

BILL ANALYSIS

Senate Research Center

S.B. 425
By: Hinojosa
Intergovernmental Relations
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Enrolled

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Current law regulating colonias is only applicable to counties within 50 miles of the border. S.B. 425 allows a county that is located within 100 miles of an international border and that contains a city with a population of more than 250,000 to:

- (1) prevent future substandard housing from springing up ;
- (2) receive the assistance of a colonia ombudsman; and
- (3) be eligible for EDAP (economically distressed areas program) funds from the state.

S.B. 425 gives an affected county the power to approve plats in unincorporated areas of the county. This power allows a county to prevent unscrupulous developers from taking advantage of homeowners who are often left without paved roads or basic services such as running water, sewer lines, or electricity.

S.B. 425 amends Subchapter B, Chapter 232, Local Government Code, which was created in the mid-1990s and gave border counties the power to enforce minimum standards for solid waste, water, and wastewater services.

RULEMAKING AUTHORITY

This bill does not expressly grant additional rulemaking authority to any state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 212.012(c), (e), and (f), Local Government Code, as follows:

(c) Authorizes an entity described by Subsection (b) to serve or connect land with water, sewer, electricity, gas, or other utility service regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115 if the municipal authority responsible for approving plats issues a certificate stating that the land was sold or conveyed to the person requesting service by any means of conveyance, including a contract for deed or executory contract, before September 1, 1995, in a county defined under Section 232.022(a)(1); or September 1, 2005, in a county defined under Section 232.022(a)(2); or is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun on or before September 1, 2005, in a county defined under Section 232.022(a)(2); or the land was not subdivided after September 1, 1995, in a county defined under Section 232.022(a)(1) or September 1, 2005, in a county defined under Section 232.022(a)(2), and certain conditions exist relating to the availability of water service.

(e) Make conforming and nonsubstantive changes.

(f) Make conforming and nonsubstantive changes.

SECTION 2. Amends Section 232.022, Local Government, by amending Subsections (a) and (c) and adding Subsection (c-1), as follows:

(a) Provides that this subchapter is applicable to a county with certain characteristics.

(c) Provides that, except as provided by Subsection (c-1), for the purposes of this section, land is considered to be in the jurisdiction of a county if the land is located in the county and outside the corporate limits of the municipalities.

(c-1) Provides that land in a municipality's extraterritorial jurisdiction is not considered to be in the jurisdiction of a county for the purposes of this section if the municipality and the county have entered into a written agreement under Section 242.001 that authorizes the municipality to regulate subdivision plats and approve related permits in the municipality's extraterritorial jurisdiction.

SECTION 3. Amends the heading to Section 232.029, Local Government Code, to read as follows:

Sec. 232.029. CONNECTION OF UTILITIES IN COUNTIES WITHIN 50 MILES OF INTERNATIONAL BORDER.

SECTION 4. Amends Section 232.029, Local Government Code, by relettering Subsection (a) as Subsection (a-1) and adding a new Subsection (a) to provide that this section only applies to a county defined under Section 232.022(a)(1).

SECTION 5. Amends Subchapter B, Chapter 232, Local Government Code, by adding Section 232.0291, as follows:

Sec. 232.0291. CONNECTION OF UTILITIES IN CERTAIN COUNTIES WITHIN 100 MILES OF INTERNATIONAL BORDER. (a) Provides that this section applies only to a county defined under Section 232.022(a)(2).

(b) Prohibits a utility, except as provided by Subsection (d) or Section 232.037(c), from serving or connecting any subdivided land with water or sewer services unless the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b)(1) that the plat has been reviewed and approved by the commissioners court.

(c) Prohibits a utility, except as provided by Subsection (d) or Section 232.037(c), from serving or connecting any subdivided land with electricity or gas unless the entity receives a determination from the county commissioners court under Section 232.028(b)(2) that adequate water and sewer services have been installed to service the subdivision.

