

By: Walle

H.B. No. 2284

A BILL TO BE ENTITLED

AN ACT

relating to the revocation of certain water utilities' certificate of public convenience and necessity for major rules violations.

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

SECTION 1. Subchapter G, Chapter 13, Water Code, is amended by adding Section 13.2541 to read as follows:

Sec. 13.2541. REVOCATION OF CERTIFICATE FOR CERTAIN MAJOR VIOLATORS. (a) Utility commission staff shall file a petition to revoke an investor-owned water utility's certificate of public convenience and necessity if the staff has reason to believe:

(1) the utility has committed repeated or continuous major violations of one or more commission rules related to safe drinking water for at least six years before the petition is filed;

(2) none of the owners of the utility have borrowed money from a federally insured lending institution to use to remedy a violation of one or more commission rules related to safe drinking water;

(3) the utility serves more than 1,000 connections but is made up of less than five public water systems;

(4) the utility does not serve customers who are located in a municipality; and

(5) the utility is located in a county with a population of more than four million.

(b) If, after notice and hearing, the utility commission

1 finds that the facts alleged in the petition are true, the utility
2 commission may revoke the investor-owned water utility's
3 certificate on or before the 90th day after the date the petition is
4 filed.

5 (c) At the time the utility commission revokes the
6 certificate it shall appoint a temporary manager and temporarily
7 transfer the certificate to the temporary manager. On accepting
8 the transfer, the temporary manager has all the powers necessary to
9 operate and manage the utility until the utility commission
10 certifies another retail public utility.

11 (d) Not more than 12 months after the date the utility
12 commission appoints a temporary manager under Subsection (c), the
13 utility commission shall offer at auction any property that the
14 utility commission determines is rendered useless or valueless to
15 the decertified investor-owned water utility as a result of the
16 decertification.

17 (e) Any person, including public and private water
18 utilities and the temporary manager appointed under Subsection (c),
19 may apply for approval to bid on the decertified utility's assets
20 and property. The utility commission shall review each application
21 and approve applicants that it determines have the financial,
22 managerial, and technical ability to provide safe, adequate, and
23 continuous water service to the decertified utility's customers.
24 Only approved applicants may bid in the auction. The utility
25 commission shall request proposals from all approved bidders.

26 (f) Before the auction, the utility commission and the
27 temporary manager shall:

1 (1) make the books and records of the decertified
2 utility available to all approved bidders; and

3 (2) provide an opportunity for all approved bidders to
4 inspect the decertified utility's assets and property.

5 (g) Each bid must:

6 (1) estimate the rates the bidder would charge for
7 service during the first five years following the date of the sale;
8 and

9 (2) agree that the bidder, if the bidder purchases the
10 assets and property, will consider making improvements to remedy
11 and prevent damages from previous violations of commission rules
12 related to safe drinking water before the third anniversary of the
13 purchase date.

14 (h) The utility commission shall select the bidder that has
15 the best plan to remedy previous violations of commission rules, as
16 determined by the utility commission, and, on completion of the
17 sale to the selected bidder and payment to the decertified utility,
18 transfer the certificate of public convenience and necessity from
19 the temporary manager to the selected bidder.

20 (i) This section expires December 31, 2019.

21 SECTION 2. This Act takes effect September 1, 2015.