

1-1 By: Wilson (Senate Sponsor - Buckingham) H.B. No. 1929  
1-2 (In the Senate - Received from the House May 13, 2021;  
1-3 May 14, 2021, read first time and referred to Committee on Local  
1-4 Government; May 24, 2021, reported favorably by the following  
1-5 vote: Yeas 5, Nays 1; May 24, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Bettencourt	X			
1-8 Menéndez			X	
1-9 Eckhardt			X	
1-10 Gutierrez			X	
1-11 Hall	X			
1-12 Nichols	X			
1-13 Paxton	X			
1-14 Springer	X			
1-15 Zaffirini		X		

1-17 A BILL TO BE ENTITLED  
1-18 AN ACT

1-19 relating to the breach of development agreement contracts governing  
1-20 land in the extraterritorial jurisdiction of certain  
1-21 municipalities.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section [212.172](#), Local Government Code, is  
1-24 amended by amending Subsections (a), (c), (e), (f), (g), and (h) and  
1-25 adding Subsections (i), (j), and (k) to read as follows:

1-26 (a) In this subchapter:

1-27 (1) "Adjudication" of a claim means the bringing of a  
1-28 civil suit and prosecution to final judgment in county or state  
1-29 court and includes the bringing of an authorized arbitration  
1-30 proceeding and prosecution to final resolution in accordance with  
1-31 any mandatory procedures established in the contract agreement for  
1-32 the arbitration proceedings.

1-33 (2) "Contract" means a contract for a development  
1-34 agreement authorized by this subchapter.

1-35 (3) "Extraterritorial [,"extraterritorial]"  
1-36 jurisdiction" means a municipality's extraterritorial jurisdiction  
1-37 as determined under Chapter [42](#).

1-38 (c) A contract [An agreement under this subchapter] must:

1-39 (1) be in writing;

1-40 (2) contain an adequate legal description of the land;

1-41 (3) be approved by the governing body of the  
1-42 municipality and the landowner; and

1-43 (4) be recorded in the real property records of each  
1-44 county in which any part of the land that is subject to the contract  
1-45 [agreement] is located.

1-46 (e) A municipality in an affected county, as defined by  
1-47 Section [16.341](#), Water Code, may not enter into a contract [an  
1-48 agreement under this subchapter] that is inconsistent with the  
1-49 model rules adopted under Section [16.343](#), Water Code.

1-50 (f) The contract [agreement] between the governing body of  
1-51 the municipality and the landowner is binding on the municipality  
1-52 and the landowner and on their respective successors and assigns  
1-53 for the term of the contract [agreement]. The contract [agreement]  
1-54 is not binding on, and does not create any encumbrance to title as  
1-55 to, any end-buyer of a fully developed and improved lot within the  
1-56 development, except for land use and development regulations that  
1-57 may apply to a specific lot. Annexation by a municipality of land  
1-58 subject to a contract does not invalidate the enforceability of the  
1-59 contract or infringe on the rights of a party to adjudicate a claim  
1-60 arising under the contract.

1-61 (g) A contract:

(1) ~~[An agreement under this subchapter]~~ constitutes a permit under Chapter 245; and

(2) is a program authorized by the legislature under Section 52-a, Article III, Texas Constitution.

(h) A contract ~~[An agreement]~~ between a municipality and a landowner entered into prior to the effective date of this section, or any amendment to this section, and that complies with this section is validated, enforceable, and may be adjudicated subject to the terms and conditions of this subchapter, as amended.

(i) A municipality that enters into a contract waives immunity from suit for the purpose of adjudicating a claim for breach of the contract.

(j) Except as provided by Subsection (k), actual damages, specific performance, or injunctive relief may be granted in an adjudication brought against a municipality for breach of a contract. The total amount of money awarded in an adjudication brought against a municipality for breach of a contract is limited to the following:

(1) the balance due and owed by the municipality under the contract as it may have been amended;

(2) any amount owed by the landowner as a result of the municipality's failure to perform under the contract, including compensation for the increased cost of infrastructure as a result of delays or accelerations caused by the municipality;

(3) reasonable attorney's fees; and

(4) interest as allowed by law, including interest as calculated under Chapter 2251, Government Code.

(k) Damages awarded in an adjudication brought against a municipality for breach of a contract may not include:

(1) consequential damages, except as expressly allowed under Subsection (j)(2); or

(2) exemplary damages.

SECTION 2. Section 212.174, Local Government Code, is amended to read as follows:

Sec. 212.174. MUNICIPAL UTILITIES. A municipality may not require a contract ~~[an agreement under this subchapter]~~ as a condition for providing water, sewer, electricity, gas, or other utility service from a municipally owned or municipally operated utility that provides any of those services.

SECTION 3. This Act takes effect September 1, 2021.

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