

By: Bolton

H.B. No. 3520

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the regulation of the subdivision of land under the  
3 jurisdiction of certain counties.

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

5 SECTION 1. Sections 212.012(c), (e), and (f), Local  
6 Government Code, are amended to read as follows:

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;

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 approving  
22 plats issues a certificate stating that:

23 (A) the land:

24 (i) was sold or conveyed to the person

1 requesting service by any means of conveyance, including a contract  
2 for deed or executory contract, before:

3 (a) September 1, 1995, in a county  
4 defined under Section 232.022(a)(1); [~~or~~]

5 (b) September 1, 2005, in a county  
6 defined under Section 232.022(a)(2); or

7 (c) September 1, 2007, in a county  
8 defined under Section 232.022(a)(3);

9 (ii) is located in a subdivision in which  
10 the entity has previously provided service;

11 (iii) is located outside the limits of the  
12 municipality;

13 (iv) is located in a county to which  
14 Subchapter B, Chapter 232, applies; and

15 (v) is the site of construction of a  
16 residence, evidenced by at least the existence of a completed  
17 foundation, that was begun on or before:

18 (a) May 1, 1997, in a county defined  
19 under Section 232.022(a)(1); [~~or~~]

20 (b) September 1, 2005, in a county  
21 defined under Section 232.022(a)(2); or

22 (c) September 1, 2007, in a county  
23 defined under Section 232.022(a)(3); or

24 (B) the land was not subdivided after September  
25 1, 1995, in a county defined under Section 232.022(a)(1), after  
26 [~~or~~] September 1, 2005, in a county defined under Section  
27 232.022(a)(2), or after September 1, 2007, in a county defined

1 under Section 232.022(a)(3), and:

2 (i) water service is available within 750  
3 feet of the subdivided land; or

4 (ii) water service is available more than  
5 750 feet from the subdivided land and the extension of water service  
6 to the land may be feasible, subject to a final determination by the  
7 water service provider.

8 (e) A person requesting service may obtain a certificate  
9 under Subsection (c)(4)(A) only if the person provides to the  
10 municipal authority responsible for approving plats either:

11 (1) a copy of the means of conveyance or other  
12 documents that show that the land was sold or conveyed to the person  
13 requesting service before September 1, 1995, ~~[or before]~~ September  
14 1, 2005, or September 1, 2007, as applicable, and a notarized  
15 affidavit by that person that states that construction of a  
16 residence on the land, evidenced by at least the existence of a  
17 completed foundation, was begun on or before May 1, 1997, ~~[or on or~~  
18 ~~before]~~ September 1, 2005, or September 1, 2007, as applicable; or

19 (2) a notarized affidavit by the person requesting  
20 service that states that the property was sold or conveyed to that  
21 person before September 1, 1995, ~~[or before]~~ September 1, 2005, or  
22 September 1, 2007, as applicable, and that construction of a  
23 residence on the land, evidenced by at least the existence of a  
24 completed foundation, was begun on or before May 1, 1997, ~~[or on or~~  
25 ~~before]~~ September 1, 2005, or September 1, 2007, as applicable.

26 (f) A person requesting service may obtain a certificate  
27 under Subsection (c)(4)(B) only if the person provides to the

1 municipal authority responsible for approving plats an affidavit  
2 that states that the property was not sold or conveyed to that  
3 person from a subdivider or the subdivider's agent after September  
4 1, 1995, [~~or after~~] September 1, 2005, or September 1, 2007, as  
5 applicable.

6 SECTION 2. The heading to Subchapter B, Chapter 232, Local  
7 Government Code, is amended to read as follows:

8 SUBCHAPTER B. SUBDIVISION PLATTING REQUIREMENTS IN COUNTY NEAR  
9 INTERNATIONAL BORDER AND CERTAIN OTHER COUNTIES

10 SECTION 3. Section 232.022(a), Local Government Code, is  
11 amended to read as follows:

12 (a) This subchapter applies only to:

13 (1) a county any part of which is located within 50  
14 miles of an international border; [~~or~~]

15 (2) a county:

16 (A) any part of which is located within 100 miles  
17 of an international border;

18 (B) that contains the majority of the area of a  
19 municipality with a population of more than 250,000; and

20 (C) to which Subdivision (1) does not apply; or

21 (3) a county that has elected by an order adopted by  
22 the commissioners court to operate under this subchapter.

