

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:

(1) a municipality that:

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

(B) is located in a county that:

(i) has a population of 1.7 million or more;

and

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

(C) is served by a public utility that:

(i) provides service to the entire municipality; and

(ii) 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; and

(2) a municipality:

(A) with a population of more than 95,000;

1           (B) located in a county that:

2                   (i) borders Lake Palestine; and

3                   (ii) has a population of more than 200,000;

4           (C) that owns and operates a utility that  
5 provides sewer service; and

6           (D) that has an area within the boundaries of the  
7 municipality that is certificated to another retail public utility  
8 that provides sewer service.

9           (b) Notwithstanding any other law, on application by a  
10 municipality described by Subsection (a), the agency with authority  
11 over certificates of convenience and necessity for water and sewer  
12 service shall transfer at such time and under such circumstances as  
13 specified by a trial court a certificate of convenience and  
14 necessity for water and sewer service from a public utility to the  
15 municipality for the public utility's service area located in the  
16 municipality's corporate limits, if the municipality:

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

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

25           (c) The transfer of the certificate shall not be effective  
26 unless:

27                   (1) a judgment that transfers the real property of the

1 public utility to the municipality becomes final and is not subject  
2 to further appeal; and

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

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

9 SECTION 2. Section 552.024, Local Government Code, as added  
10 by this Act, applies only to a condemnation proceeding in which the  
11 petition is filed on or after September 1, 2011. A condemnation  
12 proceeding in which the petition is filed before September 1, 2011,  
13 is governed by the law in effect on the date the petition was filed,  
14 and that law is continued in effect for that purpose.

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

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President of the Senate

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Speaker of the House

I certify that H.B. No. 1160 was passed by the House on April 24, 2013, by the following vote: Yeas 142, Nays 1, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 1160 on May 16, 2013, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 1160 on May 23, 2013, by the following vote: Yeas 139, Nays 1, 2 present, not voting.

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Chief Clerk of the House

H.B. No. 1160

I certify that H.B. No. 1160 was passed by the Senate, with amendments, on May 15, 2013, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 1160 on May 23, 2013, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor