

By: Guillen

H.B. No. 3068

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the authority and responsibilities of certain political  
3 subdivisions in relation to development.

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

5 SECTION 1. Section 81.033(b), Local Government Code, is  
6 amended to read as follows:

7 (b) If approved at an election held in the county for that  
8 purpose, the commissioners court has, in addition to the powers  
9 given to it under this code or other law, all the powers of the  
10 governing body of a Type A general-law municipality, including the  
11 powers contained in Subtitle A, Title 7, except that:

12 (1) the commissioners court may not regulate an  
13 activity outside the county;

14 (2) the commissioners court may not regulate a tract  
15 of land that is appraised as agricultural or open-space land by the  
16 appraisal district;

17 (3) the commissioners court may not exercise the  
18 powers of a municipality under Chapter 211 [~~or 213~~]; and

19 (4) if this code or other law provides for a procedure  
20 by which a county exercises a power, the commissioners court must  
21 use that procedure.

22 SECTION 2. Section 212.012, Local Government Code, is  
23 amended by amending Subsections (a), (c), (d), (e), (f), (h), and  
24 (i) and adding Subsections (j) and (k) to read as follows:

1 (a) Except as provided by Subsection (c), (d), or (j)  
2 [~~Subsection (c)~~], an entity described by Subsection (b) may not  
3 serve or connect any land with water, sewer, electricity, gas, or  
4 other utility service unless the entity has been presented with or  
5 otherwise holds a certificate applicable to the land issued under  
6 Section 212.0115.

7 (c) An entity described by Subsection (b) may serve or  
8 connect land with water, sewer, electricity, gas, or other utility  
9 service regardless of whether the entity is presented with or  
10 otherwise holds a certificate applicable to the land issued under  
11 Section 212.0115 if:

12 (1) the land is covered by a development plat approved  
13 under Subchapter B or under an ordinance or rule relating to the  
14 development plat;

15 (2) the land was first served or connected with  
16 service by an entity described by Subsection (b)(1), (b)(2), or  
17 (b)(3) before September 1, 1987; or

18 (3) the land was first served or connected with  
19 service by an entity described by Subsection (b)(4), (b)(5), or  
20 (b)(6) before September 1, 1989[~~, or~~

21 [~~(4) the municipal authority responsible for~~  
22 ~~approving plats issues a certificate stating that:~~

23 [~~(A) the land:~~

24 [~~(i) was sold or conveyed to the person~~  
25 ~~requesting service by any means of conveyance, including a contract~~  
26 ~~for deed or executory contract, before:~~

27 [~~(a) September 1, 1995, in a county~~

1 ~~defined under Section 232.022(a)(1); or~~

2 ~~[(b) September 1, 2005, in a county~~  
3 ~~defined under Section 232.022(a)(2);~~

4 ~~[(ii) is located in a subdivision in which~~  
5 ~~the entity has previously provided service;~~

6 ~~[(iii) is located outside the limits of the~~  
7 ~~municipality;~~

8 ~~[(iv) is located in a county to which~~  
9 ~~Subchapter B, Chapter 232, applies; and~~

10 ~~[(v) is the site of construction of a~~  
11 ~~residence, evidenced by at least the existence of a completed~~  
12 ~~foundation, that was begun on or before:~~

13 ~~[(a) May 1, 1997, in a county defined~~  
14 ~~under Section 232.022(a)(1); or~~

15 ~~[(b) September 1, 2005, in a county~~  
16 ~~defined under Section 232.022(a)(2); or~~

17 ~~[(B) the land was not subdivided after September~~  
18 ~~1, 1995, in a county defined under Section 232.022(a)(1), or~~  
19 ~~September 1, 2005, in a county defined under Section 232.022(a)(2),~~  
20 ~~and:~~

21 ~~[(i) water service is available within 750~~  
22 ~~feet of the subdivided land; or~~

23 ~~[(ii) water service is available more than~~  
24 ~~750 feet from the subdivided land and the extension of water service~~  
25 ~~to the land may be feasible, subject to a final determination by the~~  
26 ~~water service provider].~~

27 (d) In a county to which Subchapter B, Chapter 232, applies,

1 an entity described by Subsection (b) may serve or connect land with  
2 water, sewer, electricity, gas, or other utility service that is  
3 located in the extraterritorial jurisdiction of a municipality  
4 regardless of whether the entity is presented with or otherwise  
5 holds a certificate applicable to the land issued under Section  
6 212.0115, if the municipal authority responsible for approving  
7 plats issues a certificate stating that:

8 (1) the subdivided land:

9 (A) was sold or conveyed by a subdivider or  
10 developer by any means of conveyance, including a contract for deed  
11 or executory contract, before:

12 (i) September 1, 1995, in a county defined  
13 under Section 232.022(a)(1);

14 (ii) September 1, 1999, in a county defined  
15 under Section 232.022(a)(1) if, on August 31, 1999, the subdivided  
16 land was located in the extraterritorial jurisdiction of a  
17 municipality as determined by Chapter 42; or

18 (iii) September 1, 2005, in a county  
19 defined under Section 232.022(a)(2);

20 (B) has not been subdivided after September 1,  
21 1995, September 1, 1999, or September 1, 2005, as applicable under  
22 Paragraph (A);

23 (C) is the site of construction of a residence,  
24 evidenced by at least the existence of a completed foundation, that  
25 was begun on or before:

26 (i) May 1, 2003, in a county defined under  
27 Section 232.022(a)(1); or

1                   (ii) September 1, 2005, in a county defined  
2 under Section 232.022(a)(2); and

3                   (D) has had adequate sewer services installed to  
4 service the lot or dwelling;

5                   (2) the subdivided land is a lot of record as defined  
6 by Section 232.021(6-a) that is located in a county defined by  
7 Section 232.022(a)(1) and has adequate sewer services installed  
8 that are fully operable to service the lot or dwelling; or

9                   (3) the land was not subdivided after September 1,  
10 1995, in a county defined under Section 232.022(a)(1), or September  
11 1, 2005, in a county defined under Section 232.022(a)(2), and:

12                   (A) water service is available within 750 feet of  
13 the subdivided land; or

14                   (B) water service is available more than 750 feet  
15 from the subdivided land and the extension of water service to the  
16 land may be feasible, subject to a final determination by the water  
17 service provider.

18                   (e) An entity described by Subsection (b) may provide  
19 utility service to land described by Subsection (d)(1), (2), or (3)  
20 ~~[Subsection (c)(4)(A)]~~ only if the person requesting service:

21                   (1) is not the land's subdivider or developer or the  
22 subdivider's or developer's agent; and

23                   (2) provides to the entity a certificate described by  
24 Subsection (d) ~~[(c)(4)(A)]~~.

25                   (f) ~~[(e)]~~ A person requesting service may obtain a  
26 certificate under Subsection (d)(1), (2), or (3) ~~[Subsection~~  
27 ~~(c)(4)(A)]~~ only if the person is the owner or purchaser of the

1 subdivided land and provides to the municipal authority responsible  
2 for approving plats documentation containing ~~[either]~~:

3 (1) a copy of the means of conveyance or other  
4 documents that show that the land was sold or conveyed by a  
5 subdivider or developer ~~[to the person requesting service]~~ before  
6 September 1, 1995, before September 1, 1999, or before September 1,  
7 2005, as applicable under Subsection (d) ~~[, and a notarized~~  
8 ~~affidavit by that person that states that construction of a~~  
9 ~~residence on the land, evidenced by at least the existence of a~~  
10 ~~completed foundation, was begun on or before May 1, 1997, or on or~~  
11 ~~before September 1, 2005, as applicable]; ~~[or]~~~~

12 (2) for a certificate issued under Subsection (d)(1),  
13 a notarized affidavit by the person requesting service that states  
14 that ~~[the property was sold or conveyed to that person before~~  
15 ~~September 1, 1995, or before September 1, 2005, as applicable, and~~  
16 ~~that]~~ construction of a residence on the land, evidenced by at least  
17 the existence of a completed foundation, was begun on or before May  
18 1, 2003, in a county defined by Section 232.022(a)(1) or September  
19 1, 2005, in a county defined by Section 232.022(a)(2), and the  
20 request for utility connection or service is to connect or serve a  
21 residence described by Subsection (d)(1)(C);

22 (3) a notarized affidavit by the person requesting  
23 service that states that the subdivided land has not been further  
24 subdivided after September 1, 1995, September 1, 1999, or September  
25 1, 2005, as applicable under Subsection (d); and

26 (4) evidence that adequate sewer service or facilities  
27 have been installed and are fully operable to service the lot or