23 SECTION 4. Subchapter B, Chapter 232, Local Government  
24 Code, is amended by adding Section 232.0225 to read as follows:

25 Sec. 232.0225. MINIMUM STATE STANDARDS. (a) To the extent  
26 this subchapter refers to minimum state standards or refers to the  
27 application of a provision of Chapter 16, Water Code, the

1 references apply to all counties regardless of any limitation  
2 established by Chapter 16, Water Code.

3 (b) This section and the other provisions of this subchapter  
4 do not authorize a county to participate in any financial  
5 assistance program or any other program authorized by Chapter 15,  
6 16, or 17, Water Code, unless the county qualifies under the Water  
7 Code.

8 SECTION 5. Section 232.025, Local Government Code, is  
9 amended to read as follows:

10 Sec. 232.025. SUBDIVISION REQUIREMENTS. By an order  
11 adopted and entered in the minutes of the commissioners court, and  
12 after a notice is published in English and Spanish in a newspaper of  
13 general circulation in the county, the commissioners court shall  
14 for each subdivision:

15 (1) require a right-of-way on a street or road that  
16 functions as a main artery in a subdivision, of a width of not less  
17 than 50 feet or more than 100 feet;

18 (2) require a right-of-way on any other street or road  
19 in a subdivision of not less than 40 feet or more than 70 feet;

20 (3) require that the shoulder-to-shoulder width on  
21 collectors or main arteries within the right-of-way be not less  
22 than 32 feet or more than 56 feet, and that the shoulder-to-shoulder  
23 width on any other street or road be not less than 25 feet or more  
24 than 35 feet;

25 (4) adopt, based on the amount and kind of travel over  
26 each street or road in a subdivision, reasonable specifications  
27 relating to the construction of each street or road;

1           (5) adopt reasonable specifications to provide  
2 adequate drainage for each street or road in a subdivision in  
3 accordance with standard engineering practices;

4           (6) require that each purchase contract made between a  
5 subdivider and a purchaser of land in the subdivision contain a  
6 statement describing how and when water, sewer, electricity, and  
7 gas services will be made available to the subdivision; ~~and~~

8           (7) require that the subdivider of the tract execute a  
9 bond in the manner provided by Section 232.027;

10           (8) adopt reasonable specifications that provide for  
11 drainage in the subdivision to:

12                   (A) efficiently manage the flow of stormwater  
13 runoff in the subdivision; and

14                   (B) coordinate subdivision drainage with the  
15 general storm drainage pattern for the area; and

16           (9) require lot and block monumentation to be set by a  
17 registered professional surveyor before recordation of the plat.

18           SECTION 6. Subchapter B, Chapter 232, Local Government  
19 Code, is amended by adding Sections 232.0255 and 232.0256 to read as  
20 follows:

21           Sec. 232.0255. STANDARD FOR ROADS IN SUBDIVISION. A county  
22 may not impose under Section 232.025 a higher standard for streets  
23 or roads in a subdivision than the county imposes on itself for the  
24 construction of streets or roads with a similar type and amount of  
25 traffic.

26           Sec. 232.0256. ADDITIONAL REQUIREMENTS: USE OF  
27 GROUNDWATER. (a) If a person submits a plat for the subdivision of

1 a tract of land for which the source of the water supply intended  
2 for the subdivision is groundwater under that land, the  
3 commissioners court of a county by order may require the plat  
4 application to have attached to it a statement that:

5 (1) is prepared by an engineer licensed to practice in  
6 this state or a geoscientist licensed to practice in this state; and

7 (2) certifies that adequate groundwater is available  
8 for the subdivision.

9 (b) The Texas Commission on Environmental Quality by rule  
10 shall establish the appropriate form and content of a certification  
11 to be attached to a plat application under this section.

12 SECTION 7. The heading to Section 232.029, Local Government  
13 Code, is amended to read as follows:

14 Sec. 232.029. CONNECTION OF UTILITIES IN COUNTIES WITHIN 50  
15 MILES OF INTERNATIONAL BORDER AND CERTAIN OTHER COUNTIES.

16 SECTION 8. Section 232.029(a), Local Government Code, is  
17 amended to read as follows:

18 (a) This section applies only to a county defined under  
19 Section 232.022(a)(1) or (3).

