

BILL ANALYSIS

Senate Research Center
89R5270 ANG-F

S.B. 565
By: Perry
Water, Agriculture and Rural Affairs
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 565 implements a recommendation made in the interim report of the Senate Committee on Water, Agriculture, and Rural Affairs to the 89th Texas Legislature that was requested by the South Plains Water Supply Corporation and the Water Finance Exchange during invited testimony before the committee in September 2024.

Small system consolidation is frequently the best available option to rehabilitate badly distressed, small, most often rural water systems. Small systems with a few dozen or so connections and a small number of ratepayers often cannot afford the repairs they need to remain in service. Ordinarily, water systems finance their maintenance and repair needs via increased rates. For large utilities, spreading the cost of the repairs over a large base of ratepayers results in smaller, more affordable rate increases. But for small systems, the cost of repairs is oftentimes totally untenable to the small number of ratepayers who would bear it. Consolidating those small systems into larger systems that can spread the cost of repairs across the larger rate base is most often the most affordable solution practicable, and several examples of successful consolidations yielding benefits to the affected customers have accrued across the state in recent years.

Unfortunately, those smaller systems are often also out of compliance with drinking and clean water standards promulgated by the Texas Commission on Environmental Quality (TCEQ), disincentivizing larger systems from taking over and integrating those small systems. The 88th Legislature passed H.B. 3232 to provide safe harbor protections for those larger systems by allowing TCEQ the option to suspend enforcement activities related to the noncompliance of the consolidated, smaller systems via an agreement with the applicable larger system long enough for the larger system to get the involved infrastructure into compliance. H.B. 3232 passed the House 136 to 8 and the Senate unanimously.

Following passage of H.B. 3232, stakeholders expressed concern that some of those larger systems feel the ambiguity of the term "regional service" as used in H.B. 3232 left open the door that not all types of larger systems would be eligible for the safe harbor agreement with TCEQ. S.B. 565 is intended to clarify that any kind of retail public utility can enter into the agreement.

Additional background information is available at pgs. 28-31 and 48-50 of the interim report.

As proposed, S.B. 565 amends current law relating to a compliance agreement for the suspension of an enforcement action against a regional water supply, sewer, wastewater treatment, or solid waste disposal service for certain violations.

[Note: While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

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 Sections 7.0026(b) and (c), Water Code, as follows:

(b) Authorizes the Texas Natural Resource Conservation Commission (TNRCC), if a water supply, sewer, wastewater treatment, or solid waste disposal service operated by or for a municipality, county, regional service area, or unincorporated service area is being integrated into a regional water supply, sewer, wastewater treatment, or solid waste disposal service administered by another entity, including a retail public utility, to enter into a compliance agreement with the regional service under which TNRCC will not initiate an enforcement action against the regional service for existing or anticipated violations resulting from the operation by the regional service of the service being integrated. Makes a nonsubstantive change.

(c) Authorizes TNRCC, if a water supply, sewer, or wastewater treatment service operated by a retail public utility, other than a municipality or county, is being integrated into a regional water supply, sewer, or wastewater treatment service administered by another entity, including a separate retail public utility, to enter into a compliance agreement with the regional service under which TNRCC will not initiate an enforcement action against the regional service for existing or anticipated violations resulting from the operation by the regional service of the service being integrated.

SECTION 2. Effective date: September 1, 2025.