

By: Geren

H.B. No. 1160

A BILL TO BE ENTITLED

AN ACT

relating to the transfer of a certificate of convenience and necessity in certain municipalities.

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

SECTION 1. Subchapter B, Chapter 552, Local Government Code, is amended by adding Section 552.024 to read as follows:

Sec. 552.024. TRANSFER OF CERTIFICATE OF CONVENIENCE AND NECESSITY IN CERTAIN MUNICIPALITIES. (a) This section applies to a municipality that:

(1) has a population of not more than 2,500;

(2) is located in a county that:

(A) has a population of 1.7 million or more; and

(B) has two municipalities with a population of 300,000 or more; and

(3) is served by a public utility that:

(A) provides service to the entire municipality;

and

(B) charges rates for 5,000 gallons of water for residential customers that are at least 50 percent higher than the rates charged by a municipally owned utility that serves another part of the county in which the municipality is located.

(b) Notwithstanding any other law, on application by a municipality described by Subsection (a), the agency with authority over certificates of convenience and necessity for water and sewer

1 service shall transfer at such time and under such circumstances as
2 specified by a trial court a certificate of convenience and
3 necessity for water and sewer service from a public utility to the
4 municipality for the public utility's service area located in the
5 municipality's corporate limits, if the municipality:

6 (1) has instituted a condemnation proceeding under
7 Chapter 21, Property Code, to acquire the property of the public
8 utility's water and sewer system in the municipality's corporate
9 limits; and

10 (2) will possess the financial, managerial, and
11 technical capability to provide continuous and adequate water and
12 sewer service to the area to the satisfaction of or in accordance
13 with the orders of a trial court at the time of transfer.

14 (c) The transfer of the certificate shall not be effective
15 unless:

16 (1) a judgment that transfers the real property of the
17 public utility to the municipality becomes final and is not subject
18 to further appeal; and

19 (2) the municipality has paid to the public utility
20 the fair market value compensation due, as set by agreement or as
21 ordered by a court judgment, for that taking of real property.

22 (d) This section does not expand, restrict, or otherwise
23 alter the law with regard to a municipality's right to exercise the
24 power of eminent domain under Chapter 21, Property Code.

25 SECTION 2. The changes in law made by this Act apply only to
26 a condemnation proceeding in which the petition is filed on or after
27 September 1, 2011. A condemnation proceeding in which the petition

1 is filed before September 1, 2011, is governed by the law in effect
2 on the date the petition was filed, and that law is continued in
3 effect for that purpose.

4 SECTION 3. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect September 1, 2013.