1 dwelling from an entity described by Subsection (b) or the  
2 authorized agent responsible for the licensing or permitting of  
3 on-site sewage facilities under Chapter 366, Health and Safety  
4 Code. [~~May 1, 1997, or on or before September 1, 2005, as~~  
5 ~~applicable.~~

6 [~~(f) A person requesting service may obtain a certificate~~  
7 ~~under Subsection (c)(4)(B) only if the person provides to the~~  
8 ~~municipal authority responsible for approving plats an affidavit~~  
9 ~~that states that the property was not sold or conveyed to that~~  
10 ~~person from a subdivider or the subdivider's agent after September~~  
11 ~~1, 1995, or after September 1, 2005, as applicable.]~~

12 (h) This section may not be construed to abrogate any civil  
13 or criminal proceeding or prosecution or to waive any penalty  
14 against a subdivider or developer for a violation of a state or  
15 local law, regardless of the date on which the violation occurred.

16 (i) In this section:

17 (1) "Developer" has the meaning assigned by Section  
18 232.021.

19 (2) "Foundation" means the lowest division of a  
20 residence, usually consisting of a masonry slab or a pier and beam  
21 structure, that is partly or wholly below the surface of the ground  
22 and on which the residential structure rests.

23 (3) [~~(2)~~] "Subdivider" has the meaning assigned by  
24 Section 232.021.

25 (j) Except as provided by Subsection (k), this section does  
26 not prohibit a water or sewer utility from providing in a county  
27 defined by Section 232.022(a)(1) water or sewer utility connection

1 or service to a residential dwelling that:

2 (1) is provided water or wastewater facilities under  
3 or in conjunction with a federal or state funding program designed  
4 to address inadequate water or wastewater facilities in colonias or  
5 to residential lots located in a county described by Section  
6 232.022(a)(1);

7 (2) is an existing dwelling identified as an eligible  
8 recipient for funding by the funding agency providing adequate  
9 water and wastewater facilities or improvements;

10 (3) when connected, will comply with the minimum state  
11 standards for both water and sewer facilities and as prescribed by  
12 the model subdivision rules adopted under Section 16.343, Water  
13 Code; and

14 (4) is located in a project for which the political  
15 subdivisions with jurisdiction over the project or the approval of  
16 plats within the project area have approved the improvement project  
17 by order, resolution, or interlocal agreement under Chapter 791,  
18 Government Code.

19 (k) A utility may not serve any subdivided land with water  
20 utility connection or service under Subsection (j) unless the  
21 entity receives a determination that adequate sewer services have  
22 been installed to service the lot or dwelling from the municipal  
23 authority responsible for approving plats, an entity described by  
24 Subsection (b), or the authorized agent responsible for the  
25 licensing or permitting of on-site sewage facilities pursuant to  
26 Chapter 366, Health and Safety Code.

27 SECTION 3. Chapter 231, Local Government Code, is amended



1 by adding Subchapter L to read as follows:

2 SUBCHAPTER L. ZONING AROUND FALCON LAKE

3 Sec. 231.251. LEGISLATIVE FINDINGS; PURPOSE. (a) The  
4 legislature finds that:

5 (1) the area that surrounds Falcon Lake in Zapata  
6 County is frequented for recreational purposes by residents from  
7 every part of the state;

8 (2) orderly development and use of the area is of  
9 concern to the entire state; and

10 (3) buildings in the area that are frequented for  
11 resort or recreational purposes tend to become congested and to be  
12 used in ways that interfere with the proper use of the area as a  
13 place of recreation to the detriment of the public health, safety,  
14 morals, and general welfare.

15 (b) The powers granted under this subchapter are for the  
16 purpose of promoting the public health, safety, peace, morals, and  
17 general welfare and encouraging the recreational use of county  
18 land.

19 Sec. 231.252. AREAS SUBJECT TO REGULATION. This  
20 subchapter applies only to the unincorporated area of Zapata County  
21 located within 25,000 feet of:

22 (1) the project boundary line for Falcon Lake; and

23 (2) the Rio Grande.

24 Sec. 231.253. FALCON LAKE PLANNING COMMISSION. (a) A lake  
25 planning commission is established for the area subject to this  
26 subchapter. The commission is composed of:

27 (1) four residents of Zapata County, with one resident

1 from each of the county commissioners precincts, appointed by that  
2 precinct's commissioner; and

3 (2) a person, who shall serve as the commission's  
4 presiding officer, appointed by the county judge of Zapata County.

