

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 26, 2011

TO: Honorable David Dewhurst, Lieutenant Governor, Senate

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: SB635 by Nichols (Relating to the authority of the Texas Commission on Environmental Quality.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would transfer responsibility for regulating water and wastewater rates and services from the Texas Commission on Environmental Quality (TCEQ) to the Public Utility Commission (PUC). The bill would require the PUC and TCEQ to enter into a memorandum of understanding to identify in detail the applicable powers and duties that are transferred and establish a plan for the execution of the transfer.

The bill would grant the OPUC the authority to represent the interests of residential and small commercial consumers in water and wastewater proceedings. The bill would require that the OPUC and the Office of Public Interest Counsel (OPIC) to enter into a memorandum of understanding to identify in detail the applicable powers and duties that are transferred and establish a plan for the execution of the transfer.

The bill would create an expedited process for certain landowners to be released from a certificate of convenience and necessity (CCN). The bill would allow the PUC's executive director to establish interim rates in rate cases under the PUC's original and appellate jurisdiction. Under current law, the TCEQ commissioners are the only agency representatives authorized to establish interim rates. Current law also allows a utility or water supply corporation to render retail water service without a Certificate of Convenience and Necessity (CCN) if the utility or water supply corporation has fewer than 15 potential connections. The bill would expand application of these exemptions to include sewer service.

The bill would authorize the PUC's Executive Director to approve contracts between retail public utilities designating areas to be served and customers to be served by those retail public utilities. In addition, the bill would eliminate hearing requirements for dissolution of an inactive district and provides direct authority for the PUC's Executive Director to dissolve an inactive district and issue the dissolution order. The bill would also remove the requirement that a hearing be held prior to conversion of a district to a municipal utility district. The bill further provides direct authority for the PUC's Executive Director to enter an order converting a district to a municipal utility district. The bill would also repeal provisions requiring the PUC to provide notice of a district dissolution hearing and establish a date for a district conversion hearing.

The bill would require that would prohibit the sale of antifreeze manufactured after January 1, 2013 that does not contain denatonium benzoate, with some exceptions.

Regarding the transfer provisions within the bill, based on the analysis of the Sunset Advisory Commission, PUC, TCEQ, the Office of the Attorney General, the State Office of Administrative Hearings, and OPUC it is assumed that duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources. This analysis assumes the transfer of \$1,468,435 each year and 20.0 FTEs from TCEQ to PUC to transfer the authority outlined in the bill. This analysis also assumes that 1.0 FTEs and \$80,847 each year would be transferred from

OPIIC to OPUC along with the authority to represent the interests of residential and small commercial customers provided by the bill. Finally, this analysis also assumes the transfer of \$260,000 each year to the PUC from TCEQ to cover the cost of the contract with the State Office of Administrative Hearings for water utility case hearings.

Other provisions of the bill are not expected to result in significant fiscal implications.

Local Government Impact

No significant fiscal implication to units of local government is anticipated. Any impact to local governments would likely be positive because the bill could reduce the time period for a local government waiting for an interim rate decision from the regulatory authority.

Source Agencies: 473 Public Utility Commission of Texas, 475 Office of Public Utility Counsel, 582 Commission on Environmental Quality, 116 Sunset Advisory Commission

LBB Staff: JOB, SZ, ZS, TL, KJG, MW, RAN, KKR