

SUBJECT: Creating grandfather clause exemptions for colonia utility service

COMMITTEE: Land and Resource Management — committee substitute recommended

VOTE: 8 ayes — Walker, Crabb, F. Brown, Geren, Howard, Krusee, Mowery, B. Turner

0 nays

1 absent — Truitt

WITNESSES: For — Vidal A. Oaxaca, El Paso County Attorney's Office

Against — None

BACKGROUND: Colonias are residential subdivisions usually found in unincorporated areas of counties along the Texas-Mexico border. They often lack sewers, water, electric and gas services, and paved roads, even though a land developer may have promised such services to homeowners. Unsanitary conditions have caused many health problems. By some estimates, as many as 340,000 people live in Texas colonias.

In 1989, the Legislature creating the Economically Distressed Areas Program (EDAP) to fund water and wastewater service provision in colonias through general-obligation bonds. The act also established guidelines for model subdivision rules to regulate rural residential development in counties with serious colonia problems.

In 1995, the Legislature created a new subchapter B under Local Government Code, chapter 232 to apply strict platting requirements to rural residential subdivisions in border counties. The act also prevented the hookup of utility services, including water, wastewater, gas, and electricity, in unplatted subdivision lots in Subchapter B counties. In 1997, the Legislature created additional platting requirements for these rural residential subdivisions.

In 1999, the 76th Legislature enacted SB 1421 by Lucio, further revising the laws concerning the provision of water and wastewater services to colonias,

enforcement and compliance with laws to limit colonia proliferation, and coordination of colonia policies among state agencies and local governments.

Despite the strict standards enacted in 1995, that legislation provided for a limited “grandfather clause” exemption for property owners to qualify for electric, gas, water, or sewer service on property bought before September 1, 1995. The 1999 legislation did not provide a similar transition period, and buyers of property in the extraterritorial jurisdictions (ETJs) of border municipalities, as well as landowners who bought land between September 1, 1995, and August 31, 1999, could not receive certificates to receive utility service. In some cases, one or two homeowners would qualify for electrical service, and those homes would be connected with more than 30 other houses by extension cords and other potentially hazardous connections.

DIGEST: CSHB 3604 would permit the issuance of a certificate for utility service if a property owner in a colonia located in the ETJ could demonstrate that the land was sold or conveyed between September 1, 1995, and August 31, 1999. The landowner also could qualify for a utility service certificate if at least a completed foundation for construction was completed between May 1, 1997, and May 1, 2003.

This bill would take effect September 1, 2001.

NOTES: The committee substitute modified the filed version by specifying the type of documentation needed to prove that the land was purchased or subdivided between September 1, 1995, and September 1, 1999.