

By: Hilderbran

H.B. No. 3754

Substitute the following for H.B. No. 3754:

By: Cook

C.S.H.B. No. 3754

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, 2012, 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 82nd Legislature,

1 Regular Session, 2011, 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) \$_____ for the state fiscal year ending
5 August 31, 2012; and

6 (B) \$_____ for the state fiscal year ending
7 August 31, 2013.

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, 2011.