

BILL ANALYSIS

Senate Research Center

S.B. 2460
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

As communities are continuing to expand in rural areas, local governments find themselves tasked with approving transmission and distribution infrastructure projects to bring electricity to the new communities.

There is a lengthy process involved in the planning of infrastructure buildout that includes holding public meetings, working with property owners, and going through the approval process with the Public Utility Commission.

However, in some cases, even after this lengthy approval process, local governments impose numerous additional requirements that delay the construction of these projects.

S.B. 2460 would require municipalities to respond within 90 days to an electric utility that has submitted a request for an infrastructure project. If the proposed plan that was submitted is not agreeable to the municipality, the municipality would be required to notify the electric utility of the conditions required to satisfy the requirements within the 90-day timeframe. If the municipality does not respond, the electric utility may exercise its statutory authority to proceed with the project if the project meets all state statutory and regulatory requirements.

S.B. 2460 provides needed structure to a process that can vary greatly between municipalities and adds unnecessary costs to the electric utility, but ultimately to consumers.

As proposed, S.B. 2460 amends current law relating to the right of an electric cooperative to construct, maintain, and operate facilities.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 41.005, Utilities Code, as follows:

Sec. 41.005. LIMITATION ON MUNICIPAL AUTHORITY. Prohibits a municipality, notwithstanding any other provision of Title 2 (Public Utility Regulatory Act), from directly or indirectly regulating the rates, operations, and services, as that term is defined under Section 11.003 (Definitions), Utilities Code, including transmission services, as that term is defined under Section 31.002 (Definitions), Utilities Code, of an electric cooperative, except that, with respect to operations, a municipality is authorized to impose conditions reasonably necessary, rather than to the extent necessary, to protect the public health, safety, or welfare.

SECTION 2. Amends Section 31.002(20), Utilities Code, to redefine "transmission service."

SECTION 3. Amends Section 37.052, Utilities Code, by adding Subsection (d), as follows:

(d) Requires a municipality, if an electric utility requests consent under Subsection (c)(2) (relating to providing that an electric utility is not required to amend the utility's certificate of public convenience and necessity to construct a transmission line that connects the utility's existing transmission facilities to a substation or metering point if written consent is obtained from affected landowners) from the municipality, to grant or deny such request within 90 days of the electric utility's request for consent. Provides that the electric utility is presumed to have been granted such consent if the municipality fails to grant or deny consent within 90 days of the electric utility's consent.

SECTION 4. Amends Section 181.041(1), Utilities Code, to redefine "electric utility."

SECTION 5. Amends Section 161.125, Utilities Code, as follows:

Sec. 161.125. New heading: EMINENT DOMAIN AND AUTHORITY TO CONSTRUCT, MAINTAIN, AND OPERATE FACILITIES. (a) Creates this subsection from existing text.

(b) Provides that an electric cooperative has the right to construct, maintain, and operate facilities over, under, across, on, or along state property or property of a political subdivision in this state.

(1) Authorizes an electric cooperative to exercise this authority subject to reasonable conditions of the relevant state agency or governing body of the political subdivision necessary to protect the public health, safety, or welfare.

(2) Requires that any such conditions be issued by the relevant state agency or governing body of the political subdivision within 90 days of notice by the electric cooperative.

(3) Requires the electric cooperative to be authorized to proceed with the construction, maintenance, and operation of the facilities by the earlier of:

(A) the date the conditions issued under Subsection (b)(2) are satisfied; or

(B) a date that is not later than 120 days after any such conditions under Subsection (b)(2) are issued by the relevant state agency or governing body of the political subdivision.

(4) Requires an electric cooperative exercising this right to be subject to the requirements applicable to electric utilities under Sections 181.044 (Notice to State or County), 181.045 (Standards for Construction, Operation, and Maintenance of Lines), and 181.046 (Relocation of Line to Allow Road or Ditch Improvement), Utilities Code.

SECTION 6. Effective date: September 1, 2023.