5 (b) Except as provided by Subsection (c), the members of the  
6 commission shall be appointed for two-year terms that expire  
7 February 1 of each odd-numbered year.

8 (c) The terms of the initial members of the commission  
9 expire on February 1 of the first February in an odd-numbered year  
10 following their appointment.

11 (d) The Commissioners Court of Zapata County may employ  
12 staff for the commission to use in performing the commission's  
13 functions.

14 Sec. 231.254. COMMISSION STUDY AND REPORT; HEARING. (a) At  
15 the request of the Commissioners Court of Zapata County the  
16 commission shall, or on the lake planning commission's own  
17 initiative the commission may, conduct studies of the area subject  
18 to this subchapter and prepare reports to advise the commissioners  
19 court about matters affecting that area, including any need for  
20 zoning regulations in that area.

21 (b) Before the commission may prepare a report, the  
22 commission must hold a public hearing in which members of the public  
23 may offer testimony regarding any subject to be included in the  
24 commission's report. The commission shall provide notice of the  
25 hearing as required by the commissioners court.

26 Sec. 231.255. ZONING REGULATIONS. After receiving a report  
27 from the lake planning commission under Section 231.254, the

1 Commissioners Court of Zapata County may adopt zoning regulations  
2 for the area subject to this subchapter and in accordance with the  
3 report that regulate:

4 (1) the height, number of stories, and size of  
5 buildings and other structures;

6 (2) the percentage of a lot that may be occupied;

7 (3) the size of yards, courts, and other open spaces;

8 (4) population density;

9 (5) the location and use of buildings, other  
10 structures, and land for business, industrial, residential, or  
11 other purposes; and

12 (6) the placement of water and sewage facilities,  
13 parks, and other public requirements.

14 SECTION 4. Section 232.021, Local Government Code, is  
15 amended by amending Subdivision (2) and adding Subdivisions (2-a),  
16 (2-b), and (6-a) to read as follows:

17 (2) "Common promotional plan" means any plan or scheme  
18 of operation undertaken by a single subdivider or developer or a  
19 group of subdividers or developers acting in concert, either  
20 personally or through an agent, to offer for sale or lease lots when  
21 the land is:

22 (A) contiguous or part of the same area of land;  
23 or

24 (B) known, designated, or advertised as a common  
25 unit or by a common name.

26 (2-a) "Develop" means a structural improvement or  
27 man-made change to a lot intended for residential use undertaken to

1 improve, enhance, or otherwise make suitable real property for  
2 purposes of sale, resale, or lease.

3 (2-b) "Developer" means a person who owns any interest  
4 in real property and directly or indirectly develops real property  
5 in the ordinary course of business or as part of a common  
6 promotional plan.

7 (6-a) "Lot of record" means:

8 (A) a lot, the boundaries of which were  
9 established by a plat recorded in the office of the county clerk  
10 before September 1, 1989, that has not been subdivided after  
11 September 1, 1989; or

12 (B) a lot, the boundaries of which were  
13 established by a metes and bounds description in a deed of  
14 conveyance, a contract of sale, or other executory contract to  
15 convey real property that has been legally executed and recorded in  
16 the office of the county clerk before September 1, 1989, that has  
17 not been subdivided after September 1, 1989.

18 SECTION 5. Section 232.024(b), Local Government Code, is  
19 amended to read as follows:

20 (b) If any part of a plat applies to land intended for  
21 residential housing and any part of that land lies in a floodplain,  
22 the commissioners court shall not approve the plat unless:

23 (1) the subdivision is developed in compliance with  
24 the minimum requirements of the National Flood Insurance Program  
25 and local regulations or orders adopted under Section 16.315, Water  
26 Code; and

27 (2) the plat evidences a restrictive covenant

1 prohibiting [~~as required by this subsection. The restrictive~~  
2 ~~covenant shall prohibit~~] the construction of residential housing in  
3 any area of the subdivision that is in a floodplain unless the  
4 housing is developed in compliance with the minimum requirements of  
5 [~~qualifies for insurance under~~] the National Flood Insurance  
6 Program and local regulations or orders adopted under Section  
7 16.315, Water Code [~~Act of 1968 (42 U.S.C. Sections 4001 through~~  
8 ~~4127)]].~~

