

Summary of CS/CS/SB 280 (Hutson) relating to Local Ordinances

The bill authorizes courts to award attorney fees, costs and damages to plaintiffs that successfully prove that an ordinance adopted after October 1, 2022, is arbitrary or unreasonable. It requires local governments to prepare and publish a “business impact estimate” before adopting an ordinance after October 1, 2022. Specified ordinances are exempt from this requirement. The bill requires local government to stay the enforcement of an ordinance when a claim is filed after October 1, 2022, which alleges an ordinance is expressly preempted or is arbitrary or unreasonable. The stay may be lifted or continued if the plaintiff appeals a decision upholding an ordinance, at the court’s discretion. Specified ordinances are exempted from the stay of enforcement requirement.

I. Attorney Fees, Costs and Damages Awards

Authorizes a court to award attorney fees, costs, and damages to a plaintiff that prevails in a civil action challenging a local government ordinance on the grounds the ordinance is arbitrary or unreasonable.

- The award is discretionary with the court
- Fees, costs, and damages are capped at \$50,000
- A plaintiff can’t recover fees associated with litigation to determine the amount of fees
- A court may not award fees if the local government receives written notice that a proposed ordinance or adopted ordinance is arbitrary or unreasonable AND the local government withdraws or repeals the ordinance.
- Prohibits “double recoveries” if someone prevails on a claim brought under a different law involving the same ordinance (e.g., Bert Harris Act).
- Applies prospectively to ordinances adopted on or after October 1, 2022.

II. Business Impact Estimates

- Requires a local government to prepare a “business impact estimate” before enacting an ordinance and to post the estimate on its website no later than the date the ordinance notice is published. A local government is not required to procure an accountant or financial consultant to prepare the estimate. The estimate must include:
 - A summary of the ordinance, including a statement of the public purpose to be served
 - An estimate of the direct economic impact of the ordinance on private, for-profit businesses within the local government, including the following, if any:
 - Estimate of direct compliance costs business may incur
 - Identification of any new charge or fee on business
 - Estimate of the local government’s regulatory costs, including estimate of revenues from any new charges or fees
 - A good faith estimate of the number of businesses impacted by the ordinance
 - A business impact estimate is NOT required for ordinances enacted to implement the following:
 - Part II of chapter 163 (comprehensive planning, land development regulations)

- Section 553.73 (Building Code)
- Section 633.202 (Fire Code)
- Sections 190.005 and 190.046 (Community Development Districts)
- State and federal mandates
- Issuance or refinancing of debt
- Budget adoption and amendment
- Contracts or agreements, including those relating to grants or financial assistance
- Emergency ordinances

III. Automatic Suspension of Challenged Ordinance

- Requires a local government to suspend enforcement of an ordinance that is challenged on the grounds it is expressly preempted or is arbitrary or unreasonable if:
 - The legal action is filed within 90 days of adoption of the ordinance
 - The plaintiff requests suspension of the ordinance in the initial complaint
 - The plaintiff serves the local government with the complaint
- If the local government wins in lower court, the local government may enforce the ordinance 30 days after entry of the court's order unless the plaintiff appeals the decision and is granted a stay of the lower court's order.
- Courts are directed to prioritize cases in which enforcement of an ordinance is suspended and render a decision as expeditiously as possible. In addition, courts are direct to impose sanctions on an attorney or party that files any pleading or action for a frivolous or improper purpose.
- The automatic suspension of a challenged ordinance does not apply to ordinances enacted to implement the following:
 - Part II of chapter 163 (comprehensive planning, land development regulations)
 - Section 553.73 (Building Code)
 - Section 633.202 (Fire Code)
 - Sections 190.005 and 190.046 (Community Development Districts)
 - State and federal mandates
 - Issuance or refinancing of debt
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