20 SECTION 9. The heading to Section 232.038, Local Government  
21 Code, is amended to read as follows:

22 Sec. 232.038. SUIT BY PRIVATE PERSON [~~IN ECONOMICALLY~~  
23 ~~DISTRESSED AREA~~].

24 SECTION 10. Section 232.038, Local Government Code, is  
25 amended by amending Subsection (a) and adding Subsection (a-1) to  
26 read as follows:

27 (a) This section applies only to:

1           (1) [~~Except as provided by Subsection (b),~~] a person  
2 who has purchased or is purchasing a lot after July 1, 1995, in a  
3 subdivision for residential purposes that does not have water and  
4 sewer services as required by this subchapter and is located in an  
5 economically distressed area, as defined by Section 17.921, Water  
6 Code, from a subdivider; or

7           (2) a person who has purchased or is purchasing from a  
8 subdivider a lot after September 1, 2007, in a subdivision for  
9 residential purposes that does not have water and sewer services as  
10 required by this subchapter.

11           (a-1) Except as provided by Subsection (b), a person  
12 described by Subsection (a) [7] may bring suit in the district court  
13 in which the property is located or in a district court in Travis  
14 County to:

15           (1) declare the sale of the property void and require  
16 the subdivider to return the purchase price of the property; and

17           (2) recover from the subdivider:

18                   (A) the market value of any permanent  
19 improvements the person placed on the property;

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

22                   (C) court costs; and

23                   (D) reasonable attorney's fees.

24           SECTION 11. Section 232.043(b), Local Government Code, is  
25 amended to read as follows:

26           (b) If the commissioners court makes a written finding that  
27 the subdivider who created the unplatted subdivision no longer owns

1 property in the subdivision, the commissioners court may grant a  
2 delay or variance under this section only if:

3 (1) a majority of the lots in the subdivision were sold  
4 before:

5 (A) September 1, 1995, in a county defined under  
6 Section 232.022(a)(1); [~~or~~]

7 (B) September 1, 2005, in a county defined under  
8 Section 232.022(a)(2); or

9 (C) September 1, 2007, in a county defined under  
10 Section 232.022(a)(3);

11 (2) a majority of the resident purchasers in the  
12 subdivision sign a petition supporting the delay or variance;

13 (3) the person requesting the delay or variance  
14 submits to the commissioners court:

15 (A) a description of the water and sewer service  
16 facilities that will be constructed or installed to service the  
17 subdivision;

18 (B) a statement specifying the date by which the  
19 water and sewer service facilities will be fully operational; and

20 (C) a statement signed by an engineer licensed in  
21 this state certifying that the plans for the water and sewer  
22 facilities meet the minimum state standards;

23 (4) the commissioners court finds that the unplatted  
24 subdivision at the time the delay or variance is requested is  
25 developed in a manner and to an extent that compliance with specific  
26 platting requirements is impractical or contrary to the health or  
27 safety of the residents of the subdivision; and

1           (5) the subdivider who created the unplatted  
2 subdivision has not violated local law, federal law, or state law,  
3 excluding this chapter, in subdividing the land for which the delay  
4 or variance is requested, if the subdivider is the person  
5 requesting the delay or variance.

6           SECTION 12. Section 13.002(26), Water Code, is amended to  
7 read as follows:

8           (26) "Affected county" is a county to which Subchapter  
9 B, Chapter 232, Local Government Code, applies under Section  
10 232.022(a)(1) or (2) of that code.

11           SECTION 13. Section 13.2501, Water Code, is amended to read  
12 as follows:

13           Sec. 13.2501. CONDITIONS REQUIRING REFUSAL OF SERVICE. The  
14 holder of a certificate of public convenience and necessity shall  
15 refuse to serve a customer within its certified area if the holder  
16 of the certificate is prohibited from providing the service under  
17 Section 212.012, 232.029, or 232.0291 [~~232.0047~~], Local Government  
18 Code.

19           SECTION 14. Section 26.001(26), Water Code, as effective  
20 upon delegation of NPDES permit authority, is amended to read as  
21 follows:

22           (26) "Affected county" is a county to which Subchapter  
23 B, Chapter 232, Local Government Code, applies under Section  
24 232.022(a)(1) or (2) of that code.

25           SECTION 15. The changes in law made by this Act to Chapter  
26 232, Local Government Code, and other statutes apply only to a tract  
27 of land subdivided on or after September 1, 2007. A tract of land

1 subdivided before that date is governed by the law in effect  
2 immediately before that date, and the former law is continued in  
3 effect for that purpose.

4 SECTION 16. This Act takes effect September 1, 2007.