

By: Nichols, Creighton

S.B. No. 2272

A BILL TO BE ENTITLED

AN ACT

relating to the procedure for amending or revoking certificates of public convenience and necessity issued to certain water utilities.

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

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

Sec. 13.254. DECERTIFICATION INITIATED BY COMMISSION OR UTILITY; EXPEDITED RELEASE INITIATED BY LANDOWNER [~~REVOCATION OR AMENDMENT OF CERTIFICATE~~].

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

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

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

(2) in a platted subdivision actually receiving water 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 a petition [] based
9 on the fact that a certificate holder is a borrower under a federal
10 loan program.

11 (e) A certificate holder that is the subject of a petition
12 under this section may not borrow money under a federal loan program
13 after the date the petition is filed until the utility commission
14 issues a decision on the petition. A landowner that submits a
15 petition under this section may pay or defease federal loans for a
16 certificate holder that is a borrower under a federal loan program.
17 The utility commission may issue an order to require the
18 certificate holder to accept a loan payment or defeasance under
19 this subsection.

20 (f) The utility commission may require an award of
21 compensation by the petitioner to the certificate holder in the
22 manner provided by Sections 13.254(f), (g), and (g-1) [a
23 ~~decertified retail public utility that is the subject of a petition~~
24 ~~filed under Subsection (a-5) as otherwise provided by this~~
25 ~~section].~~ The utility commission shall ensure that:

26 (1) the monetary amount of compensation is determined
27 not later than the 90th calendar day after the date the utility

1 commission approves the petition; and
2 (2) the landowner pays the compensation to the
3 certificate holder not later than the 90th calendar day after the
4 date the monetary amount of compensation is determined.

5 SECTION 5. The changes in law made by this Act apply only to
6 a proceeding affecting a certificate of public convenience and
7 necessity that commences on or after the effective date of this Act.
8 A proceeding affecting a certificate of public convenience and
9 necessity that commenced before the effective date of this Act is
10 governed by the law in effect on the date the proceeding is
11 commenced, and that law is continued in effect for that purpose.

12 SECTION 6. This Act takes effect September 1, 2019.