

By: Isaac

H.B. No. 2959

Substitute the following for H.B. No. 2959:

By: Larson

C.S.H.B. No. 2959

A BILL TO BE ENTITLED

AN ACT

relating to the provision of wholesale water and wastewater service to certain municipalities.

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

SECTION 1. Subchapter D, Chapter 13, Water Code, is amended by adding Section 13.088 to read as follows:

Sec. 13.088. MUNICIPAL WHOLESAL SERVICE IN CERTAIN COUNTIES. (a) This section applies only to:

(1) a home-rule municipality primarily located in a county with a population of more than one million; and

(2) a general-law municipality with a population of less than 301 located in a county with a population of more than 150,000.

(b) A municipally owned utility of a home-rule municipality shall provide wholesale water and wastewater service to a general-law municipality, in the corporate boundaries or the extraterritorial jurisdiction of the general-law municipality, on the request of the general-law municipality, at the level of service requested by the general-law municipality, if:

(1) the extraterritorial jurisdiction of the home-rule municipality borders the extraterritorial jurisdiction of the general-law municipality;

(2) the general-law municipality possesses a certificate of public convenience and necessity;

1           (3) a regulated aquifer is the sole water supply for  
2 the general-law municipality at the time the request is made and  
3 while the service is provided;

4           (4) a groundwater conservation district with  
5 jurisdiction over the aquifer has determined that the aquifer has  
6 limited capacity and experiences frequent droughts; and

7           (5) at least 50 percent of the territory of the  
8 general-law municipality, including territory in the  
9 municipality's corporate boundaries and extraterritorial  
10 jurisdiction, is located in a recharge zone of the aquifer  
11 described by Subdivision (3) and the groundwater conservation  
12 district described by Subdivision (4) has determined that the  
13 recharge zone is environmentally sensitive.

14           (c) A general-law municipality that makes a request and  
15 receives wholesale water and wastewater service under this section  
16 is responsible for:

17           (1) paying the general-law municipality's pro rata  
18 share of all reasonable design, construction, and related costs and  
19 fees associated with constructing new facilities or extending,  
20 improving, or expanding existing facilities required for providing  
21 the service, not including costs for oversizing the facilities  
22 beyond the needs of the general-law municipality;

23           (2) all costs associated with the design and  
24 construction of facilities required for providing the service  
25 located in the corporate boundaries or extraterritorial  
26 jurisdiction of the general-law municipality; and

27           (3) design, construction, and related activities for

1 facilities required for providing the service that are to be  
2 located in the home-rule municipality's corporate boundaries or  
3 extraterritorial jurisdiction, in accordance with the design  
4 criteria, standards, specifications, and procedures of the  
5 municipally owned utility.

6 (d) A home-rule municipality that provides wholesale water  
7 and wastewater service through its municipally owned utility under  
8 this section may not own, operate, or maintain facilities used to  
9 provide the service located in the general-law municipality that  
10 receives the service.

11 (e) A general-law municipality that makes a request shall  
12 enter into a wholesale water and wastewater service agreement with  
13 the municipally owned utility under the utility's standard terms  
14 and conditions applicable for wholesale water and wastewater  
15 service. The wholesale service agreement must be executed:

16 (1) before the initiation of preliminary engineering,  
17 design, and construction, extensions, improvements, or expansions  
18 of infrastructure necessary for wholesale services; and

19 (2) not later than the 180th day after the date the  
20 request is submitted.

21 (f) After execution of the wholesale service agreement, the  
22 home-rule municipality or the municipally owned utility may not  
23 contest an application related to water or wastewater submitted to  
24 the commission or the utility commission by the general-law  
25 municipality.

26 (g) A municipally owned utility that receives a request  
27 under this section:

1           (1) may request that the utility commission determine  
2 whether the general-law municipality meets the requirements of  
3 Subsection (b);

4           (2) may not recover through the municipally owned  
5 utility's wholesale rates for the general-law municipality design,  
6 construction, and related costs and fees associated with  
7 constructing new facilities or extending, improving, or expanding  
8 existing facilities required for the service that have been paid by  
9 the general-law municipality and conveyed to the home-rule  
10 municipality for ownership, operation, and maintenance; and

11           (3) may recover through the municipally owned  
12 utility's wholesale rates for the general-law municipality any  
13 costs related to the maintenance of infrastructure described in  
14 Subdivision (2), in addition to the utility's other costs of  
15 service as approved by the home-rule municipality.

16           SECTION 2. This Act takes effect immediately if it receives  
17 a vote of two-thirds of all the members elected to each house, as  
18 provided by Section 39, Article III, Texas Constitution. If this  
19 Act does not receive the vote necessary for immediate effect, this  
20 Act takes effect September 1, 2017.