

1-1 By: Eltife S.B. No. 364
 1-2 (In the Senate - Filed February 4, 2013; February 11, 2013,
 1-3 read first time and referred to Committee on Natural Resources;
 1-4 February 25, 2013, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 10, Nays 0;
 1-6 February 25, 2013, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			
1-19			X	

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 364 By: Eltife

1-21 A BILL TO BE ENTITLED
 1-22 AN ACT

1-23 relating to the authority of certain municipalities to provide
 1-24 sewer service to areas within the municipal boundaries without
 1-25 obtaining a certificate of public convenience and necessity.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 SECTION 1. Subsection (a), Section 13.247, Water Code, is
 1-28 amended to read as follows:

1-29 (a) If an area is within the boundaries of a municipality,
 1-30 all retail public utilities certified or entitled to certification
 1-31 under this chapter to provide service or operate facilities in that
 1-32 area may continue and extend service in its area of public
 1-33 convenience and necessity within the area pursuant to the rights
 1-34 granted by its certificate and this chapter, unless the
 1-35 municipality exercises its power of eminent domain to acquire the
 1-36 property of the retail public utility under Subsection (d). Except
 1-37 as provided by Section 13.2475 or 13.255, a municipally owned or
 1-38 operated utility may not provide retail water and sewer utility
 1-39 service within the area certificated to another retail public
 1-40 utility without first having obtained from the commission a
 1-41 certificate of public convenience and necessity that includes the
 1-42 areas to be served.

1-43 SECTION 2. Subchapter G, Chapter 13, Water Code, is amended
 1-44 by adding Section 13.2475 to read as follows:

1-45 Sec. 13.2475. CERTIFICATES OF PUBLIC CONVENIENCE AND
 1-46 NECESSITY TO PROVIDE SEWER SERVICE IN CERTAIN MUNICIPALITIES. (a)

1-47 This section applies only to a municipality:

1-48 (1) with a population of more than 95,000;

1-49 (2) located in a county that:

1-50 (A) borders Lake Palestine; and

1-51 (B) has a population of more than 200,000;

1-52 (3) that owns and operates a utility that provides
 1-53 sewer service; and

1-54 (4) that has an area within the boundaries of the
 1-55 municipality that is certificated to another retail public utility
 1-56 that provides sewer service.

1-57 (b) A municipality may provide sewer service to an area
 1-58 entirely within the municipality's boundaries without first having
 1-59 to obtain from the commission a certificate of public convenience
 1-60 and necessity that includes the area to be served, regardless of

2-1 whether the area to be served is certificated to another retail
2-2 public utility.

2-3 (c) Not less than 30 days before the municipality begins
2-4 providing sewer service to an area certificated to another retail
2-5 public utility, the municipality shall provide notice to the retail
2-6 public utility and the commission of its intention to provide
2-7 service to the area.

2-8 (d) On receipt of the notice required by Subsection (c), a
2-9 retail public utility may:

2-10 (1) petition the commission to decertify its
2-11 certificate for the area to be served by the municipality; or

2-12 (2) discontinue service to the area to be served by the
2-13 municipality, provided that there is no interruption of service to
2-14 any customer.

2-15 (e) This section may not be construed to limit the right of a
2-16 retail public utility to provide service in an area certificated to
2-17 the retail public utility.

2-18 (f) This section does not expand a municipality's power of
2-19 eminent domain under Chapter 21, Property Code.

2-20 SECTION 3. As soon as practicable after the effective date
2-21 of this Act, the Texas Commission on Environmental Quality shall
2-22 adopt rules and establish procedures relating to the notice
2-23 required under Section 13.2475, Water Code, as added by this Act.

2-24 SECTION 4. This Act takes effect September 1, 2013.

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