNS UNDER CERTAIN CIRCUMSTANCES.* The authority granted to a municipality by this article to extend its outdoor sign ordinance does not apply to on-premise signs in the extraterritorial jurisdiction of municipalities in counties described by Section 17, Article 2, Chapter 221, Acts of the 69th Legislature, Regular Session, 1985 (Article 6674v-3, Vernon's Texas Civil Statutes), if the circumstances described by that section occur.

SECTION 9. Article 2, Chapter 221, Acts of the 69th Legislature, Regular Session, 1985 (Article 6674v-3, Vernon's Texas Civil Statutes), is amended by adding Section 17 to read as follows:

*Sec. 17. REGULATION OF ON-PREMISE SIGNS IN CERTAIN COUNTIES.* (a) The commissioners court of a county with a population of more than 2.4 million, according to the most recent federal census, may regulate, in the area of municipal extraterritorial jurisdiction in the county, the location, height, size, and anchoring of on-premise signs.

(b) County regulations adopted under this section may not permit the erection of any on-premise sign that could not have been erected under any previous municipal regulation that applied to the area in which the sign is to be erected.

(c) If the county adopts under this section any regulation of on-premise signs, the on-premise sign regulations imposed by this article, adopted by the commission under this article, or adopted by a municipality do not apply in the municipal extraterritorial jurisdiction in the county.

(d) In lieu of exercising any regulatory powers under this section in the municipal extraterritorial jurisdiction in the county, the commissioners court of the county, by order, may allow the State Highway and Public Transportation Commission to regulate on-premise signs in the extraterritorial jurisdiction in accordance with the municipal or county regulation regarding on-premise signage. On adoption of the order, the municipal authority in the extraterritorial jurisdiction is withdrawn.

(e) The appropriate attorney representing the county in district court may seek injunctive relief to prevent the violation or threatened violation of a prohibition or regulation adopted under this section.

(f) A violation of a prohibition or regulation adopted by the commissioners court under this section is a Class C misdemeanor.

(g) This section does not authorize the imposition of any fee as part of the regulation of on-premise signs.

(h) Any regulations adopted under this section apply only to on-premise signs erected on or after the effective date of the Act enacting this section.

SECTION 10. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 22, 1987, by the following vote: Yeas 148, Nays 0, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 2622 on May 31, 1987, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House

adopted the conference committee report on H.B. No. 2622 on June 1, 1987, by a non-record vote. Passed by the Senate, with amendments, on May 30, 1987, by the following vote: Yeas 26, Nays 2; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 2622 on June 1, 1987, by the following vote: Yeas 31, Nays 0.

Approved June 18, 1987.

Effective Aug. 31, 1987, 90 days after date of adjournment.