9 SECTION 6. Section 232.028(b), Local Government Code, is  
10 amended to read as follows:

11 (b) On the commissioners court's own motion or on the  
12 written request of a subdivider, an owner or resident of a lot in a  
13 subdivision, or an entity that provides a utility service, the  
14 commissioners court shall make the following determinations  
15 regarding the land in which the entity or commissioners court is  
16 interested that is located within the jurisdiction of the county:

17 (1) whether a plat has been prepared and whether it has  
18 been reviewed and approved by the commissioners court;

19 (2) whether water service facilities have been  
20 constructed or installed to service the lot or subdivision under  
21 Section 232.023 and are fully operable;

22 (3) whether sewer service facilities have been  
23 constructed or installed to service the lot or subdivision under  
24 Section 232.023 and are fully operable, or if septic systems are  
25 used, whether the lot is served by a permitted on-site sewage  
26 facility or lots in the subdivision can be adequately and legally  
27 served by septic systems under Section 232.023; and

1           (4) whether electrical and gas facilities, if  
2 available, have been constructed or installed to service the lot or  
3 subdivision under Section 232.023.

4           SECTION 7. Section 232.029, Local Government Code, is  
5 amended by amending Subsections (b), (c), (d), (e), and (i) and  
6 adding Subsections (k) and (l) to read as follows:

7           (b) Except as provided by Subsection (c) or Section  
8 232.037(c), a utility may not serve or connect any subdivided land  
9 with electricity or gas unless the entity receives a determination  
10 from the county commissioners court under Sections 232.028(b)(2)  
11 and (3) [~~Section 232.028(b)(2)~~] that adequate water and sewer  
12 services have been installed to service the lot or subdivision.

13           (c) An electric, gas, water, or sewer service utility may  
14 serve or connect subdivided land with water, sewer, electricity,  
15 gas, or other utility service regardless of whether the utility  
16 receives a certificate issued by the commissioners court under  
17 Section 232.028(a) or receives a determination from the  
18 commissioners court under Section 232.028(b) if the utility is  
19 provided with a certificate issued by the commissioners court that  
20 states that:

21           (1) the subdivided land:

22                   (A) was sold or conveyed by a subdivider or  
23 developer [~~to the person requesting service~~] by any means of  
24 conveyance, including a contract for deed or executory contract:

25                           (i) before September 1, 1995; or

26                           (ii) before September 1, 1999, if the  
27 subdivided land on August 31, 1999, was located in the

1 extraterritorial jurisdiction of a municipality as determined by  
2 Chapter 42;

3 (B) has not been subdivided after September 1,  
4 1995, or September 1, 1999, as applicable under Paragraph (A); [~~is~~  
5 ~~located in a subdivision in which the utility has previously~~  
6 ~~provided service; and]~~

7 (C) is the site of construction of a residence,  
8 evidenced by at least the existence of a completed foundation, that  
9 was begun[~~+~~

10 [~~(i) on or before May 1, 1997; or~~

11 [~~(ii)~~] on or before May 1, 2003; and

12 (D) has had adequate sewer services installed to  
13 service the lot or dwelling;

14 (2) the subdivided land is a lot of record and has  
15 adequate sewer services installed that are fully operable to  
16 service the lot or dwelling[~~, if the subdivided land on August 31,~~  
17 ~~1999, was located in the extraterritorial jurisdiction of a~~  
18 ~~municipality as determined by Chapter 42]; or~~

19 (3) [~~(2)~~] the land was not subdivided after September  
20 1, 1995, and:

21 (A) water service is available within 750 feet of  
22 the subdivided land; or

23 (B) water service is available more than 750 feet  
24 from the subdivided land and the extension of water service to the  
25 land may be feasible, subject to a final determination by the water  
26 service provider.

27 (d) A utility may provide utility service to subdivided land

1 described by Subsection (c)(1), (2), or (3) only if the person  
2 requesting service:

3 (1) is not the land's subdivider or developer or the  
4 subdivider's or developer's agent; and

5 (2) provides to the utility a certificate described by  
6 Subsection (c) [~~(c)(1)~~].

