

By: Hilderbran, Turner of Harris

H.B. No. 3838

Substitute the following for H.B. No. 3838:

By: Solomons

C.S.H.B. No. 3838

A BILL TO BE ENTITLED

AN ACT

relating to powers and duties of the Office of Public Utility Counsel to represent residential and small commercial consumers in certain water or sewer utility service matters before the Texas Commission on Environmental Quality.

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

SECTION 1. Section 5.273(a), Water Code, is amended to read as follows:

(a) The counsel shall represent the public interest and be a party to all proceedings before the commission, other than a proceeding under Chapter 13.

SECTION 2. Subchapter B, Chapter 13, Water Code, is amended by adding Section 13.017 to read as follows:

Sec. 13.017. OFFICE OF PUBLIC UTILITY COUNSEL. (a) In this section, "counsellor" and "office" have the meanings assigned by Section 11.003, Utilities Code.

(b) The office shall represent the interests of residential and small commercial consumers under this chapter.

(c) The office:

(1) shall assess the effect of utility rate changes and other regulatory actions on residential consumers in this state;

(2) shall advocate in the office's own name a position determined by the counsellor to be most advantageous to a

1 substantial number of residential consumers;

2 (3) may appear or intervene, as a party or otherwise,  
3 as a matter of right on behalf of:

4 (A) residential consumers, as a class, in any  
5 proceeding before the commission, including an alternative dispute  
6 resolution proceeding; and

7 (B) small commercial consumers, as a class, in  
8 any proceeding in which the counsellor determines that small  
9 commercial consumers are in need of representation, including an  
10 alternative dispute resolution proceeding;

11 (4) may initiate or intervene as a matter of right or  
12 otherwise appear in a judicial proceeding:

13 (A) that involves an action taken by an  
14 administrative agency in a proceeding, including an alternative  
15 dispute resolution proceeding, in which the counsellor is  
16 authorized to appear; or

17 (B) in which the counsellor determines that  
18 residential consumers or small commercial consumers are in need of  
19 representation;

20 (5) is entitled to the same access as a party, other  
21 than commission staff, to records gathered by the commission under  
22 Section 13.133;

23 (6) is entitled to discovery of any nonprivileged  
24 matter that is relevant to the subject matter of a proceeding or  
25 petition before the commission;

26 (7) may represent an individual residential or small  
27 commercial consumer with respect to the consumer's disputed

1 complaint concerning retail services that is unresolved before the  
2 commission; and

3 (8) may recommend legislation to the legislature that  
4 the office determines would positively affect the interests of  
5 residential and small commercial consumers.

6 (d) This section does not limit the authority of the  
7 commission to represent residential or small commercial consumers.

8 (e) The appearance of the counsellor in a proceeding does  
9 not preclude the appearance of other parties on behalf of  
10 residential or small commercial consumers. The counsellor may not  
11 be grouped with any other party.

12 SECTION 3. (a) Not later than January 1, 2010, the  
13 following are transferred from the Office of Public Interest  
14 Counsel to the Office of Public Utility Counsel:

15 (1) the powers, duties, functions, programs, and  
16 activities of the Office of Public Interest Counsel relating to  
17 water and sewer services regulated under Chapter 13, Water Code;

18 (2) all obligations and contracts of the Office of  
19 Public Interest Counsel that are related to a power, duty,  
20 function, program, or activity transferred under this subsection;

21 (3) all property and records in the custody of the  
22 Office of Public Interest Counsel that are related to a power, duty,  
23 function, program, or activity transferred under this subsection  
24 and all funds appropriated by the legislature for that power, duty,  
25 function, program, or activity; and

26 (4) out of amounts appropriated to the Texas  
27 Commission on Environmental Quality by the 81st Legislature,

1 Regular Session, 2009, that may be used in relation to a power,  
2 duty, function, program, or activity transferred under this  
3 subsection, the following amounts:

4 (A) \$80,847 for the state fiscal year ending  
5 August 31, 2010; and

6 (B) \$80,847 for the state fiscal year ending  
7 August 31, 2011.

8 (b) A rule or form adopted by the Office of Public Interest  
9 Counsel that relates to a power, duty, function, program, or  
10 activity transferred under Subsection (a) of this section is a rule  
11 or form of the Office of Public Utility Counsel and remains in  
12 effect until altered by the Office of Public Utility Counsel.

13 (c) A reference in law to the Office of Public Interest  
14 Counsel that relates to a power, duty, function, program, or  
15 activity transferred under Subsection (a) of this section means the  
16 Office of Public Utility Counsel.

17 SECTION 4. This Act takes effect September 1, 2009.