

By: Zaffirini

S.B. No. 1612

A BILL TO BE ENTITLED

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

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

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

9 (a) If an area is within the boundaries of a municipality,
10 all retail public utilities certified or entitled to certification
11 under this chapter to provide service or operate facilities in that
12 area may continue and extend service in its area of public
13 convenience and necessity within the area pursuant to the rights
14 granted by its certificate and this chapter, unless the
15 municipality exercises its power of eminent domain to acquire the
16 property of the retail public utility under Subsection (d). Except
17 as provided by Section 13.2476 or 13.255, a municipally owned or
18 operated utility may not provide retail water and sewer utility
19 service within the area certificated to another retail public
20 utility without first having obtained from the commission a
21 certificate of public convenience and necessity that includes the
22 areas to be served.

23 SECTION 2. Subchapter G, Chapter 13, Water Code, is amended
24 by adding Section 13.2476 to read as follows:

1 Sec. 13.2476. CERTIFICATES OF PUBLIC CONVENIENCE AND
2 NECESSITY TO PROVIDE WATER AND SEWER SERVICE IN CERTAIN
3 MUNICIPALITIES. (a) This section applies only to a municipality:

4 (1) with a population of less than 50,000; and
5 (2) that has an area within the boundaries of the
6 municipality that is certificated to an investor-owned utility that
7 provides water and sewer service through 10,000 or more taps or
8 connections inside and outside the municipality.

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

15 (c) Not less than 30 days before the municipality begins
16 providing water or sewer service to an area certificated to a public
17 utility, the municipality shall provide notice to the utility and
18 the commission of its intention to provide service to the area.

19 (d) On receipt of the notice required by Subsection (c), a
20 public utility may:

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

23 (2) discontinue service to the area to be served by the
24 municipality.

25 (e) This section may not be construed to limit the right of a
26 public utility to provide service in an area certificated to the
27 utility.

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

3 SECTION 3. As soon as practicable after the effective date
4 of this Act, the Texas Commission on Environmental Quality shall
5 adopt rules and establish procedures relating to the notice
6 required under Section 13.2476, Water Code, as added by this Act.

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