7 (e) A person requesting service may obtain a certificate  
8 under Subsection (c)(1), (2), or (3) only if the person is the owner  
9 or purchaser of the subdivided land and provides to the  
10 commissioners court documentation containing [~~either~~]:

11 (1) [~~documentation containing:~~

12 [~~(A)~~] a copy of the means of conveyance or other  
13 documents that show that the land was sold or conveyed by a  
14 subdivider or developer before September 1, 1995, or before  
15 September 1, 1999, as applicable under Subsection (c);

16 (2) [~~to the person requesting service:~~

17 [~~(i) before September 1, 1995, or~~

18 [~~(ii) before September 1, 1999, if the~~  
19 ~~subdivided land on August 31, 1999, was located in the~~  
20 ~~extraterritorial jurisdiction of a municipality as determined by~~  
21 ~~Chapter 42; and~~

22 [~~(B)~~] a notarized affidavit by that person  
23 requesting service under Subsection (c)(1) that states that  
24 construction of a residence on the land, evidenced by at least the  
25 existence of a completed foundation, was begun[+]

26 [~~(i) on or before May 1, 1997, or~~

27 [~~(ii)~~] on or before May 1, 2003, and the



1 request for utility connection or service is to connect or serve a  
2 residence described by Subsection (c)(1)(C);

3 (3) [~~if the subdivided land on August 31, 1999, was~~  
4 ~~located in the extraterritorial jurisdiction of a municipality as~~  
5 ~~determined by Chapter 42; or~~

6 [(2)] a notarized affidavit by the person requesting  
7 service that states that the subdivided land has not been further  
8 subdivided after[+]

9 [(A) ~~the property was sold or conveyed to that~~  
10 ~~person~~+

11 [(i) ~~before~~] September 1, 1995, [+] or

12 [(ii) ~~before~~] September 1, 1999, as  
13 applicable under Subsection (c); and

14 (4) evidence that adequate sewer service or facilities  
15 have been installed and are fully operable to service the lot or  
16 dwelling from an entity described by Section 232.021(14) or the  
17 authorized agent responsible for the licensing or permitting of  
18 on-site sewage facilities under Chapter 366, Health and Safety Code  
19 ~~[if the subdivided land on August 31, 1999, was located in the~~  
20 ~~extraterritorial jurisdiction of a municipality as determined by~~  
21 ~~Chapter 42; and~~

22 [(B) ~~construction of a residence on the land,~~  
23 ~~evidenced by at least the existence of a completed foundation, was~~  
24 ~~begun~~+

25 [(i) ~~on or before May 1, 1997; or~~

26 [(ii) ~~on or before May 1, 2003, if the~~  
27 ~~subdivided land on August 31, 1999, was located in the~~

1 ~~extraterritorial jurisdiction of a municipality as determined by~~  
2 ~~Chapter 42].~~

3 (i) The prohibition established by this section shall not  
4 prohibit a water, sewer, [an] electric, or gas utility from  
5 providing water, sewer, electric, or gas utility connection or  
6 service to a lot ~~[being]~~ sold, conveyed, or purchased through a  
7 contract for deed or executory contract or other device by a  
8 subdivider or developer prior to July 1, 1995, or September 1, 1999,  
9 if on August 31, 1999, the subdivided land was located in the  
10 extraterritorial jurisdiction of a municipality that has adequate  
11 sewer services installed that are fully operable to service the lot  
12 ~~[which is located within a subdivision where the utility has~~  
13 ~~previously established service]~~ and was subdivided by a plat  
14 approved prior to September 1, 1989.

15 (k) Except as provided by Subsection (l), this section does  
16 not prohibit a water or sewer utility from providing water or sewer  
17 utility connection or service to a residential dwelling that:

18 (1) is provided water or wastewater facilities under  
19 or in conjunction with a federal or state funding program designed  
20 to address inadequate water or wastewater facilities in colonias or  
21 to residential lots located in a county described by Section  
22 232.022(a)(1);

23 (2) is an existing dwelling identified as an eligible  
24 recipient for funding by the funding agency providing adequate  
25 water and wastewater facilities or improvements;

26 (3) when connected, will comply with the minimum state  
27 standards for both water and sewer facilities and as prescribed by

1 the model subdivision rules adopted under Section 16.343, Water  
2 Code; and

3 (4) is located in a project for which the political  
4 subdivisions with jurisdiction over the project or the approval of  
5 plats within the project area have approved the improvement project  
6 by order, resolution, or interlocal agreement under Chapter 791,  
7 Government Code, if applicable.

