

BILL ANALYSIS

Senate Research Center
79R4658 JJT-F

S.B. 765
By: Armbrister
Natural Resources
5/2/2005
As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

As proposed, S.B. 765 relates to Certificates of Convenience and Necessity (CCNs) that the Texas Commission on Environmental Quality (commission) issues to entities that provide water and wastewater services. These entities include retail public utilities, political subdivisions, investor-owned utilities, and nonprofit water supply corporations.

Specifically, the bill requires notice to large tract owners before the commission may designate a utility's service area (as described in a CCN). Currently, publication of notice in newspapers and mailed notice to neighboring utilities is required. The bill requires CCN holders to deed record the maps of their service areas and requires sellers to notify purchasers of property if their property is located inside a CCN. The bill specifies how a CCN boundary must be described in the application map so it is clear to the affected public.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 4 (Section 13.246, Water Code), SECTION 5 (Section 13.254, Water Code), and SECTION 7 (Section 13.255, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 13, Water Code, by adding Section 13.004, as follows:

Section 13.004. LEGISLATIVE FINDINGS AND POLICY REGARDING REGIONALIZATION OF SERVICES. (a) Sets forth legislative findings regarding the regionalization of retail water or sewer utility services delivery.

(b) Sets forth the forms that regionalization of water or sewer utility services may take.

SECTION 2. Amends Sections 13.244(a) and (b), Water Code, as follows:

(a) Requires a retail public utility, rather than a public utility or water supply or sewer service corporation, to submit to the Texas Commission on Environmental Quality (commission) an application for a certificate of public convenience or an amendment. Makes nonsubstantive changes.

(b) Sets forth the methods by which the service area boundary defined by the map may be described. Makes conforming changes.

SECTION 3. Amends Subchapter G, Chapter 13, Water Code, by adding Section 13.245, as follows:

Sec. 13.245. EXTENSIONS OF CERTIFICATED AREA FOR MUNICIPALITIES WITH A POPULATION GREATER THAN 750,000. (a) Requires the commission to amend a municipality's certificate of public convenience and necessity to extend the certificated area to match the municipality's extensions of its extraterritorial jurisdiction.

(b) Sets forth the requirements the municipality must meet to qualify for the extension under Subsection (a).

(c) Prohibits an extension of the certificated area from including certain areas.

(d) Requires the commission to issue the amended certificate of public convenience and necessity within a certain timeframe.

SECTION 4. Amends Section 13.246, Water Code, by adding Subsection (a-1) and amending Subsections (b) and (c), as follows:

(a-1) Requires the commission, by rule, to require notice to be mailed to each owner of a tract of land included in the area proposed to be certificated that is 100 acres or larger in size. Sets forth the required method of distributing notice to the owners. Provides that notice is not required for certain matters.

(b) Prohibits the commission from granting to more than one retail public utility serving or proposing to serve an area a certificate authorizing service to the area unless all retail public utilities serving and proposing to serve the area consent to that action.

(c) Sets forth certain factors the commission is required to consider in determining the need for additional service in a requested area. Sets forth evidence that the commission is authorized to consider.

SECTION 5. Amends Section 13.254, Water Code, by amending Subsections (a), (e), (f), and (g), and adding Subsections (a-1) and (g-1), as follows:

(a) Authorizes the commission to revoke or amend any certificate if the commission finds that the certificate holder is incapable of providing continuous and adequate service in the area or part of the area. Deletes provisions relating to affected counties as defined in Section 16.341 (certain counties with low income and high unemployment) and commercial developments or residential developments started after September 1, 1997.

(a-1) Sets forth the factors the commission is required to consider in determining whether the certificate holder is incapable of providing continuous and adequate service.

(e) Requires the commission to ensure that the monetary amount of compensation [by a retail public utility for property rendered useless or valueless as a result of decertification] is determined within a certain timeframe.

(f) Requires the monetary amount to be determined by an independent appraiser designated by the commission, if the retail public utilities do not agree upon an appraiser.

(g) Requires that the value of the retail public utility's business be determined according to the factors in this subsection.

(g-1) Requires the commission to adopt rules governing the evaluation of the factors considered in determining the monetary value of personal property and a retail public utility's business.

SECTION 6. Amends Section 13.2541(d), Water Code, to require the compensation paid to the decertified public utility for its facilities to be determined by an independent appraiser designated by the commission if the public utilities do not agree upon an appraiser.

SECTION 7. Amends Section 13.255, Water Code, by amending Subsection (g) and adding Subsection (g-1), as follows:

(g) Requires the value of the retail public utility's business to be determined according to the factors in this subsection.

(g-1) Requires the commission to adopt rules governing the evaluation of the factors to be considered in determining the monetary value of personal property and a retail public utility's business. Requires the commission to adopt rules to ensure that the determination of the total compensation to be paid to a retail public utility is paid within a certain timeframe.

SECTION 8. Amends Section 13.257, Water Code, by amending Sections (a) and (b) and adding Subsection (r), as follows:

(a) Redefines "utility service provider."

(b) Applies this section to a person selling or conveying real property, rather than unimproved real property, located in certain areas.

(r) Requires a utility service provider to file a copy of its current certified service area map in the real property of certain counties. Requires each county to accept the map and file it in its real property records.

SECTION 9. Makes the changes in law regarding an applicant for a certificate of public convenience and necessity or for an amendment to a certificate of public convenience and necessity, a proceeding to amend or revoke a certificate of public convenience and necessity, and a proposal to sell or convey real property, prospective to January 1, 2006.

SECTION 10. Effective date: September 1, 2005.