

SUBJECT: Establishing a tree planting credit to offset tree mitigation fees

COMMITTEE: Urban Affairs — favorable, without amendment

VOTE: 6 ayes — Alvarado, Leach, Bernal, Isaac, J. Johnson, Zedler

0 nays

1 absent — Elkins

WITNESSES: For — Keith Mars, City of Austin; David Lehde, Dallas Builders Association; Scott Norman, Texas Association of Builders; Chance Sparks, Texas Chapter of American Planning Association; Mary Dennis, Texas Municipal League; Craig Brown; (*Registered, but did not testify*: Tom Tagliabue, City of Corpus Christi; Philip Erwin and Bertram Vandenberg, City of Dallas; Jon Weist, City of Irving; Priscilla Files, Galveston Island Tree Conservancy; David Glenn, Home Builders Association of Greater Austin; Geoffrey Tahuahua, Real Estate Council of Austin; Kyle Jackson, Texas Apartment Association; Daniel Gonzalez and Julia Parenteau, Texas Association of Realtors; Bruce Brandel, David Englund, and Gardner Pate, Texas Building Owners and Managers Association (BOMA); Val Perkins, Texas Community Association Advocates; Chloe Lieberknecht, The Nature Conservancy; Elisabeth Hensley; Karisa Johnson; David King; Brad Parsons; Ginger Turner)

Against — (*Registered, but did not testify*: Adam Cahn, Cahnman's Musings; Eileen Altmiller and Todd Ruge, City of Buda; Guadalupe Cuellar, City of El Paso; John Thomaides, City of San Marcos; Kelly Davis, Save Our Springs Alliance; Craig Nazor, Sierra Club, Austin Regional Group; Charlie Bonner, Elizabeth Doyel, and Sonia Woiton, Texas League of Conservation Voters; Thais Perkins, TreeFolks; and six individuals)

On — Jocelyn Murphy, City of Fort Worth; Michael Shannon, City of San Antonio; James Cannizzo, U.S. Army, Fort Sam Houston, Camp Bullis, and Camp Stanley; (*Registered, but did not testify*: Brent Luck, American

Society of Landscape Architects-Texas Chapter; Cheri Cuellar, City of Fort Worth; Beth South, City of West Lake Hills; Jackie Cole, Galveston Island Tree Conservancy; Cyrus Reed, Lone Star Chapter Sierra Club; James Rooni, Texas A&M Forest Service; Andrew Dobbs, Texas Campaign for the Environment; Rhonda McCollough, West Lake Hills City Council; and nine individuals)

DIGEST: HB 7 would require a municipality that imposed a tree mitigation fee for tree removal necessary for development or construction on a person's property to allow that person to apply for a tree planting credit to offset the fee. The amount of the credit would be at least 50 percent of the assessed tree mitigation fee and be applied in the same manner.

To qualify for a credit, a tree would have to be:

- planted on property where the tree mitigation fee was assessed or on property agreed upon by the municipality and the property owner; and
- at least two inches in diameter at the point on the trunk 4.5 feet above ground.

As long as a municipality provided a tree planting credit to offset the tree mitigation fee, the bill would not affect the municipality's ability to determine:

- the size, number, and type of trees that would need to be planted to receive a credit, except as provided by the bill's credit qualification provisions;
- the requirements for tree removal and corresponding tree mitigation fees; or
- the requirements for tree planting methods and management practices to ensure that the tree grew to anticipated height at maturity.

The bill would not apply to property within five miles of an active federal military base in use as of the bill's effective date.

The bill would take effect December 1, 2017, and would apply only to tree mitigation fees assessed on or after that date.

**SUPPORTERS
SAY:**

HB 7, by allowing for the offsetting of tree mitigation fees with a tree planting credit, would address concerns that fees imposed for tree removal by municipalities negatively impact property rights and the ability of developers and builders to provide affordable housing. High tree mitigation fees can increase housing prices and building costs, potentially making projects infeasible or driving up the price of new homes beyond what many people can afford, particularly first-time homebuyers. With the proposed tree planting credit, HB 7 would incentivize property owners and developers to plant more trees to receive credits against mitigation fees, resulting in more affordable housing and more trees.

**OPPONENTS
SAY:**

HB 7 would not sufficiently protect private property rights nor address the issue of municipal micromanagement of private property. Although HB 7 is well intentioned, it would in effect protect the improper practice of local governments regulating trees on private property. The Legislature should propose instead a measure to correct local government overreach and protect private property owners, as the governor noted in his veto message on SB 744 by Kolkhorst, a similar bill passed during the 85th Legislature's regular session.