

House Bill 3476
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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.

(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.

(c-4) The utility commission must include, as a condition of a certificate of public convenience and necessity granted under this section for a service area within the extraterritorial

SENATE VERSION (IE)

SECTION 1. Section 13.245, Water Code, is amended by amending Subsections (b), (c-3), (c-4), and (c-5) and adding Subsections (c-6), (f), (g), (h), (i), (j), and (k) to read as follows: [FA1(1)]

(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.

(c-4) The utility commission must include, as a condition of a certificate of public convenience and necessity granted under this section for a service area within the extraterritorial

CONFERENCE

House Bill 3476
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

jurisdiction of a municipality, that all water and sewer facilities be designed and constructed in accordance with the commission's standards for water and sewer facilities.

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

- (1) a county that borders the United Mexican States and the Gulf of Mexico or a county adjacent to such a county;
- (2) a county with a population of more than 30,000 and less than 35,000 that borders the Red River; or
- (3) a county with a population of more than 100,000 and less than 200,000 that borders a county described by Subdivision (2).

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

- (1) a county with a population of 130,000 or more that is adjacent to a county with a population of 1.5 million or more that is within 200 miles of an international border; or
- (2) a county with a population of more than 40,000 and less than 50,000 that contains a portion of the San Antonio River.

SENATE VERSION (IE)

jurisdiction of a municipality, that all water and sewer facilities be designed and constructed in accordance with:

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

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

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

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

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

- (1) a county that borders the United Mexican States and the Gulf of Mexico or a county adjacent to such a county;
- (2) a county with a population of more than 30,000 and less than 35,000 that borders the Red River; or
- (3) a county with a population of more than 100,000 and less than 200,000 that borders a county described by Subdivision (2).

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

- (1) a county with a population of 130,000 or more that is adjacent to a county with a population of 1.5 million or more that is within 200 miles of an international border; or
- (2) a county with a population of more than 40,000 and less than 50,000 that contains a portion of the San Antonio River.

(f) A landowner may file with a municipality a petition described by Subsection (g) to facilitate the development or

CONFERENCE

House Bill 3476
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

extension of water and sewer facilities and the provision of water and sewer services at reasonable rates to areas of the municipality's extraterritorial jurisdiction, including by a retail public utility through a certificate of convenience and necessity.

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

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

(2) include the signatures of the owners of land that 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

House Bill 3476
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

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

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

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

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

(A) provided water and sewer services; or

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

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

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

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

(3) that is subject to a strategic partnership agreement under Section 43.0751, Local Government Code. [FA1(2)]

House Bill 3476
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

SENATE VERSION (IE)

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021. [FA1(3)]

CONFERENCE