
Local Government Committee

HB 3130

Brief Description: Regarding the extension of city and town utility services.

Sponsors: Representatives Lantz, Seaquist and Eddy.

Brief Summary of Bill
<ul style="list-style-type: none">• Clarifies and expands state law regarding the procedural and substantive regulations controlling a city or town's extension of water and/or sewer services beyond its geographic borders.• Creates consistency in the regulatory provisions applicable to the extensions of both water and sewer systems and, in doing so, adds new regulatory provisions applicable to water system extensions.

Hearing Date: 1/31/08

Staff: Thamas Osborn (786-7129).

Background:

City Authority for the Extension of Sewer Service

A city is authorized to extend its sewer services to properties beyond city limits provided the following conditions are met:

- the extension of sewer service is accomplished through the passage of a city ordinance; and
- the ordinance specifies the terms and conditions that must be contained in a written agreement between the city and the property owner regarding the extension of service.

If the sewer extension agreement is filed with the county auditor, such agreement will constitute a "covenant running with the land" and will therefore be binding on subsequent owners of the property.

City Authority for the Extension of Water Service

A city is authorized to extend its water services to properties beyond its limits provided such extension is done through a contract with the person, municipality, community, or corporation

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receiving the water services. The contract may include the terms under which the system will be installed, the rates to be charged, and the manner in which payment must be made for the water and related services.

GMA Directives Regarding the Provision of Urban Governmental Services

The Growth Management Act (GMA) includes numerous requirements relating to the use or development of land in urban and rural areas. Among other planning requirements, counties that fully plan under the GMA must designate urban growth areas (UGAs) or areas within which urban growth must be encouraged and outside of which growth can occur only if it is not urban in nature.

Policy directives pertaining to the provision of urban governmental services are specified in requirements for UGAs. These directives provide that:

- in general, it is not appropriate that urban governmental services be extended to or expanded in rural areas; and
- in general, cities are the units of local government most appropriate to provide urban governmental services.

"Urban governmental services" or "urban services," as defined in the GMA, include public services and public facilities at an intensity historically and typically provided in cities. Examples include: storm and sanitary sewer systems; domestic water systems; fire and police protection services; and other public utilities associated with urban areas and normally not associated with rural areas.

Boundary Review Boards

Boundary Review Boards (Boards) are authorized in statute to guide and control the creation and growth of municipalities in metropolitan areas. While statute provides for the establishment of Boards in counties with at least 210,000 residents, current law provides that a Board may be created and established in any other county. Board members are appointed by the Governor and local government officials from within the applicable county. Some members are appointed by Boards from nominees of special districts within the applicable county. After initial appointments, all members serve four-year terms.

Upon receiving a timely request for review that meets statutory requirements, and following an invocation of a Board's jurisdiction, a Board must review and approve, disapprove, or modify certain proposed actions, including actions pertaining to the creation, incorporation, or change in the boundary of any city, town, or special purpose district. In reaching decisions on proposed actions, Boards must satisfy public hearing requirements and must attempt to achieve objectives prescribed in statute, including the preservation of natural neighborhoods and communities and the use of physical boundaries. Generally, decisions on proposed actions must be made within 120 days of the Board receiving a valid request for review.

Additionally, Board decisions in counties planning under the Growth Management Act (GMA) must be consistent with the planning goals of the GMA and other specified provisions.

Development Agreements Between a Property Owner and a Property Owner

A local government may enter into a development agreement with a person having ownership or control of real property within its jurisdiction. A city may enter into a development agreement for real property outside its boundaries as part of a proposed annexation or a service agreement. Such

agreement must state the development standards and other provisions that shall govern and vest the development and use of the real property for the term of the agreement. The agreement must be consistent with the GMA development regulations adopted by the local government and must be recorded with the real property records of the county in which the property is located. A county or city may only approve a development agreement by ordinance or resolution after a public hearing.

Summary of Bill:

Regulatory Provisions Applicable to Both Water and Sewer Systems

The act clarifies and expands state law regarding the procedural and substantive regulations controlling a city or town's extension of water and/or sewer services beyond its geographic borders. It also creates consistency in the regulatory provisions applicable to the extensions of both water and sewer systems and, in doing so, adds several new regulatory provisions applicable to water system extensions. The regulatory changes pertaining to water-sewer (system) extensions include the following:

- clarifies that system extensions must be accomplished in accordance with an ordinance that describes the terms and conditions that must be included in the system connection contract;
- requires that the ordinance sufficiently describe the contract requirements so as to provide reasonable notice to property owners of the terms and conditions under which a city or town will connect the system to a property owner beyond the limits of the city or town;
- authorizes the inclusion of a contractual provision requiring that the property owner receiving the water-sewer services develop the property consistent with the city's development regulations, building code, and comprehensive plan;
- establishes that the system connection contract is a form of "development agreement" that may only adopted by ordinance or resolution after a public hearing in accordance with the requirements for such agreements;
- requires that the system connection contract be recorded against the property in accordance with the requirements for recording development agreements;
- clarifies that system extensions beyond city limits must be within the urban growth area of the city;
- requires that the system extension be consistent with the GMA and other statutory requirements relating to system development and operation; and
- establishes that system extensions may be subject to review by a boundary review board.

Additional Regulation of the Extension of Water Systems

The act adds regulatory provisions applicable to extensions of water systems and which make such regulations consistent with those pertaining to sewer system extensions. These new regulatory provisions are as follows:

- if the water system connection agreement is filed with the county auditor, such agreement will constitute a "covenant running with the land" and will therefore be binding on subsequent owners of the property; and

- if the property owner breaches the water system connection contract, the city may disconnect the water system and may at any time enter the property in order to do so.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.