

## **BILL ANALYSIS**

Senate Research Center  
86R27805 SCL-D

C.S.S.B. 1024  
By: Perry  
Intergovernmental Relations  
4/25/2019  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, when municipalities provide services to forced annexed property, they only have to provide the ability to hook up to those services. The ability to hook up to services could mean that a person living out on the edge of the city limits would have a larger distance to cover in order to hook up to the services compared to someone living well within the municipality. The municipality will usually choose the most cost effective service plan for the city, not for the property owner.

This means that the property owner may have to pay an exorbitant cost to hook up to those services. Many people cannot afford to hook into services when they are unreasonably far away from their dwelling or building on the property. The result is property owners paying for services that they can not and are not using.

This bill provides that a service plan for a tier 1 municipality may not require the landowner to pay an unreasonable amount for hooking up to the services provided in the service plan. If the landowner argues that the services are provided to the landowner at an unreasonable amount for hook up, the burden of proof will be placed on the municipality to prove that they have been provided to the landowner in a reasonable manner.

The services provided under the service plan are determined to be reasonable when the services are similar or the same in relation to what others in the area paid to hook up into the services. If it is determined that the services provided are not provided reasonably:

- the municipality may chose to disannex the property within a reasonable period specified by the court;
- the parties may be required to participate in mediation; and
- may require the municipality to pay the person's costs and reasonable attorney's fees in bringing the action.

The committee substitute limits this bill to municipalities with populations of 350,000 and under.

C.S.S.B. 1024 amends current law relating to access to services in an area annexed by certain tier 1 municipalities under a service plan.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter C, Chapter 43, Local Government Code, by adding Section 43.0565, as follows:

Sec. 43.0565. ACCESS TO SERVICES BY CERTAIN MUNICIPALITIES IN ANNEXED AREA. (a) Requires a municipality with a population of 350,000 or less to

provide access to services provided to an annexed area under a service plan described by Section 43.056 (Provision of Services to Annexed Area) that is identical or substantially similar to access to those services in the municipality.

(b) Authorizes a person residing in an annexed area subject to a service plan to apply for a writ of mandamus against a municipality that fails to provide access to services in accordance with Subsection (a). Provides that in the action for the writ:

(1) the court is authorized to order the parties to participate in mediation;

(2) the municipality has the burden of proving that the municipality complied with Subsection (a);

(3) the person is authorized to provide evidence that the costs for the person to access the services are disproportionate to the costs incurred by a municipal resident to access those services; and

(4) if the person prevails:

(A) the municipality is required to:

(i) disannex the property that is the subject of the suit within a reasonable period specified by the court; or

(ii) comply with Subsection (a); and

(B) the court is required to award the person's attorney's fees and costs incurred in bringing the action for the writ.

(c) Provides that a municipality's governmental immunity to suit and from liability is waived and abolished to the extent of liability created under this section.

SECTION 2. Effective date: September 1, 2019.