

## **BILL ANALYSIS**

H.B. 2655  
By: Puente  
Natural Resources  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

House Bill 2876, enacted by the 79th Legislature, included many provisions that dramatically changed the manner in which certificates of convenience and necessity (“CCNs”) for the retail provision of water and sewer service are granted or amended by the Texas Commission on Environmental Quality (“TCEQ”). Section 13.2451, Water Code, was adopted to make clear that retail public utilities may extend utilities into a municipality’s extraterritorial jurisdiction (“ETJ”). Further, it provided that a municipality may not seek or be granted a CCN outside of its ETJ without the written consent of the landowner who owns the property in which the certificate is to be extended.

The TCEQ, during the rulemaking process, sought to apply this provision retroactively to all municipal CCNs, thus, invalidating all CCNs outside a municipality’s ETJ. As a result of the legislation, many cities across the state would be left with stranded costs that could not be recovered. Further, the legislation is contrary to regional planning and regionalization of natural resources, a goal the Legislature has sought to correct in the last several legislative sessions. For instance, if a municipality is only limited to provide service to the boundaries of its ETJ, then it will not construct larger regional plants or ensure that lines are properly sized to provide service over a wider area.

H.B. 2655 will remove the requirement that cities may only be granted CCNs to their ETJs. H.B. 2655 also provides in Section 13.002, Water Code, that "Landowner", "owner of a tract of land", and "owners of each tract of land" include multiple owners of a single deeded tract of land as shown on the appraisal roll of the appraisal district established for each county in which the property is located.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

SECTION 1. Sections 13.002 (1-a), (5), and (8), Water Code, are amended as follows:

(1-a) Provides that "Landowner", "owner of a tract of land", and "owners of each tract of land" include multiple owners of a single deeded tract of land as shown on the appraisal roll of the appraisal district established for each county in which the property is located.

(5) Updates the definition of "Commission" from the Texas Natural Resource Conservation Commission, to the Texas Commission on Environmental Quality.

(8) Provides that "Executive Director" means the executive director of the commission.

SECTION 2. Section 13.2451, Water Code, is amended to read as follows:

Sec. 13.2451. EXTENSION BEYOND EXTRATERRITORIAL JURISDICTION.  
If a municipality extends its extraterritorial jurisdiction to include an area certificated to a retail public utility, the retail public utility may continue and extend service in its area of public convenience and necessity under the rights granted by its certificate and this chapter.

H.B. 2655 80(R)

Subsection (b) in current law is deleted. Subsection (b) prohibits the commission from extending a municipality's certificate of public convenience and necessity beyond its extraterritorial jurisdiction without the written consent of the landowner who owns the property in which the certificate is to be extended. The portion of any certificate of public convenience and necessity that extends beyond the extraterritorial jurisdiction of the municipality without the consent of the landowner is void.

SECTION 3. The changes in law made by the Act apply only to:

- (1) an application for a certificate of public convenience and necessity or for an amendment to a certificate of public convenience and necessity submitted to the Texas Commission on Environmental Quality on or after the effective date of this Act;
- (2) a proceeding to amend or revoke a certificate of public convenience and necessity initiated on or after the effective date of this Act;
- (3) a certificate of public convenience and necessity issued to a municipality, regardless of the date the certificate was issued.
- (4) an application by a municipality or by a utility owned by a municipality for a certificate of public convenience and necessity or for an amendment to a certificate, regardless of the date the application was filed; and
- (5) a proceeding to amend or revoke a certificate of public convenience and necessity held by a municipality or by a utility owned by a municipality, regardless of the date the proceeding was initiated.

SECTION 4. Effective Date. Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

#### **EFFECTIVE DATE**

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.