

BILL ANALYSIS

C.S.H.B. 4283
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Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In 1994, the City of Karnes City entered into an agreement with El Oso WSC. The agreement provided that Karnes City would withdraw its Section 13.255 application with prejudice. The commission issued an order dismissing the city's Section 13.255 application with prejudice. Based on case law, a governmental entity may not agree to a contract provision that would limit the free exercise of its governmental powers.

The agreement between Karnes City and El Oso WSC is void and therefore the commission's order dismissing the city's Section 13.255 application with prejudice based on that agreement is void. The Texas Commission on Environmental Quality (TCEQ) staff has taken the position that Karnes City is prohibited from applying for the area that it previously requested in its 1994 Section 13.255 application. This bill would make it clear that the order is void.

C.S.H.B. 4283 prohibits TCEQ from issuing an order dismissing with prejudice a municipality's application under provisions regarding single certification in incorporated or annexed areas if the municipality meets certain requirements. The bill establishes that an order issued by TCEQ before the effective date of the bill dismissing with prejudice an application filed under such provisions by such a municipality is void.

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

C.S.H.B. 4283 amends the Water Code to prohibit the Texas Commission on Environmental Quality (TCEQ) from issuing an order dismissing with prejudice a municipality's application under provisions regarding single certification in incorporated or annexed areas if the municipality has a population of more than 3,000, is the county seat of a county with a population of less than 20,000, and is located in the river basin of the San Antonio River. The bill establishes that an order issued by TCEQ before the effective date of the bill dismissing with prejudice an application filed under the bill's provisions by such a municipality is void.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 4283 differs from the original by prohibiting the Texas Commission on Environmental Quality (TCEQ) from issuing an order dismissing with prejudice a municipality's application under provisions regarding single certification in incorporated or annexed areas if the

municipality has a population of more than 3,000, is the county seat of a county with a population of less than 20,000, and is located in the river basin of the San Antonio River, whereas the original requires any order issued by TCEQ dismissing a municipality's application with prejudice, filed under such provisions, to be void. The substitute adds a provision not in the original establishing that an order issued by TCEQ before the effective date of the bill dismissing with prejudice an application filed under such provisions by a municipality described by the substitute is void.