8 (1) A utility may not serve any subdivided land with water  
9 utility connection or service under Subsection (k) unless the  
10 entity receives a determination from the county commissioners court  
11 under Section 232.028(b)(3) that adequate sewer services have been  
12 installed to service the lot or dwelling.

13 SECTION 8. Sections 232.031(a) and (b), Local Government  
14 Code, are amended to read as follows:

15 (a) Except as provided by Subsection (d), a subdivider or  
16 developer may not sell or lease land in a subdivision first platted  
17 or replatted after July 1, 1995, unless the subdivision plat is  
18 approved by the commissioners court in accordance with Section  
19 232.024.

20 (b) Not later than the 30th day after the date a lot is sold,  
21 a subdivider or developer shall record with the county clerk all  
22 sales contracts, including the attached disclosure statement  
23 required by Section 232.033, leases, and any other documents that  
24 convey an interest in the subdivided land.

25 SECTION 9. Sections 232.035(a) and (b), Local Government  
26 Code, are amended to read as follows:

27 (a) A subdivider or developer or an agent of a subdivider or

1 developer may not cause, suffer, allow, or permit a lot to be sold  
2 in a subdivision if the subdivision has not been platted as required  
3 by this subchapter.

4 (b) Notwithstanding any other remedy at law or equity, a  
5 subdivider or developer or an agent of a subdivider or developer may  
6 not cause, suffer, allow, or permit any part of a subdivision over  
7 which the subdivider or developer or an agent of the subdivider or  
8 developer has control, or a right of ingress and egress, to become a  
9 public health nuisance as defined by Section 341.011, Health and  
10 Safety Code.

11 SECTION 10. Section 232.036(a), Local Government Code, is  
12 amended to read as follows:

13 (a) A subdivider or developer commits an offense if the  
14 subdivider or developer knowingly fails to file a plat or replat  
15 required by this subchapter. An offense under this subsection is a  
16 Class A misdemeanor.

17 SECTION 11. Section 232.038(a), Local Government Code, is  
18 amended to read as follows:

19 (a) Except as provided by Subsection (b), a person who has  
20 purchased or is purchasing a lot after July 1, 1995, in a  
21 subdivision for residential purposes that does not have water and  
22 sewer services as required by this subchapter and is located in an  
23 economically distressed area, as defined by Section 17.921, Water  
24 Code, from a subdivider or developer, may bring suit in the district  
25 court in which the property is located or in a district court in  
26 Travis County to:

27 (1) declare the sale of the property void and require

1 the subdivider or developer to return the purchase price of the  
2 property; and

3 (2) recover from the subdivider or developer:

4 (A) the market value of any permanent  
5 improvements the person placed on the property;

6 (B) actual expenses incurred as a direct result  
7 of the failure to provide adequate water and sewer facilities;

8 (C) court costs; and

9 (D) reasonable attorney's fees.

10 SECTION 12. Sections 232.040(a), (b), and (c), Local  
11 Government Code, are amended to read as follows:

12 (a) A subdivision plat must accurately reflect the  
13 subdivision as it develops. If there is any change, either by the  
14 intentional act of the subdivider or developer or by the forces of  
15 nature, including changes in the size or dimension of lots or the  
16 direction or condition of the roads, a plat must be revised in  
17 accordance with Section 232.041.

18 (b) Except as provided by Subsection (c), a lot in a  
19 subdivision may not be sold if the lot lacks water and sewer  
20 services as required by this subchapter unless the lot is platted or  
21 replatted as required by this subchapter. A subdivider or  
22 developer or agent of a subdivider or developer may not transfer a  
23 lot through an executory contract or other similar conveyance to  
24 evade the requirements of this subchapter. The prohibition in this  
25 subsection includes the sale of a lot:

26 (1) by a subdivider or developer who regains  
27 possession of a lot previously exempt under Subsection (c) through

1 the exercise of a remedy described in Section 5.061, Property Code;  
2 or

3 (2) for which it is shown at a proceeding brought in  
4 the district court in which the property is located that the sale of  
5 a lot otherwise exempt under Subsection (c) was made for the purpose  
6 of evading the requirements of this subchapter.

7 (c) Subsection (b) does not apply to [~~if~~] a seller other  
8 than a subdivider, developer, or agent of a subdivider or developer  
9 [~~resides on the lot~~].

