

SENATE AMENDMENTS

2nd Printing

By: Schofield

H.B. No. 3476

A BILL TO BE ENTITLED

AN ACT

relating to certificates of public convenience and necessity issued to water utilities inside the boundaries or extraterritorial jurisdiction of certain municipalities.

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

SECTION 1. Section 13.245, Water Code, is amended by amending Subsections (b), (c-3), (c-4), and (c-5) and adding Subsections (b-1) and (c-6) to read as follows:

(b) Except as provided by Subsections (c), (c-1), and (c-2), the utility commission may not grant to a retail public utility a certificate of public convenience and necessity for a service area within the boundaries or extraterritorial jurisdiction of a municipality without the consent of the municipality. The municipality may not unreasonably withhold the consent.

(b-1) A municipality may require, as [As] a condition of [the] consent under Subsection (b) for a certificate for a service area within the boundaries of the [a] municipality, [may require] that all water and sewer facilities be designed and constructed in accordance with the municipality's standards for facilities. A municipality may not require, as a condition of consent under Subsection (b) for a certificate for a service area within the extraterritorial jurisdiction of the municipality, that all water and sewer facilities be designed and constructed in accordance with the municipality's standards for facilities.

1 (c-3) The utility commission must include, as a condition of
2 a certificate of public convenience and necessity granted under
3 Subsection (c-1) or (c-2) for a service area within the boundaries
4 of a municipality, that all water and sewer facilities be designed
5 and constructed in accordance with the municipality's standards for
6 water and sewer facilities.

7 (c-4) The utility commission must include, as a condition of
8 a certificate of public convenience and necessity granted under
9 this section for a service area within the extraterritorial
10 jurisdiction of a municipality, that all water and sewer facilities
11 be designed and constructed in accordance with the commission's
12 standards for water and sewer facilities.

13 (c-5) Subsections (c-1), (c-2), and (c-3) do not apply to:

14 (1) a county that borders the United Mexican States
15 and the Gulf of Mexico or a county adjacent to such a county;

16 (2) a county with a population of more than 30,000 and
17 less than 35,000 that borders the Red River; or

18 (3) a county with a population of more than 100,000 and
19 less than 200,000 that borders a county described by Subdivision
20 (2).

21 (c-6) [~~(c-5)~~] Subsections (c-1), (c-2), and (c-3) do not
22 apply to:

23 (1) a county with a population of 130,000 or more that
24 is adjacent to a county with a population of 1.5 million or more
25 that is within 200 miles of an international border; or

26 (2) a county with a population of more than 40,000 and
27 less than 50,000 that contains a portion of the San Antonio River.

H.B. No. 3476

1 SECTION 2. This Act takes effect September 1, 2021.

ADOPTED

MAY 21 2021

By: Bettencourt

Substitute the following for H .B. No. 3476

By: Chris Perry

Latoya of the Senate .B. No. 3476
C.S. H .B. No. 3476

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extraterritorial jurisdiction of certain municipalities.

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

SECTION 1. Section 13.245, Water Code, is amended by amending
Subsections (b), (c-3), (c-4), and (c-5) and adding Subsection (c-
6) to read as follows:

(b) Except as provided by Subsections (c), (c-1), and (c-2),
the utility commission may not grant to a retail public utility a
certificate of public convenience and necessity for a service area
within the boundaries or extraterritorial jurisdiction of a
municipality without the consent of the municipality. The
municipality may not unreasonably withhold the consent. [~~As a
condition of the consent, a municipality may require that all water
and sewer facilities be designed and constructed in accordance
with the municipality's standards for facilities.~~]

(c-3) The utility commission must include, as a condition of
a certificate of public convenience and necessity granted under
Subsection (c-1) or (c-2) for a service area within the boundaries
of a municipality, that all water and sewer facilities be designed
and constructed in accordance with the municipality's standards
for water and sewer facilities.

