

CHAPTER 236

H.B. No. 260

An Act relating to the authority of a city or town to contract and levy assessments for the relocation or replacement of sanitation sewer laterals or water laterals on private property.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Sections 2, 3, and 4, Chapter 64, Acts of the 68th Legislature, Regular Session, 1983 (Article 1110g, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 2. **CONTRACT.** A city by ordinance may contract for the relocation or replacement of a sanitation sewer lateral *or water lateral* that serves a residential structure on private property for the purpose of connecting the lateral to a new, renovated, or rebuilt sanitation main *or water main* constructed by the city.

Sec. 3. **ASSESSMENT; LIEN.** (a) The cost of the relocation or replacement of the sewer lateral *or water lateral* shall be assessed against the property on which it is located.

(b) A lien is attached to the property for the cost of the relocation or replacement.

Sec. 4. **CONSENT.** Before a city makes a contract under Section 2 of this Act, the city must obtain the property owner's written consent to the contract, to the relocation or replacement of the sewer lateral *or water lateral*, and to the assessment. The written consent must state that the person giving the consent is the owner of the property or is an authorized representative of the owner, must contain a statement of the owner's address, and must state:

- (1) that the consent is freely given;
- (2) that the owner understands that as a result of the assessment a lien will be attached to the property for the total cost of the relocation or replacement;
- (3) that no part of the cost of the relocation or replacement will be paid by the city; and
- (4) that the property owner will have five years from the date the work is completed to repay the cost to the city.

SECTION 2. Section 5(a), Chapter 64, Acts of the 68th Legislature, Regular Session, 1983 (Article 1110g, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Before work is begun on the relocation or replacement of a sewer lateral *or water lateral* and after the city files the written consent of the property owner with the city clerk or city secretary, the city in accordance with the law applicable to public improvements shall contract for the performance of the work. However, after the city has received the bids for the work and before the contract for the work is made, the city must give notice to the property owner. The notice must state the bid price accepted by the city for the completion of the work and that the contract price may be increased by no more than 10 percent because of the changes without the written consent of the owner. The notice shall be given to the owner by personal delivery or by depositing the notice in the United States mail, postage prepaid, addressed to the owner at the address contained in the owner's written consent.

SECTION 3. Section 5, Chapter 64, Acts of the 68th Legislature, Regular Session, 1983 (Article 1110g, Vernon's Texas Civil Statutes), is amended by amending Subsection (b) and by adding Subsection (c) to read as follows:

(b) *Unless the owner waives the right to reject the contract as provided by Subsection (c) of this section, not [Not] later than the 45th day after the day on which the notice is mailed[;] the owner may exercise that right [reject the contract] by notifying the city clerk or city secretary of the withdrawal of the owner's consent. If the owner fails to withdraw consent during the 45 days, the city may contract for the performance of the work, the work may proceed, and the assessment may be made without further consent by the owner. After the expiration of the 45 days, the owner may not withdraw the consent previously given.*

(c) *The owner may waive the right to reject the contract by filing a sworn affidavit with the city clerk or city secretary stating that the owner desires to waive the right. After the affidavit is filed, the city may contract for the performance of the work, the work may proceed, and the assessment may be made without further consent by the owner.*

SECTION 4. (a) Except as provided by Subsection (b) of this section, this Act takes effect immediately.

(b) Sections 1 and 2 of this Act take effect when the amendment to the Texas Constitution proposed by the 69th Legislature, Regular Session, 1985, authorizing the legislature to enact laws permitting a city or town to expend public funds and levy assessments for the relocation or replacement of water laterals on private property, is adopted.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

Passed by the House on March 12, 1985, by a non-record vote; passed by the Senate on May 26, 1985, by the following vote: Yeas 31, Nays 0.

Approved: June 3, 1985

Effective: August 26, 1985, except for Sections 1 and 2, which are effective upon passage of H.J.R. No. 54.