

By: Nichols, Creighton

S.B. No. 2272

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the procedure for amending or revoking certificates of
3 public convenience and necessity issued to certain water utilities.

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

5 SECTION 1. The heading to Section 13.254, Water Code, is
6 amended to read as follows:

7 Sec. 13.254. DECERTIFICATION INITIATED BY UTILITY
8 COMMISSION OR UTILITY; EXPEDITED RELEASE INITIATED BY LANDOWNER
9 [REVOCAION OR AMENDMENT OF CERTIFICATE].

10 SECTION 2. Sections 13.254(a-2) and (d), Water Code, are
11 amended to read as follows:

12 (a-2) A landowner is not entitled to file a petition under
13 [make the election described in] Subsection (a-1) or Section
14 13.2541 [(a-5)] but is entitled to contest under Subsection (a) the
15 involuntary certification of the landowner's ~~[its]~~ property in a
16 hearing held by the utility commission if the landowner's property
17 is located:

18 (1) in ~~[within]~~ the boundaries of any municipality or
19 the extraterritorial jurisdiction of a municipality with a
20 population of more than 500,000 and the municipality or retail
21 public utility owned by the municipality is the holder of the
22 certificate; or

23 (2) in a platted subdivision actually receiving water
24 or sewer service.

1 (d) A retail public utility may not in any way render retail
2 water or sewer service directly or indirectly to the public in an
3 area that has been decertified under this section unless just and
4 adequate compensation required under Subsection (g) has been paid
5 ~~[without providing compensation for any property that the utility~~
6 ~~commission determines is rendered useless or valueless]~~ to the
7 decertified retail public utility ~~[as a result of the~~
8 ~~decertification]~~.

9 SECTION 3. Subchapter G, Chapter 13, Water Code, is amended
10 by adding Section 13.2541 to read as follows:

11 Sec. 13.2541. STREAMLINED EXPEDITED RELEASE INITIATED BY
12 LANDOWNER. (a) Sections 13.254(a-7), (c), (d), and (h) apply to a
13 proceeding under this section.

14 SECTION 4. Sections 13.254(a-5) and (a-6), Water Code, are
15 transferred to Section 13.2541, Water Code, as added by this Act,
16 redesignated as Sections 13.2541(b), (c), (d), (e), and (f), Water
17 Code, and amended to read as follows:

18 (b) ~~[(a-5)]~~ As an alternative to decertification or ~~[under~~
19 ~~Subsection (a) and]~~ expedited release under Section 13.254
20 ~~[Subsection (a-1)]~~, the owner of a tract of land that is at least 25
21 acres and that is not receiving water or sewer service may petition
22 for expedited release of the area from a certificate of public
23 convenience and necessity in the manner provided by this section
24 and is entitled to that release if the landowner's property is
25 located in a county with a population of at least one million, a
26 county adjacent to a county with a population of at least one
27 million, or a county with a population of more than 200,000 and less

1 than 220,000 that does not contain a public or private university
2 that had a total enrollment in the most recent fall semester of
3 40,000 or more, and not in a county that has a population of more
4 than 45,500 and less than 47,500.

5 (c) [~~(a-6)~~] The utility commission shall grant the [~~a~~]
6 petition [~~received under Subsection (a-5)~~] not later than the 60th
7 day after the date the landowner files the petition.

8 (d) The utility commission may not deny the [~~a~~] petition
9 [~~received under Subsection (a-5)~~] based on the fact that the [~~a~~]
10 certificate holder is a borrower under a federal loan program.

11 (e) The certificate holder may not initiate an application
12 to borrow money under a federal loan program after the date the
13 petition is filed until the utility commission issues a decision on
14 the petition.

15 (f) The utility commission may require an award of
16 compensation by the petitioner to the certificate holder in the
17 manner provided by this section [~~a decertified retail public~~
18 ~~utility that is the subject of a petition filed under Subsection~~
19 ~~(a-5) as otherwise provided by this section~~].

20 SECTION 5. Section 13.2541, Water Code, as added by this
21 Act, is amended by adding Subsections (g), (h), (i), and (j) to read
22 as follows:

23 (g) The monetary amount of compensation, if any, shall be
24 determined by a qualified individual or firm serving as independent
25 appraiser agreed upon by the certificate holder and the petitioner.
26 The determination of compensation by the independent appraiser
27 shall be binding on the utility commission. The costs of the

1 independent appraiser shall be borne by the petitioner.

2 (h) Section 13.254(g) applies to a determination of the
3 monetary amount of compensation under this section.

4 (i) If the petitioner and the certificate holder cannot
5 agree on an independent appraiser within 10 calendar days after the
6 date on which the commission approves the petition, the petitioner
7 and the certificate holder shall each engage its own appraiser at
8 its own expense, and each appraisal shall be submitted to the
9 utility commission within 70 calendar days after the date on which
10 the commission approves the petition. After receiving the
11 appraisals, the utility commission shall appoint a third appraiser
12 who shall make a determination of the compensation within 100 days
13 after the date on which the commission approves the petition. The
14 determination may not be less than the lower appraisal or more than
15 the higher appraisal. The petitioner and the certificate holder
16 shall each pay half the cost of the third appraisal.

17 (j) The utility commission shall ensure that:

18 (1) the monetary amount of compensation is determined
19 not later than the 60th day after the date the utility commission
20 receives the final appraisal; and

21 (2) the landowner pays the compensation to the
22 certificate holder not later than the 90th calendar day after the
23 date the monetary amount of compensation is determined.

24 SECTION 6. The changes in law made by this Act apply only to
25 a proceeding affecting a certificate of public convenience and
26 necessity that commences on or after the effective date of this Act.
27 A proceeding affecting a certificate of public convenience and

1 necessity that commenced before the effective date of this Act is
2 governed by the law in effect on the date the proceeding is
3 commenced, and that law is continued in effect for that purpose.

4 SECTION 7. This Act takes effect September 1, 2019.