

## **BILL ANALYSIS**

Senate Research Center  
83R10369 JXC-D

S.B. 1612  
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Natural Resources  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, there are some municipalities across the state that have water service but do not have adequate fire suppression services. Typically, these situations occur because a water utility holds the certificate of convenience and necessity (CCN), which is exempt from providing fire protection under the requirements of rural water corporations.

However, some small municipalities that are also bedroom communities for major metropolitan areas can no longer be considered "rural" due to the intensity of development that is occurring. Currently, there is no way to ensure good service or a fair, equitable, and timely way to transition services to the municipality from the CCN holder in a manner that does not unfairly injure or cause harm to the citizens of an affected area.

S.B. 1612 amends current law to allow a municipality with a population of less than 50,000 and that has an area within the boundaries of the municipality that is certificated to an investor-owned utility that provides water and sewer service through 10,000 or more taps or connections inside and outside the municipality to provide water and sewer service to areas within the municipal boundaries without obtaining a certificate of public convenience and necessity.

As proposed, S.B. 1612 amends current law relating to the authority of certain municipalities to provide water and sewer service to areas within the municipal boundaries without obtaining a certificate of public convenience and necessity.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 3 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 13.247(a), Water Code, to prohibit a municipally owned or operated utility, except as provided by Section 13.2476 or 13.255 (Single Certification in Incorporated or Annexed Areas), from providing retail water and sewer utility service within the area certificated to another retail public utility without first having obtained from the Texas Commission on Environmental Quality (TCEQ) a certificate of public convenience and necessity that includes the areas to be served.

SECTION 2. Amends Subchapter G, Chapter 13, Water Code, by adding Section 13.2476, as follows:

Sec. 13.2476. CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE WATER AND SEWER SERVICE IN CERTAIN MUNICIPALITIES. (a) Provides that this section applies only to a municipality with a population of less than 50,000 and that has an area within the boundaries of the municipality that is certificated to an investor-owned utility that provides water and sewer service through 10,000 or more taps or connections inside and outside the municipality.

(b) Authorizes a municipality to provide water and sewer service to an area entirely within the municipality's boundaries without first having to obtain from

TCEQ a certificate of public convenience and necessity that includes the area to be served, regardless of whether the area to be served is certificated to a public utility.

(c) Requires the municipality, not less than 30 days before the municipality begins providing water or sewer service to an area certificated to a public utility, to provide notice to the utility and TCEQ of its intention to provide service to the area.

(d) Authorizes a public utility, on receipt of the notice required by Subsection (c), to petition TCEQ to decertify its certificate for the area to be served by the municipality or discontinue service to the area to be served by the municipality.

(e) Prohibits this section from being construed to limit the right of a public utility to provide service in an area certificated to the utility.

(f) Provides that this section does not expand a municipality's power of eminent domain under Chapter 21 (Eminent Domain), Property Code.

SECTION 3. Requires TCEQ, as soon as practicable after the effective date of this Act, to adopt rules and establish procedures relating to the notice required under Section 13.2476, Water Code, as added by this Act.

SECTION 4. Effective date: September 1, 2013.