

BILL ANALYSIS

Senate Research Center
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S.B. 789
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Agriculture, Water & Rural Affairs
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, residents within a municipality may be served by different sewer utilities. The citizens of the municipality may be receiving varying levels of service while paying different rates for sewer service.

S.B. 789 relates to certain municipalities that own and operate a sewer utility, and have an area within municipal boundaries certificated to another retail public utility to provide sewer service. If a municipality wishes to provide sewer service to an area entirely within its boundaries it will be required to notify the retail public utility and the Texas Commission on Environmental Quality. The existing retail public utility will maintain all its legal rights to continue to provide service in the area. The goal of S.B. 789 is to provide all residents within a municipality consistent sewer service and rates.

As proposed, S.B. 789 amends current law relating to the authority of certain municipalities to provide sewer service to areas within the municipal boundaries without obtaining a certificate of public convenience and necessity.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 3 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 13.247(a), Water Code, to prohibit a municipally owned or operated utility, except as provided by Section 13.2475 or 13.255 (Single Certification in Incorporated or Annexed Areas), from providing retail water and sewer utility service within the area certificated to another retail public utility without first having obtained from the utility commission a certificate of public convenience and necessity that includes the areas to be served.

SECTION 2. Amends Subchapter G, Chapter 13, Water Code, by adding Section 13.2475, as follows:

Sec. 13.2475. CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE SEWER SERVICE IN CERTAIN MUNICIPALITIES. (a) Provides that 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) Provides that a municipality may provide sewer service to an area entirely within the municipality's boundaries without first having to obtain from the Texas Commission on Environmental Quality (TCEQ) 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.

(c) Requires the municipality, not less than 30 days before the municipality begins providing sewer service to an area certificated to another retail public utility, to provide notice to the retail public utility and TCEQ of its intention to provide service to the area.

(d) Provides that a retail public utility, on receipt of the notice required by Subsection (c), may:

(1) petition TCEQ to decertify its certificate for the area to be served by the municipality; or

(2) discontinue service to the area to be served by the municipality, provided that there is no interruption of service to any customer.

(e) Provides that this section may not be construed to limit the right of a retail public utility to provide service in an area certificated to the retail public utility.

(f) Provides that this section does not expand a municipality's power of eminent domain under Chapter 21 (Eminent Domain), Property Code.

SECTION 3. Requires the Texas Commission on Environmental Quality, as soon as practicable after the effective date of this Act, to adopt rules and establish procedures relating to the notice required under Section 13.2475, Water Code, as added by this Act.

SECTION 4. Effective date: September 1, 2015.