

# SENATE AMENDMENTS

## 2<sup>nd</sup> Printing

By: Geren

H.B. No. 1160

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the transfer of a certificate of convenience and  
3 necessity in certain municipalities.

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

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

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

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

11 (2) is located in a county that:

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

13 (B) has two municipalities with a population of  
14 300,000 or more; and

15 (3) is served by a public utility that:

16 (A) provides service to the entire municipality;

17 and

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

22 (b) Notwithstanding any other law, on application by a  
23 municipality described by Subsection (a), the agency with authority  
24 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.



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. Section 13.247(a), Water Code, is amended to  
26 read as follows:

27 (a) If an area is within the boundaries of a municipality,

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

14 SECTION 3. Subchapter G, Chapter 13, Water Code, is amended  
15 by adding Section 13.2475 to read as follows:

16 Sec. 13.2475. CERTIFICATES OF PUBLIC CONVENIENCE AND  
17 NECESSITY TO PROVIDE SEWER SERVICE IN CERTAIN MUNICIPALITIES. (a)

18 This section applies only to a municipality:

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

20 (2) located in a county that:

21 (A) borders Lake Palestine; and

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

23 (3) that owns and operates a utility that provides  
24 sewer service; and

25 (4) that has an area within the boundaries of the  
26 municipality that is certificated to another retail public utility  
27 that provides sewer service.

1           (b) A municipality may provide sewer service to an area  
2 entirely within the municipality's boundaries without first having  
3 to obtain from the commission a certificate of public convenience  
4 and necessity that includes the area to be served, regardless of  
5 whether the area to be served is certificated to another retail  
6 public utility.

7           SECTION 4. Section 552.024, Local Government Code, as added  
8 by this Act, applies only to a condemnation proceeding in which the  
9 petition is filed on or after September 1, 2011. A condemnation  
10 proceeding in which the petition is filed before September 1, 2011,  
11 is governed by the law in effect on the date the petition was filed,  
12 and that law is continued in effect for that purpose.

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

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**May 15, 2013**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** **HB1160** by Geren (Relating to the transfer of a certificate of convenience and necessity in certain municipalities.), **As Passed 2nd House**

**No fiscal implication to the State is anticipated.**

**Local Government Impact**

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

**Source Agencies:**

**LBB Staff:** UP, SD, SZ, TP, AG



**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**May 7, 2013**

**TO:** Honorable Troy Fraser, Chair, Senate Committee on Natural Resources

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1160** by Geren (Relating to the transfer of a certificate of convenience and necessity in certain municipalities.), **Committee Report 2nd House, Substituted**

<b>No fiscal implication to the State is anticipated.</b>
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**Local Government Impact**

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

**Source Agencies:**

**LBB Staff:** UP, SZ, TP, AG

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**May 2, 2013**

**TO:** Honorable Troy Fraser, Chair, Senate Committee on Natural Resources

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1160** by Geren (Relating to the transfer of a certificate of convenience and necessity in certain municipalities.), **As Engrossed**

<b>No fiscal implication to the State is anticipated.</b>
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**Local Government Impact**

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

**Source Agencies:**

**LBB Staff:** UP, SZ, TP, AG

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**March 4, 2013**

**TO:** Honorable Byron Cook, Chair, House Committee On State Affairs

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1160** by Geren (Relating to the transfer of a certificate of convenience and necessity in certain municipalities.), **As Introduced**

<b>No fiscal implication to the State is anticipated.</b>
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**Local Government Impact**

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

**Source Agencies:**

**LBB Staff:** UP, AG, TP