

BILL ANALYSIS

Senate Research Center
82R9642 RWG-F

C.S.S.B. 1097
By: Eltife et al.
Natural Resources
3/30/2011
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 1987, the Texas Legislature added Section 13.255 (Single Certification in Incorporated or Annexed Areas), Water Code, which authorizes a municipality to obtain the exclusive right to provide water and/or sewer service inside of newly annexed territory. To exercise this right, the municipality needs to give notice to the incumbent utility. If no agreement is reached between the municipality and the incumbent utility within 180 days of receiving notice, the municipality may file an application for single certification with the Texas Commission on Environmental Quality (TCEQ) and begin providing service. TCEQ is required to grant single certification. Along with single certification, the municipality may also request that property of the incumbent utility be transferred to the municipality. TCEQ is required to determine the value of any property rendered useless and valueless by the grant of single certification and to determine the value of the property requested to be transferred, including damages to property remaining with the incumbent utility after single certification. Appeals from TCEQ's determination are to the district court of Travis County.

The significant limitation to Section 13.255, Water Code, is that, outside of the City of Houston, the only incumbent utilities that may be displaced by a municipality are water and sewer supply corporations, special utility districts, and fresh water supply districts. Municipalities may not seek single certification in areas served by investor-owned utilities. This limitation is imposed in Section 13.255(j). Inside the City of Houston, any retail public utility, including investor-owned utilities may be displaced by the City of Houston.

The change contained in C.S.S.B. 1097 expands the scope of application of Section 13.255 (outside of Houston) to also include investor-owned utilities. The Texas Water Code does not use the term "investor-owned utility." Rather, the code uses the terms "public utility" or "water and sewer utility" to describe investor-owned utilities. To make the change, C.S.S.B. 1097 adds the term "water and sewer utility other than a cooperative corporation or affected county" to the list contained in Section 13.255(j).

C.S.S.B. 1097 amends current law relating to single certification in incorporated or annexed areas served by water or sewer utilities.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 13.255(j), Water Code, as follows:

(j) Requires that this section apply only in a case where the retail public utility that is authorized to serve in the certificated area that is annexed or incorporated by the municipality is a nonprofit water supply or sewer service corporation, a special utility district under Chapter 65 (Special Utility District), a fresh water supply district under Chapter 53 (Fresh Water Supply Districts), or a water and sewer utility other than a cooperative corporation or affected county. Makes nonsubstantive changes.

SECTION 2. Effective date: upon passage or September 1, 2011.