

By: Eltife

S.B. No. 364

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the authority of certain municipalities to provide  
3 sewer service to areas within the municipal boundaries without  
4 obtaining a certificate of public convenience and necessity.

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

6 SECTION 1. Subsection (a), Section 13.247, Water Code, is  
7 amended to read as follows:

8 (a) If an area is within the boundaries of a municipality,  
9 all retail public utilities certified or entitled to certification  
10 under this chapter to provide service or operate facilities in that  
11 area may continue and extend service in its area of public  
12 convenience and necessity within the area pursuant to the rights  
13 granted by its certificate and this chapter, unless the  
14 municipality exercises its power of eminent domain to acquire the  
15 property of the retail public utility under Subsection (d). Except  
16 as provided by Section 13.2475 or 13.255, a municipally owned or  
17 operated utility may not provide retail water and sewer utility  
18 service within the area certificated to another retail public  
19 utility without first having obtained from the commission a  
20 certificate of public convenience and necessity that includes the  
21 areas to be served.

22 SECTION 2. Subchapter G, Chapter 13, Water Code, is amended  
23 by adding Section 13.2475 to read as follows:

24 Sec. 13.2475. CERTIFICATES OF PUBLIC CONVENIENCE AND

1 NECESSITY TO PROVIDE SEWER SERVICE IN CERTAIN MUNICIPALITIES. (a)

2 This section applies only to a municipality:

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

4 (2) located in a county that:

5 (A) borders Lake Palestine; and

6 (B) has a population of more than 200,000;

7 (3) that owns and operates a utility that provides  
8 sewer service; and

9 (4) that has an area within the boundaries of the  
10 municipality that is certificated to another retail public utility  
11 that provides sewer service.

12 (b) A municipality may provide sewer service to an area  
13 entirely within the municipality's boundaries without first having  
14 to obtain from the commission a certificate of public convenience  
15 and necessity that includes the area to be served, regardless of  
16 whether the area to be served is certificated to another retail  
17 public utility.

18 (c) Not less than 30 days before the municipality begins  
19 providing sewer service to an area certificated to another retail  
20 public utility, the municipality shall provide notice to the retail  
21 public utility and the commission of its intention to provide  
22 service to the area.

23 (d) On receipt of the notice required by Subsection (c), a  
24 retail public utility may:

25 (1) petition the commission to decertify its  
26 certificate for the area to be served by the municipality; or

27 (2) discontinue service to the area to be served by the

1 municipality, provided that there is no interruption of service to  
2 any customer.

3 (e) This section may not be construed to limit the right of a  
4 retail public utility to provide service in an area certificated to  
5 the retail public utility.

6 (f) This section does not expand a municipality's power of  
7 eminent domain under Chapter 21, Property Code.

8 SECTION 3. As soon as practicable after the effective date  
9 of this Act, the Texas Commission on Environmental Quality shall  
10 adopt rules and establish procedures relating to the notice  
11 required under Section 13.2475, Water Code, as added by this Act.

12 SECTION 4. This Act takes effect September 1, 2013.