

BILL ANALYSIS

S.B. 1464
By: Van de Putte
Regulated Industries
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, a municipally owned utility may not invest funds held in a nuclear generation facility decommissioning trust fund, beyond the restrictions of the Public Funds Investment Act (Act).

In response to a request by City Public Service of San Antonio (now CPS Energy, herein CPS), on October 12, 2004, the attorney general of Texas issued an opinion, finding that municipal utility funds collected from customers of another utility, American Electric Power (AEP), which is the former owner of an interest in a nuclear plant, the South Texas Project Nuclear Power Plant (STP), are not subject to the investment restrictions of the Act.

The attorney general opinion goes a significant way toward providing CPS with the much-needed flexibility to invest funds collected from AEP customers in a broader range of investments, thereby increasing the rate of return on those investments over investments prescribed by the Act. The opinion is advisory and, although given deference by courts, it lacks the force or effect of law to provide assurance that CPS could not later be found in violation of the Act. In order to provide this assurance, as well as to eliminate any uncertainty regarding a court's interpretation of Texas' constitutional provisions, CPS would benefit from the certainty provided by a legislative change making clear that CPS' investment of the monies collected from AEP's customers can be invested in equities and other investments.

S.B. 1464 authorizes municipally owned utilities, with an interest in a nuclear generation facility, to invest decommissioning trust funds in certain equity investments as governed by the restrictions of the Public Utility Commission (PUC) and the Federal Energy Regulatory Commission.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Public Utilities Commission in SECTION 2 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 2256, Government Code, by adding Section 2256.0205, as follows:

Sec. 2256.0205. **AUTHORIZED INVESTMENTS; DECOMMISSIONING TRUST.** Defines "decommissioning trust" and "funds." Authorizes a municipality that owns a municipal electric utility that is engaged in the distribution and sale of electric energy or natural gas to the public, in addition to other investments authorized under this subchapter, to invest funds held in a decommissioning trust in any investment authorized by Subtitle B, Title 9, Property Code.

SECTION 2. Amends Section 39.205, Utilities Code, to allow the Public Utilities Commission to adopt rules necessary to ensure that money for decommissioning is prudently collected, managed, and spent for its intended purposes and that uncollected money is returned to retail customers.

SECTION 3. Effective date: upon passage or September 1, 2005.

EFFECTIVE DATE

This Act takes effect immediately if it receives a vote of two-thirds of all members elected to each house. If the necessary vote is not received it takes effect September 1, 2005.