(d) Authorizes an electric, gas, water, or sewer service utility to serve or connect subdivided land with water, sewer, electricity, gas, or other utility service regardless of whether the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b) if the utility is provided with a certificate issued by the commissioners court that makes certain statements.

(e) Authorizes a utility to provide service to subdivided land described by Subsection (d)(1) only if the person requesting the service meets certain requirements.

(f) Provides that a person requesting service may obtain a certificate under Subsection (d)(1) only if the person provides to the commissioners court certain documentation.

(g) Authorizes a person requesting service to obtain a certificate under Subsection (d)(2) only if the person provides to the commissioners court an affidavit that states that property was not sold or conveyed to that person from a subdivider or the subdivider's agent after September 1, 2005.

(h) Requires the commissioners court, on request, to provide to the attorney general and any appropriate local, county, or state law enforcement official a copy of any document on which the commissioners court relied in determining the legality of providing service.

(i) Prohibits this section from being construed to abrogate any civil or criminal proceeding or prosecution or to waive any penalty against a subdivider for a violation of a state or local law, regardless of the date on which the violation was committed.

(j) Provides that the prohibition established by this section does not prohibit an electric or gas utility from providing electric or gas utility connection or service to a lot that meets certain requirements.

(k) Defines "foundation."

SECTION 6. Amends Section 232.031, Local Government Code, by amending Subsection (a) to make an exception as provided by Subsection (d) and adding Subsection (d), as follows:

(d) Prohibits a subdivider, in a county defined under Section 232.022(a)(2), from selling or leasing land in a subdivision first platted or replatted after September 1, 2005, unless the subdivision plat is approved by the commissioners court in accordance with Section 232.024.

SECTION 7. Amends Section 232.038, Local Government Code, to add an exception as provided by Subsection (b) and to authorize a person, if the lot is located in a county defined under Section 232.022(a)(2), to only bring suit under Subsection (a) if the person purchased or is purchasing the lot after September 1, 2005.

SECTION 8. Amends Section 232.040(e), Local Government Code, to prohibit existing utility services that must be platted or replatted under this section from being terminated under Section 232.0291.

SECTION 9. Amends Section 232.043(b), Local Government Code, to authorize the commissioners court, if the commissioners court makes a written finding that the subdivider who created the unplatted subdivision no longer owns property in the subdivision, to grant a delay or variance under this section only if a majority of lots in the subdivision were sold before September 1, 1995, in a county defined under Section 232.022(a)(1) or September 1, 2005, in a county defined under Section 232.022(a)(2).

SECTION 10. Amends Section 232.106, Local Government Code, to authorize the commissioners court, by an adopted order and entered into the minutes of the commissioners court, and after a notice is published in a newspaper of general circulation in the county, to impose the requirements of Section 232.0291.

SECTION 11. Amends Section 775.001(2), Government Code, to redefine "colonia."

SECTION 12. Amends Section 775.003, Government Code, to authorize the colonia initiatives coordinator to appoint a colonia ombudsman in each additional county any part of which is within 100 miles of an international border and that contains a municipality with a population of more than 250,000.

SECTION 13. Amends Section 37.153, Utilities Code, to require a certificate holder to refuse to serve a customer in the holder's certificated area if the holder is prohibited from providing the service under Section 232.0291, Local Government Code.

SECTION 14. Amends Section 54.254, Utilities Code, to require a holder of a certificate of conveyance and necessity, a certificate of operating authority, or a service provider certificate of operating authority, to refuse to serve a customer in the holder's certificated area if the holder is prohibited from providing the service under Section 232.0291, Local Government Code.

SECTION 15. Amends Section 16.341(1), Water Code, to redefine "affected county."

SECTION 16. Amends Section 17.923, Water Code, to require that to be eligible for financial assistance under this subchapter a county must be located in whole or in part within 100 miles of an international border and contain a municipality with a population of more than 250,000.

SECTION 17. Effective date: September 1, 2005.