

SUBJECT: Authorizing utility service in subdivided lots without an approved plat

COMMITTEE: Land and Resource Management — committee substitute recommended

VOTE: 7 ayes — Walker, Crabb, Bosse, F. Brown, Hardcastle, Howard, B. Turner
0 nays
2 absent — Krusee, Mowery

WITNESSES: For — John Henneberger, Texas Low Income Housing Information Service and Border Low Income Housing Coalition; Amy Johnson, Border Water Works
Against — None

BACKGROUND: Local Government Code, sec. 232.029 prohibits subdivided lots in certain border counties from receiving any utility services, including water, sewer, natural gas, and electricity, unless the land has a plat approved by the county commissioners court. The law applies to land that has been subdivided into four or more lots in the unincorporated areas of counties that are within 50 miles of an international border and that have a per-capita income 25 percent below the statewide average and an unemployment rate 25 percent above the statewide average. Sec. 212.012 of the code applies the same prohibition to subdivided lots in municipalities.

DIGEST: CSHB 3234 would amend the Local Government Code to allow owners of subdivided lots without an approved plat to receive utility services if water service was available within 500 feet of the land or if a local water provider determined that extending water service to the land was feasible.

The municipality or county responsible for plat approval would have to issue a certificate stating that the land had not been subdivided since September 1, 1995. The landowner would have to provide an affidavit to the county or municipality stating that the property was not sold or conveyed to that person from a subdivider or subdivider's agent after September 1, 1995.

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The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house.

**SUPPORTERS
SAY:**

CSHB 3234 would make it possible for colonia residents in counties along the Texas-Mexico border to receive utility services even if their land had not been platted for water and wastewater services. The current prohibition causes hardship for residents who must live without water, sewer, natural gas, and electricity services. Residents should not be prohibited from receiving utility services that most Texas residents take for granted if water service is nearby or readily available.

Residents often buy lots in areas where other lots already have services provided. If water service is available in close proximity, it is a clear sign that the surrounding land is developing into a permanent community with full utility services. Individual residents of such communities should not be prohibited from receiving a full range of services. CSHB 3234 would allow for greater infill and increased densities within existing colonias, which would lead to lower unit costs for providing service to all residents.

Colonia residents often own land that was exempt from platting restrictions until 1995. Many developers who sold land in colonias did not fulfill their promises to provide water and wastewater services. The law that prohibits any service provision for lots without approved plats was designed to prevent the continued proliferation of colonia settlements. Current colonia residents should not be punished because of problems created by unscrupulous developers and well-intentioned lawmakers.

CSHB 3234 would not create additional costs for state and local governments. Colonia residents are responsible for paying for the provision of service to their homes. Federal funds are available to assist residents who cannot afford home hookups. The bill is intended to address service needs in existing colonias and would not lead to the development of new colonias.

**OPPONENTS
SAY:**

No apparent opposition.

NOTES:

The original bill would have removed the requirement that construction of a residence on subdivided residential land in cities or certain counties must have begun before May 1, 1997, to receive utility services without an approved plat. The committee substitute kept that requirement in place and added language allowing utility services to be provided for unplatted land in cities and certain counties if water service is nearby or readily available.

The Senate companion bill, SB 1411 by Zaffirini, was reported favorably as substituted by the Senate Special Committee on Border Affairs on April 9. CSSB 1411 is very similar to CSHB 3234 except for nonsubstantive changes in several areas.