1 (c-4) The utility commission must include, as a condition of
2 a certificate of public convenience and necessity granted under
3 this section for a service area within the extraterritorial
4 jurisdiction of a municipality, that all water and sewer facilities
5 be designed and constructed in accordance with:

6 (1) the commission's standards for water and sewer
7 facilities applicable to water systems that serve greater than 250
8 connections; or

9 (2) the commission's standards for water and sewer
10 facilities applicable to water systems that serve 250 or fewer
11 connections, if the utility commission determines that:

12 (A) standards for water and sewer facilities
13 applicable to water systems that serve 250 or fewer connections
14 are appropriate for the service area; and

15 (B) regionalization of the retail public utility or
16 consolidation of the retail public utility with another retail
17 public utility is not economically feasible under Section
18 13.241(d).

19 (c-5) Subsections (c-1), (c-2), [~~and~~] (c-3), and (c-4) do not
20 apply to:

21 (1) a county that borders the United Mexican States and
22 the Gulf of Mexico or a county adjacent to such a county;

23 (2) a county with a population of more than 30,000 and
24 less than 35,000 that borders the Red River; or.

25 (3) a county with a population of more than 100,000 and
26 less than 200,000 that borders a county described by Subdivision
27 (2).

1 (c-6) [~~(c-5)~~] Subsections (c-1), (c-2), [~~and~~] (c-3), and (c-
2 4) do not apply to:

3 (1) a county with a population of 130,000 or more that
4 is adjacent to a county with a population of 1.5 million or more
5 that is within 200 miles of an international border; or

6 (2) a county with a population of more than 40,000 and
7 less than 50,000 that contains a portion of the San Antonio River.

8 SECTION 2. This Act takes effect September 1, 2021.

9

ADOPTED

MAY 21 2021

Latey Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: BETENKOURT

1 Amend C.S.H.B. No. 3476 (senate committee printing) as
2 follows:

3 (1) In SECTION 1 of the bill, in the recital for amended
4 Section 13.245, Water Code (page 1, line 28), strike "Subsection
5 (c-6)" and substitute "Subsections (c-6), (f), (g), (h), (i), (j),
6 and (k)".

7 (2) In SECTION 1 of the bill, immediately after added Section
8 13.245(c-6), Water Code (page 2, between lines 17 and 18), insert
9 the following:

10 (f) A landowner may file with a municipality a petition
11 described by Subsection (g) to facilitate the development or
12 extension of water and sewer facilities and the provision of water
13 and sewer services at reasonable rates to areas of the
14 municipality's extraterritorial jurisdiction, including by a
15 retail public utility through a certificate of convenience and
16 necessity.

17 (g) An owner of land located in a municipality's
18 extraterritorial jurisdiction may file a petition requesting the
19 municipality to release the area. The petition must:

20 (1) describe the area, for which the boundaries are
21 determined solely by the petitioners and which is not required to
22 be contiguous;

23 (2) include the signatures of the owners of land that
24 makes up at least 51 percent of the taxable value in the area, as

indicated by the ad valorem tax records of the central appraisal district of the county in which the area is located;

(3) include a determination by the petitioners that:

(A) the release is necessary or convenient to facilitate the development or extension of water and sewer facilities and the provision of water and sewer services at reasonable rates to the area; or

(B) the municipality does not provide water or sewer services to the area; and

(4) if the area is located in a subdivision, request release of all land in the subdivision that is located in the municipality's extraterritorial jurisdiction.

(h) A municipality shall release from the municipality's extraterritorial jurisdiction the land in the area described by a petition filed under Subsection (g) not later than the 30th day after the date the municipality receives the petition. The filing of the petition creates an irrebuttable presumption that the property is not a part of the municipality's extraterritorial jurisdiction and that the release is necessary or convenient as determined by the petitioners. The presumption may not be contested for any cause after the date the municipality receives the petition.

(i) If a municipality fails to release the land as required by Subsection (h), the landowner filing the petition may bring an action against the municipality to compel release of the land. If the landowner prevails, the landowner may recover attorney's fees and court costs resulting from bringing the action. Governmental

1 immunity to suit and from liability of a municipality is waived to
2 the extent of liability created by this subsection or Subsection
3 (f), (g), or (h).

