

1-1 By: Wentworth S.B. No. 2099
1-2 (In the Senate - Filed March 13, 2009; March 31, 2009, read
1-3 first time and referred to Committee on Intergovernmental
1-4 Relations; April 23, 2009, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;
1-6 April 23, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 2099 By: Wentworth

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to a requirement to provide sufficient water pressure for
1-11 fire suppression in certain special utility districts.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subsection (a), Section 13.254, Water Code, is
1-14 amended to read as follows:

1-15 (a) The commission at any time after notice and hearing may,
1-16 on its own motion or on receipt of a petition described by
1-17 Subsection (a-1), revoke or amend any certificate of public
1-18 convenience and necessity with the written consent of the
1-19 certificate holder or if it finds that:

1-20 (1) the certificate holder has never provided, is no
1-21 longer providing, is incapable of providing, or has failed to
1-22 provide continuous and adequate service in the area, or part of the
1-23 area, covered by the certificate;

1-24 (2) in an affected county as defined in Section
1-25 16.341, the cost of providing service by the certificate holder is
1-26 so prohibitively expensive as to constitute denial of service,
1-27 provided that, for commercial developments or for residential
1-28 developments started after September 1, 1997, in an affected county
1-29 as defined in Section 16.341, the fact that the cost of obtaining
1-30 service from the currently certificated retail public utility makes
1-31 the development economically unfeasible does not render such cost
1-32 prohibitively expensive in the absence of other relevant factors;

1-33 (3) the certificate holder has agreed in writing to
1-34 allow another retail public utility to provide service within its
1-35 service area, except for an interim period, without amending its
1-36 certificate; ~~or~~

1-37 (4) the certificate holder has failed to file a cease
1-38 and desist action pursuant to Section 13.252 within 180 days of the
1-39 date that it became aware that another retail public utility was
1-40 providing service within its service area, unless the certificate
1-41 holder demonstrates good cause for its failure to file such action
1-42 within the 180 days; or

1-43 (5) the certificate holder has failed to comply with
1-44 Section 65.301.

1-45 SECTION 2. Subchapter E, Chapter 65, Water Code, is amended
1-46 by adding Section 65.301 to read as follows:

1-47 Sec. 65.301. WATER PRESSURE ADEQUATE FOR FIRE SUPPRESSION.

1-48 (a) This section applies only to a district whose territory
1-49 includes land in the corporate limits or extraterritorial
1-50 jurisdiction of a municipality with a population of more than
1-51 10,000, and only to the district's system serving land in the
1-52 corporate limits or extraterritorial jurisdiction of a
1-53 municipality.

1-54 (b) A district shall maintain and make available for fire
1-55 suppression a system that, when tested according to procedures
1-56 prescribed by commission rules, complies with the fire-flow
1-57 requirements of the latest edition of the International Fire Code.

1-58 (c) The commission shall revoke a district's certificate of
1-59 convenience and necessity under Section 13.254(a) on finding that
1-60 the district is in violation of this section.

1-61 SECTION 3. The Texas Commission on Environmental Quality
1-62 shall adopt rules as necessary to implement and enforce Section
1-63 65.301, Water Code, as added by this Act, as soon as practicable.

2-1 SECTION 4. This Act takes effect September 1, 2009.

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