

By: Gates

H.B. No. 4296

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the authority of a petitioner to pay off a certificate  
3 holder's federal loan to facilitate decertification of a  
4 certificated area.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 13.254(a-1), Water Code, is amended to  
7 read as follows:

8 (a-1) As an alternative to decertification under Subsection  
9 (a), the owner of a tract of land that is at least 50 acres and that  
10 is not in a platted subdivision actually receiving water or sewer  
11 service may petition the utility commission under this subsection  
12 for expedited release of the area from a certificate of public  
13 convenience and necessity so that the area may receive service from  
14 another retail public utility. The fact that a certificate holder  
15 is a borrower under a federal loan program is not a bar to a request  
16 under this subsection for the release of the petitioner's land and  
17 the receipt of services from an alternative provider. If the  
18 certificate holder is a borrower under a federal loan program, the  
19 petitioner is entitled to pay off the loan to facilitate the release  
20 process, if allowed under federal law. On the day the petitioner  
21 submits the petition to the utility commission, the petitioner  
22 shall send, via certified mail, a copy of the petition to the  
23 certificate holder, who may submit information to the utility  
24 commission to controvert information submitted by the petitioner.

1 The petitioner must demonstrate that:

2 (1) a written request for service, other than a  
3 request for standard residential or commercial service, has been  
4 submitted to the certificate holder, identifying:

5 (A) the area for which service is sought;

6 (B) the timeframe within which service is needed  
7 for current and projected service demands in the area;

8 (C) the level and manner of service needed for  
9 current and projected service demands in the area;

10 (D) the approximate cost for the alternative  
11 provider to provide the service at the same level and manner that is  
12 requested from the certificate holder;

13 (E) the flow and pressure requirements and  
14 specific infrastructure needs, including line size and system  
15 capacity for the required level of fire protection requested; and

16 (F) any additional information requested by the  
17 certificate holder that is reasonably related to determination of  
18 the capacity or cost for providing the service;

19 (2) the certificate holder has been allowed at least  
20 90 calendar days to review and respond to the written request and  
21 the information it contains;

22 (3) the certificate holder:

23 (A) has refused to provide the service;

24 (B) is not capable of providing the service on a  
25 continuous and adequate basis within the timeframe, at the level,  
26 at the approximate cost that the alternative provider is capable of  
27 providing for a comparable level of service, or in the manner

1 reasonably needed or requested by current and projected service  
2 demands in the area; or

3 (C) conditions the provision of service on the  
4 payment of costs not properly allocable directly to the  
5 petitioner's service request, as determined by the utility  
6 commission; and

7 (4) the alternate retail public utility from which the  
8 petitioner will be requesting service possesses the financial,  
9 managerial, and technical capability to provide continuous and  
10 adequate service within the timeframe, at the level, at the cost,  
11 and in the manner reasonably needed or requested by current and  
12 projected service demands in the area.

13 SECTION 2. Section 13.2541(d), Water Code, is amended to  
14 read as follows:

15 (d) The utility commission may not deny the petition based  
16 on the fact that the certificate holder is a borrower under a  
17 federal loan program. If the certificate holder is a borrower under  
18 a federal loan program, the petitioner is entitled to pay off the  
19 loan to facilitate the release process, if allowed under federal  
20 law.

21 SECTION 3. This Act takes effect immediately if it receives  
22 a vote of two-thirds of all the members elected to each house, as  
23 provided by Section 39, Article III, Texas Constitution. If this  
24 Act does not receive the vote necessary for immediate effect, this  
25 Act takes effect September 1, 2023.