

By: Guillen

H.B. No. 1318

A BILL TO BE ENTITLED

AN ACT

relating to a certificate of public convenience and necessity to provide water or sewer service in an area incorporated or annexed by a municipality.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 13.255(c), (d), (e), (f), and (i), Water Code, are amended to read as follows:

(c) The utility commission by order shall grant single certification to the municipality. ~~[The utility commission shall also determine in its order the monetary amount that is adequate and just to compensate the retail public utility for any of the retail public utility's property the utility commission determines is being rendered useless or valueless by the single certification.]~~

If the municipality in its application has requested the transfer of specified property of the retail public utility to the municipality or to a franchised utility, the utility commission shall also determine in its order the adequate and just compensation to be paid, under the provisions of this section, for the transferred [such] property and ~~[pursuant to the provisions of this section, including an award for]~~ damages to or adverse effects on property remaining in the ownership of the retail public utility after single certification. The order of the utility commission shall not be effective to transfer property. A transfer of property may be obtained under this section only by a court judgment rendered

1 under Subsection (d) or (e). The grant of single certification by
2 the utility commission takes effect on the date the municipality or
3 franchised utility, as the case may be, pays adequate and just
4 compensation pursuant to court order, or pays an amount into the
5 registry of the court or to the retail public utility under
6 Subsection (f). If the court judgment provides that the retail
7 public utility is not entitled to any compensation, the grant of
8 single certification takes effect when the court judgment becomes
9 final.

10 (d) In the event the final order of the utility commission
11 is not appealed within 30 days, the municipality may request the
12 district court of Travis County to enter a judgment consistent with
13 the order of the utility commission. In such event, the court shall
14 render a judgment that:

15 (1) transfers to the municipally owned utility or
16 franchised utility title to property to be transferred to the
17 municipally owned utility or franchised utility as delineated by
18 the utility commission's final order ~~[and property determined by~~
19 ~~the utility commission to be rendered useless or valueless by the~~
20 ~~granting of single certification]~~; and

21 (2) orders payment to the retail public utility of
22 adequate and just compensation ~~[for the property]~~ as determined by
23 the utility commission in its final order under Subsection (c).

24 (e) Any party that is aggrieved by a final order of the
25 utility commission under this section may file an appeal with the
26 district court of Travis County within 30 days after the order
27 becomes final. The hearing in such an appeal before the district

1 court shall be by trial de novo on all issues. After the hearing, if
2 the court determines that the municipally owned utility or
3 franchised utility is entitled to single certification under the
4 provisions of this section, the court shall enter a judgment that:

5 (1) transfers to the municipally owned utility or
6 franchised utility title to property requested by the municipality
7 to be transferred to the municipally owned utility or franchised
8 utility and located within the singly certificated area [~~and~~
9 ~~property determined by the court or jury to be rendered useless or~~
10 ~~valueless by the granting of single certification~~]; and

11 (2) orders payment in accordance with Subsection (g)
12 to the retail public utility of adequate and just compensation for
13 the property transferred, and for the property remaining in the
14 ownership of the retail public utility after single certification
15 that is damaged or adversely affected, as determined by the court or
16 jury.

17 (f) Transfer of property shall be effective on the date the
18 judgment becomes final. However, after the judgment of the court is
19 entered, the municipality or franchised utility may take possession
20 of transferred [~~condemned~~] property pending appeal if the
21 municipality or franchised utility pays the retail public utility
22 or pays into the registry of the court, subject to withdrawal by the
23 retail public utility, the amount, if any, established in the
24 court's judgment as just and adequate compensation. To provide
25 security in the event an appellate court, or the trial court in a
26 new trial or on remand, awards compensation in excess of the
27 original award, the municipality or franchised utility, as the case

1 may be, shall deposit in the registry of the court an additional sum
 2 in the amount of the award, or a surety bond in the same amount
 3 issued by a surety company qualified to do business in this state,
 4 conditioned to secure the payment of an award of compensation
 5 ~~[damages]~~ in excess of the original award of the trial court. On
 6 application by the municipality or franchised utility, the court
 7 shall order that funds deposited in the registry of the court be
 8 deposited in an interest-bearing account, and that interest
 9 accruing prior to withdrawal of the award by the retail public
 10 utility be paid to the municipality or to the franchised utility.
 11 In the event the municipally owned utility or franchised utility
 12 takes possession of property or provides utility service in the
 13 singly certificated area pending appeal, and a court in a final
 14 judgment in an appeal under this section holds that the grant of
 15 single certification was in error, the retail public utility is
 16 entitled to seek compensation for any damages sustained by it in
 17 accordance with Subsection (g) of this section.

18 (i) In the event that a municipality files an application
 19 for single certification on behalf of a franchised utility, the
 20 municipality shall be joined in such application by such franchised
 21 utility, and the franchised utility shall make all payments
 22 required in the court's judgment to adequately and justly
 23 compensate the retail public utility ~~[for any taking or damaging of~~
 24 ~~property and]~~ for the transfer of property to such franchised
 25 utility and for the property remaining in the ownership of the
 26 retail public utility after single certification that is damaged or
 27 adversely affected.

1 SECTION 2. The changes in law made by this Act apply only to
2 a proceeding affecting a certificate of public convenience and
3 necessity that commences on or after the effective date of this Act.
4 A proceeding affecting a certificate of public convenience and
5 necessity that commenced before the effective date of this Act is
6 governed by the law in effect on the date the proceeding is
7 commenced, and that law is continued in effect for that purpose.

8 SECTION 3. This Act takes effect September 1, 2025.