10 SECTION 13. Subchapter B, Chapter 412, Local Government  
11 Code, is amended by adding Section 412.017 to read as follows:

12 Sec. 412.017. WATER SUPPLY AND SEWAGE SYSTEM FOR CERTAIN  
13 BORDER COUNTIES. (a) This section applies only to a county:

14 (1) that is located adjacent to an international  
15 border; and

16 (2) in which a military installation is located.

17 (b) The commissioners court of a county to which this  
18 section applies may acquire, construct, or operate a water supply  
19 system or sewage system to serve:

20 (1) unincorporated areas of the county; and

21 (2) areas initially included in a municipality on or  
22 after September 1, 2007, in which the municipality does not provide  
23 water or sewer services.

24 (c) The county may enter a management or lease agreement  
25 with another public or private entity for the operation of a county  
26 water or sewage system acquired or constructed under this section.

27 (d) The county may apply for and receive grants or other

1 assistance from a state or federal governmental entity to implement  
2 this section.

3 (e) The county may own, operate, or maintain a water or  
4 sewer utility in the same manner as a municipality under Chapter  
5 402.

6 (f) A county may not construct, operate, or maintain a water  
7 supply system or sewage system in an area previously served by the  
8 county's water supply or sewage system after the area is annexed by  
9 a municipality and the municipality begins providing to the area  
10 water or sewer services previously provided by the county.

11 SECTION 14. Section 16.344, Water Code, is amended by  
12 adding Subsections (d), (e), (f), (g), (h), and (i) to read as  
13 follows:

14 (d) Notwithstanding Section 16.343(g) or Section 16.350(a),  
15 a political subdivision may temporarily continue to receive funds  
16 under Subchapter K, Chapter 17, if the political subdivision  
17 submits a request for temporary continuation of funding and the  
18 board determines that:

19 (1) the political subdivision's initial funding  
20 application and any amendments for a designated area were reviewed  
21 and approved by the board before January 1, 2007;

22 (2) withholding funds would result in an undue  
23 hardship for occupants of the property to be served by unreasonably  
24 delaying the provision of adequate water or wastewater services;

25 (3) withholding funds would result in inefficient use  
26 of local, state, or federal funds under the program;

27 (4) the political subdivision has committed to take

1 the necessary and appropriate actions to correct any deficiencies  
2 in adoption or enforcement of the model rules within the time  
3 designated by the board, but not later than the 90th day after the  
4 date the board makes the determinations under this subsection;

5 (5) the political subdivision has sufficient  
6 safeguards in place to prevent the proliferation of colonias; and

7 (6) during the 30 days after the date the board  
8 receives a request under this subsection, the board, after  
9 consulting with the attorney general, secretary of state, and  
10 commission, has not received an objection from any of those  
11 entities to the request for temporary continuation of funding.

12 (e) In applying Subsection (d) to applications for  
13 increased financial assistance, the board shall only consider areas  
14 that were included in the initial application, except that the  
15 board may reconsider the eligibility of areas that were the subject  
16 of a facility plan in the initial application and that may be  
17 determined to be eligible based on criteria in effect September 1,  
18 2005.

19 (f) The political subdivision shall take necessary and  
20 appropriate actions to correct any deficiencies in its adoption and  
21 enforcement of the model rules within the time period required by  
22 the board, not to exceed the 90-day period described by Subsection  
23 (d)(4), and provide evidence of compliance to the board. The board  
24 shall discontinue funding unless the board makes a determination  
25 based on the evidence provided that the political subdivision has  
26 demonstrated sufficient compliance to continue funding.

27 (g) Except as provided by Subsections (d)-(f), if the board



1 determines that a county or city that is required to adopt and  
2 enforce the model rules is not enforcing the model rules, the board  
3 shall discontinue funding for all projects within the county or  
4 city that are funded under Subchapter K, Chapter 17.

5 (h) The board may not accept or grant applications for  
6 temporary funding under Subsection (d) after June 1, 2009.

7 (i) Subsections (d), (e), (f), (g), and (h) and this  
8 subsection expire September 1, 2009.

9 SECTION 15. Section 232.029(f), Local Government Code, is  
10 repealed.

11 SECTION 16. This Act takes effect immediately if it  
12 receives a vote of two-thirds of all the members elected to each  
13 house, as provided by Section 39, Article III, Texas Constitution.  
14 If this Act does not receive the vote necessary for immediate  
15 effect, this Act takes effect September 1, 2007.