

House Bill 1160
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Subchapter B, Chapter 552, Local Government Code, is amended by adding Section 552.024 to read as follows:

Sec. 552.024. TRANSFER OF CERTIFICATE OF CONVENIENCE AND NECESSITY IN CERTAIN MUNICIPALITIES. (a) This section applies to a municipality that:

(1) has a population of not more than 2,500;

(2) is located in a county that:

(A) has a population of 1.7 million or more; and

(B) has two municipalities with a population of 300,000 or more; and

(3) is served by a public utility that:

(A) provides service to the entire municipality; and

(B) charges rates for 5,000 gallons of water for residential customers that are at least 50 percent higher than the rates charged by a municipally owned utility that serves another part of the county in which the municipality is located.

(b) Notwithstanding any other law, on application by a municipality described by Subsection (a), the agency with authority over certificates of convenience and necessity for water and sewer service shall transfer at such time and under such circumstances as specified by a trial court a certificate of convenience and necessity for water and sewer service from a public utility to the municipality for the public utility's service area located in the municipality's corporate limits, if the municipality:

(1) has instituted a condemnation proceeding under Chapter 21, Property Code, to acquire the property of the public utility's water and sewer system in the municipality's corporate limits; and

(2) will possess the financial, managerial, and technical capability to provide continuous and adequate water and

SENATE VERSION (CS)

SECTION 1. Same as House version.

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sewer service to the area to the satisfaction of or in accordance with the orders of a trial court at the time of transfer.
(c) The transfer of the certificate shall not be effective unless:
(1) a judgment that transfers the real property of the public utility to the municipality becomes final and is not subject to further appeal; and
(2) the municipality has paid to the public utility the fair market value compensation due, as set by agreement or as ordered by a court judgment, for that taking of real property.
(d) This section does not expand, restrict, or otherwise alter the law with regard to a municipality's right to exercise the power of eminent domain under Chapter 21, Property Code.

No equivalent provision.

SECTION 2. Section 13.247(a), Water Code, is amended to read as follows:
(a) If an area is within the boundaries of a municipality, all retail public utilities certified or entitled to certification under this chapter to provide service or operate facilities in that area may continue and extend service in its area of public convenience and necessity within the area pursuant to the rights granted by its certificate and this chapter, unless the municipality exercises its power of eminent domain to acquire the property of the retail public utility under Subsection (d). Except as provided by Section 13.2475 or 13.255, a municipally owned or operated utility may not provide retail water and sewer utility service within the area certificated to another retail public utility without first having obtained from the commission a certificate of public convenience and necessity that includes the areas to be served.

No equivalent provision.

SECTION 3. Subchapter G, Chapter 13, Water Code, is amended by adding Section 13.2475 to read as follows:
Sec. 13.2475. CERTIFICATES OF PUBLIC

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CONVENIENCE AND NECESSITY TO PROVIDE SEWER SERVICE IN CERTAIN MUNICIPALITIES. (a) This section applies only to a municipality:
(1) with a population of more than 95,000;
(2) located in a county that:
(A) borders Lake Palestine; and
(B) has a population of more than 200,000;
(3) that owns and operates a utility that provides sewer service; and
(4) that has an area within the boundaries of the municipality that is certificated to another retail public utility that provides sewer service.
(b) A municipality may provide sewer service to an area entirely within the municipality's boundaries without first having to obtain from the commission a certificate of public convenience and necessity that includes the area to be served, regardless of whether the area to be served is certificated to another retail public utility.

SECTION 2. The changes in law made by this Act apply only to a condemnation proceeding in which the petition is filed on or after September 1, 2011. A condemnation proceeding in which the petition is filed before September 1, 2011, is governed by the law in effect on the date the petition was filed, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

SECTION 4. Section 552.024, Local Government Code, as added by this Act, applies only to a condemnation proceeding in which the petition is filed on or after September 1, 2011. A condemnation proceeding in which the petition is filed before September 1, 2011, is governed by the law in effect on the date the petition was filed, and that law is continued in effect for that purpose.

SECTION 5. Same as House version.