

## **BILL ANALYSIS**

C.S.H.B. 1279  
By: Schaefer  
Urban Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties have expressed concerns over certain municipalities, such as the City of Tyler, annexing areas for which sewer service is provided by a lone certificated provider that results in the residents of the area paying taxes to the city but having no choice in regards to purchasing sewer service from the city. The parties cite the City of Tyler example as a case in which the city is willing to provide the services but unable to obtain dual certification to serve the area within the city. C.S.H.B. 1279 seeks to address this issue.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 1279 amends the Water Code to authorize certain municipalities to provide sewer service to an area entirely within the municipality's boundaries without first having to obtain from the Public Utility Commission of Texas (PUC) a certificate of public convenience and necessity that includes the area to be served, regardless of whether the area to be served is certificated to another retail public utility. The bill limits the applicability of its provisions to a municipality with a population of more than 95,000, that owns and operates a utility that provides sewer service, that has an area within the boundaries of the municipality that is certificated to another retail public utility that provides sewer service, and that is located in a county that borders Lake Palestine and has a population of more than 200,000.

C.S.H.B. 1279 requires the municipality, not less than 30 days before beginning to provide sewer service to an area certificated to another retail public utility, to provide notice to the retail public utility and the PUC of its intention to provide service to the area. The bill authorizes a retail public utility, on receipt of the notice, to petition the PUC to decertify its certificate for the area to be served by the municipality or to discontinue service to the area to be served by the municipality, provided there is no interruption of service to any customer.

C.S.H.B. 1279 establishes that its provisions may not be construed to limit the right of a retail public utility to provide service in an area certificated to the retail public utility and do not expand a municipality's power of eminent domain. The bill requires the PUC, as soon as practicable after the bill's effective date, to adopt rules and establish procedures relating to the notice required by the bill's provisions.

**EFFECTIVE DATE**

September 1, 2015.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1279 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

**INTRODUCED**

**HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Section 13.247(a), Water Code, is amended.

SECTION 1. Same as introduced version.

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

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Sec. 13.2475. CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE SEWER SERVICE IN CERTAIN MUNICIPALITIES.

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(a) This section applies only to a municipality:

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- (1) with a population of more than 95,000;
- (2) located in a county that:
  - (A) borders Lake Palestine; and
  - (B) has a population of more than 200,000;
- (3) that owns and operates a utility that provides sewer service; and
- (4) that has an area within the boundaries of the municipality that is certificated to another retail public utility that provides sewer service.

- (1) with a population of more than 95,000;
- (2) located in a county that:
  - (A) borders Lake Palestine; and
  - (B) has a population of more than 200,000;
- (3) that owns and operates a utility that provides sewer service; and
- (4) that has an area within the boundaries of the municipality that is certificated to another retail public utility that provides sewer service.

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

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

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

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

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

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

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

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

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

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

SECTION 4. This Act takes effect September 1, 2015.

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

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

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

SECTION 3. As soon as practicable after the effective date of this Act, the Public Utility Commission of Texas shall adopt rules and establish procedures relating to the notice required under Section 13.2475, Water Code, as added by this Act.

SECTION 4. Same as introduced version.