



Sub. H.B. 292

124th General Assembly
(As Passed by the House)

Reps. Grendell, Seitz, Lendrum, Peterson, Roman, Sferra, Distel, Flowers, Coates, Carano, Otterman, McGregor, Schmidt, Fessler, Setzer, Raga, Cirelli, Faber, Rhine, Blasdel, Core, Reinhard, Niehaus, Collier, Husted

BILL SUMMARY

- Authorizes a board of county commissioners to adopt and include in its building code regulations to protect existing surface and subsurface drainage for property that is not subject to the Subdivision Law.

CONTENT AND OPERATION

Current law

Under current law, a board of county commissioners can adopt and enforce building codes applicable only to single-family, two-family, and three-family dwellings within the unincorporated territory of the county; other structures are regulated by the state building code. County building codes can apply throughout the unincorporated territory of the county or only in specified districts of that unincorporated territory. If districts are established, the regulations (including service charges) generally must be uniform within all districts.¹ (Sec. 307.37(A)(1).)

County building code regulations cannot "go beyond the scope of" regulating the safety, health, and sanitary conditions of buildings. A person adversely affected by the adoption, amendment, or repeal of a regulation may appeal to the court of common pleas upon the ground that (1) the regulation or its revision is unreasonable or unlawful or (2) the regulation was improperly adopted, amended, or repealed. (Sec. 307.37(A)(1).)

¹ An exception is made for areas located in a flood hazard area or Lake Erie coastal erosion area. In those cases, more stringent regulations may be imposed to prevent or reduce flooding or erosion.

Changes proposed by the bill

Surface and subsurface drainage regulations

The bill permits a county to adopt and include in its building code, regulations that provide for a review of the effects that a proposed erection, construction, repair, alteration, redevelopment, or maintenance of a building (hereafter, a "proposed construction") may have on any existing surface or subsurface drainage. The regulations cannot apply to (1) any property that has been approved with or without a plat by a platting authority in accordance with the Subdivision Law or (2) any property for which a plat is submitted, or for which a proposed division is submitted without a plat, if approval of the submitted plat or proposed division is pending on the bill's effective date. Regulations can require alteration of a proposal before a building permit is issued in order to prevent or correct any adverse effects that a proposed construction may have on existing surface or subsurface drainage. (Sec. 307.37(A)(3)(a) and (d) and Section 3.)

The board of county commissioners, in enforcing these drainage regulations, may enter into an agreement with the county engineer or another qualified person or entity to carry out any necessary inspections. These persons or entities would evaluate what, if any, alterations are necessary to prevent or correct any adverse effects a proposed construction may have on existing surface or subsurface drainage. (Sec. 307.37(A)(3)(c).)

As under existing law for violations of other county building code regulations, a violation of a proposed drainage regulation can result in a fine of not more than \$300. Each day during which an illegal development continues may be considered a separate offense. (Sec. 307.37(C); sec. 307.99(C)--not in the bill.)

Required elements of drainage regulations

The bill provides that if a board of county commissioners adopts drainage regulations, the regulations must include a procedure for review of a proposed construction prior to the issuance of a building permit. The purpose of the review is to evaluate the effects the proposed construction may have on existing surface or subsurface drainage. (Sec. 307.37(A)(3)(b).)

The procedure for the review, as set forth in the drainage regulations, must include a meeting with interested parties, generally within 30 days after an application for a building permit is filed (see **COMMENT 1**). That meeting must be scheduled within five days after the application is filed, and the review, including the issuance of any orders for alteration of the proposed construction (see **COMMENT 2**), must be completed within 30 days after that filing. The procedure also must provide for (1) written notice of the meeting to be mailed to

the interested parties by regular mail at least seven days before the scheduled meeting date and (2) a statement (see **COMMENT 3**) informing the applicant of a right to appellate review of a refusal to issue a building permit until the proposed construction is altered. (Sec. 307.37(A)(3)(b).)

If the review is not completed within the 30-day period, the proposed construction will be deemed to have no adverse effects on existing surface or subsurface drainage, and, accordingly, those effects cannot be the basis for a refusal to issue a building permit (sec. 307.37(A)(3)(b)).

COMMENT

1. Although the bill provides that the 30-day period for a meeting with interested parties may be extended by agreement of the applicant, it also states that, if the review of a proposed construction is not completed within that 30 days, the proposed construction is deemed to have no adverse effects on existing surface or subsurface drainage. The bill probably needs to be amended to provide that, if the review is not completed within 30 days *or such time as has been agreed to in writing by the applicant*, the proposed construction is so deemed.

2. Presumably, any orders for alteration of a proposed construction would be issued by the board of county commissioners instead of the county engineer or other qualified person or entity carrying out any necessary inspections. This may need to be clarified by an amendment to the bill.

3. The bill is not clear whether the statement about a right to appellate review is to be provided to the applicant and, if so, is to be written or oral, or whether it is simply a statement of the right of an applicant to appeal that is to be included in the procedure of the regulations. This also may need to be clarified by an amendment to the bill.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	06-12-01	p. 645
Reported, H. Local Gov't & Townships	10-25-01	p. 992
Passed House (96-0)	10-30-01	p. 1036

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