4 (j) Notwithstanding Subsection (a), a petition under
5 Subsection (g) may be filed only for an area:

6 (1) that is at least five acres and contains not more
7 than five residents; and

8 (2) for which, as determined solely by the petitioners,
9 the municipality has not:

10 (A) provided water and sewer services; or

11 (B) entered into a binding commitment under
12 Subsection (c-1)(2) to provide the area with water and sewer
13 services as evidenced by a written agreement with the landowners.

14 (k) Subsections (f) through (j) do not apply to an area:

15 (1) in a municipality's extraterritorial jurisdiction if
16 the municipality has a population of more than 1.3 million;

17 (2) in an industrial district under Section 42.044,
18 Local Government Code; or

19 (3) that is subject to a strategic partnership agreement
20 under Section 43.0751, Local Government Code.

21 (3) Strike SECTION 2 of the bill, adding effective date
22 language (page 2, line 18), and substitute the following:

23 SECTION 2. This Act takes effect immediately if it receives
24 a vote of two-thirds of all the members elected to each house, as
25 provided by Section 39, Article III, Texas Constitution. If this
26 Act does not receive the vote necessary for immediate effect, this
27 Act takes effect September 1, 2021.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 24, 2021

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3476 by Schofield (Relating to certificates of public convenience and necessity issued to water utilities inside the boundaries or extraterritorial jurisdiction of certain municipalities.), **As Passed 2nd House**

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|-----------------------------------------------------------------------|
| No significant fiscal implication to the State is anticipated. |
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It is assumed that the costs associated with the bill's provisions relating to certificates of public convenience and necessity issued to water utilities inside the boundaries or extraterritorial jurisdiction of certain municipalities could be absorbed using existing resources.

Local Government Impact

The fiscal implications of the bill cannot be determined at this time.

Source Agencies: 473 Public Utility Commission of Texas

LBB Staff: JMc, LBO, AJL, MB, RRE

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 19, 2021

TO: Honorable Charles Perry, Chair, Senate Committee on Water, Agriculture & Rural Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3476 by Schofield (relating to certificates of public convenience and necessity issued to water utilities inside the boundaries or extraterritorial jurisdiction of certain municipalities.), **Committee Report 2nd House, Substituted**

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| No significant fiscal implication to the State is anticipated. |
|-----------------------------------------------------------------------|

It is assumed that the costs associated with the bill's provisions relating to certificates of public convenience and necessity issued to water utilities inside the boundaries or extraterritorial jurisdiction of certain municipalities could be absorbed using existing resources.

Local Government Impact

The fiscal implications of the bill cannot be determined at this time.

Source Agencies: 473 Public Utility Commission of Texas

LBB Staff: JMc, AJL, MB, RRE

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 17, 2021

TO: Honorable Charles Perry, Chair, Senate Committee on Water, Agriculture & Rural Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3476 by Schofield (Relating to certificates of public convenience and necessity issued to water utilities inside the boundaries or extraterritorial jurisdiction of certain municipalities.), **As Engrossed**

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| No significant fiscal implication to the State is anticipated. |
|-----------------------------------------------------------------------|

It is assumed that the costs associated with the bill's provisions relating to certificates of public convenience and necessity issued to water utilities inside the boundaries or extraterritorial jurisdiction of certain municipalities could be absorbed using existing resources.

Local Government Impact

The fiscal implications of the bill cannot be determined at this time.

Source Agencies: 473 Public Utility Commission of Texas

LBB Staff: JMc, AJL, MB, RRE

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 5, 2021

TO: Honorable Tracy O. King, Chair, House Committee on Natural Resources

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3476 by Schofield (Relating to certificates of public convenience and necessity issued to water utilities inside the boundaries or extraterritorial jurisdiction of certain municipalities.), **As Introduced**

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| No significant fiscal implication to the State is anticipated. |
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It is assumed that the costs associated with the bill's provisions relating to certificates of public convenience and necessity issued to water utilities inside the boundaries or extraterritorial jurisdiction of certain municipalities could be absorbed using existing resources.

Local Government Impact

The fiscal implications of the bill cannot be determined at this time.

Source Agencies: 473 Public Utility Commission of Texas

LBB Staff: JMc, AJL, MB, RRE