

By: Hilderbran

H.B. No. 3838

A BILL TO BE ENTITLED

AN ACT

relating to the powers and duties of the Office of Public Utility Counsel.

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

SECTION 1. The heading to Subchapter G, Chapter 5, Water Code, is amended to read as follows:

SUBCHAPTER G. OFFICE OF PUBLIC UTILITY [~~INTEREST~~] COUNSEL

SECTION 2. Section 5.271, Water Code, is amended to read as follows:

Sec. 5.271. [~~CREATION AND GENERAL~~] RESPONSIBILITY OF THE OFFICE OF PUBLIC UTILITY [~~INTEREST~~] COUNSEL. The office of public utility [~~interest~~] counsel shall [~~is created to~~] ensure that the commission promotes the public's interest and is responsive to environmental and citizens' concerns including environmental quality and consumer protection.

SECTION 3. The heading to Section 5.273, Water Code, is amended to read as follows:

Sec. 5.273. DUTIES OF THE PUBLIC UTILITY [~~INTEREST~~] COUNSEL.

SECTION 4. 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.

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

3        (c) The office:

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

7            (2) shall advocate in the office's own name a position  
8 determined by the counsellor to be most advantageous to a  
9 substantial number of residential consumers;

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

12            (A) residential consumers, as a class, in any  
13 proceeding before the commission, including an alternative dispute  
14 resolution proceeding; and

15            (B) small commercial consumers, as a class, in  
16 any proceeding in which the counsellor determines that small  
17 commercial consumers are in need of representation, including an  
18 alternative dispute resolution proceeding;

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

21            (A) that involves an action taken by an  
22 administrative agency in a proceeding, including an alternative  
23 dispute resolution proceeding, in which the counsellor is  
24 authorized to appear; or

25            (B) in which the counsellor determines that  
26 residential consumers or small commercial consumers are in need of  
27 representation;

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

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

7           (7) may represent an individual residential or small  
8 commercial consumer with respect to the consumer's disputed  
9 complaint concerning retail services that is unresolved before the  
10 commission; and

11           (8) may recommend legislation to the legislature that  
12 the office determines would positively affect the interests of  
13 residential and small commercial consumers.

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

16           (e) The appearance of the counsellor in a proceeding does  
17 not preclude the appearance of other parties on behalf of  
18 residential or small commercial consumers. The counsellor may not  
19 be grouped with any other party.

20           SECTION 5. Sections 5.272 and 5.274, Water Code, are  
21 repealed.

22           SECTION 6. (a) On January 1, 2010, the Office of Public  
23 Interest Counsel is abolished and the following are transferred to  
24 the Office of Public Utility Counsel:

25           (1) the powers, duties, functions, programs, and  
26 activities of the Office of Public Interest Counsel;

27           (2) all obligations and contracts of the Office of

1 Public Interest Counsel or the Texas Commission on Environmental  
2 Quality that are related to a power, duty, function, program, or  
3 activity transferred under this subsection;

4           (3) all property and records in the custody of the  
5 Office of Public Interest Counsel or the Texas Commission on  
6 Environmental Quality that are related to a power, duty, function,  
7 program, or activity transferred under this subsection; and

8           (4) out of amounts appropriated to the Texas  
9 Commission on Environmental Quality by the 81st Legislature,  
10 Regular Session, 2009, that may be used in relation to a power,  
11 duty, function, program, or activity transferred under this  
12 subsection, the following amounts:

13                   (A) \$488,157 for the state fiscal year ending  
14 August 31, 2010; and

15                   (B) \$482,957 for the state fiscal year ending  
16 August 31, 2011.

17           (b) A rule or form adopted by the Office of Public Interest  
18 Counsel or the Texas Commission on Environmental Quality that  
19 relates to a power, duty, function, program, or activity  
20 transferred under Subsection (a) of this section is a rule or form  
21 of the Office of Public Utility Counsel and remains in effect until  
22 altered by the Office of Public Utility Counsel.

23           (c) A reference in law to the Office of Public Interest  
24 Counsel means the Office of Public Utility Counsel.

25           SECTION 7. This Act takes effect September 1, 2009.