

BILL ANALYSIS

C.S.H.B. 2284
By: Walle
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Residents living in unincorporated areas of counties often depend on investor-owned water utilities to provide residential water and wastewater services. Interested parties note that some of these residents experience issues with water quality or loss of water service and depend on the utility to address the problems. The parties contend, however, that some utilities do not adequately address these problems and that customers are forced to boil water before consumption or wait hours before they can take a shower. The parties note that sometimes these problems experienced by customers result in administrative sanctions against a utility but that the sanctions may not adequately deter these problems from happening again. C.S.H.B. 2284 seeks to address this issue in regard to certain utilities.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2284 amends the Water Code to require Public Utility Commission of Texas (PUC) staff to file a petition to revoke an investor-owned water utility's certificate of public convenience and necessity if the staff has reason to believe that the utility has committed repeated or continuous major violations of one or more Texas Commission on Environmental Quality (TCEQ) rules related to safe drinking water for at least six years before the petition is filed, that none of the owners of the utility have borrowed money from a federally insured lending institution to use to remedy a violation of one or more TCEQ rules related to safe drinking water, that the utility serves more than 1,000 connections but is made up of less than five public water systems, that the utility does not serve customers who are located in a municipality, and that the utility is located in a county with a population of more than four million. The bill authorizes the PUC to revoke the investor-owned water utility's certificate on or before the 90th day after the date the petition is filed if, after notice and hearing, the PUC finds that the facts alleged in the petition are true. The bill requires the PUC at the time it revokes the certificate to appoint a temporary manager and temporarily transfer the certificate to the temporary manager. The bill grants the temporary manager, on accepting the transfer, all the powers necessary to operate and manage the utility until the PUC certifies another retail public utility.

C.S.H.B. 2284 requires the PUC, not more than 12 months after the date the PUC appoints a temporary manager, to offer at auction any property that the PUC determines is rendered useless

or valueless to the decertified investor-owned water utility as a result of the decertification. The bill authorizes any person to apply for approval to bid on the decertified utility's assets and property. The bill requires the PUC to review each application and approve applicants that it determines have the financial, managerial, and technical ability to provide safe, adequate, and continuous water service to the decertified utility's customers. The bill limits bidding in the auction to approved applicants and requires the PUC to request proposals from all approved bidders. The bill requires the PUC and the temporary manager, before the auction, to make the books and records of the decertified utility available to all approved bidders and to provide an opportunity for all approved bidders to inspect the decertified utility's assets and property. The bill requires each bid to estimate the rates the bidder would charge for service during the first five years following the date of the sale and to agree that a bidder purchasing the assets and property will consider making improvements to remedy and prevent damages from previous violations of TCEQ rules related to safe drinking water before the third anniversary of the purchase date. The bill requires the PUC to select the bidder that has the best plan to remedy previous violations of TCEQ rules, as determined by the PUC, and requires the PUC, on completion of the sale to the selected bidder and payment to the decertified utility, to transfer the certificate of public convenience and necessity from the temporary manager to the selected bidder. The bill's provisions expire December 31, 2019.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2284 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter G, Chapter 13, Water Code, is amended by adding Section 13.2541 to read as follows:

Sec. 13.2541. REVOCATION OF CERTIFICATE FOR CERTAIN MAJOR VIOLATORS. (a) Utility commission staff shall file a petition to revoke an investor-owned water utility's certificate of public convenience and necessity if the staff has reason to believe:

(1) the utility has committed repeated or continuous major violations of one or more commission rules related to safe drinking water for at least six years before the petition is filed;

(2) none of the owners of the utility have borrowed money from a federally insured lending institution to use to remedy a violation of one or more commission rules related to safe drinking water;

(3) the utility serves more than 1,000 connections but is made up of less than five public water systems;

(4) the utility does not serve customers who

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter G, Chapter 13, Water Code, is amended by adding Section 13.2541 to read as follows:

Sec. 13.2541. REVOCATION OF CERTIFICATE FOR CERTAIN MAJOR VIOLATORS. (a) Utility commission staff shall file a petition to revoke an investor-owned water utility's certificate of public convenience and necessity if the staff has reason to believe:

(1) the utility has committed repeated or continuous major violations of one or more commission rules related to safe drinking water for at least six years before the petition is filed;

(2) none of the owners of the utility have borrowed money from a federally insured lending institution to use to remedy a violation of one or more commission rules related to safe drinking water;

(3) the utility serves more than 1,000 connections but is made up of less than five public water systems;

(4) the utility does not serve customers who

are located in a municipality; and
(5) the utility is located in a county with a population of more than four million.
(b) If, after notice and hearing, the utility commission finds that the facts alleged in the petition are true, the utility commission shall revoke the investor-owned water utility's certificate on or before the 90th day after the date the petition is filed.
(c) At the time the utility commission revokes the certificate it shall appoint a temporary manager and temporarily transfer the certificate to the temporary manager. The temporary manager has all the powers necessary to operate and manage the utility until the utility commission certifies another retail public utility.
(d) Not more than 12 months after the date the utility commission appoints a temporary manager under Subsection (c), the utility commission shall offer at auction any property that the utility commission determines is rendered useless or valueless to the decertified investor-owned water utility as a result of the decertification.
(e) Any person, including public and private water utilities and the temporary manager appointed under Subsection (c), may apply for approval to bid on the decertified utility's assets and property. The utility commission shall review each application and approve applicants that it determines have the financial, managerial, and technical ability to provide safe, adequate, and continuous water service to the decertified utility's customers. Only approved applicants may bid in the auction. The utility commission shall request proposals from all approved bidders.
(f) Before the auction, the utility commission and the decertified utility shall:
(1) make the books and records of the decertified utility available to all approved bidders; and
(2) provide an opportunity for all approved bidders to inspect the decertified utility's assets and property.
(g) Each bid must:
(1) estimate the rates the bidder would charge for service during the first five years following the date of the sale; and
(2) agree that the bidder, if the bidder purchases the assets and property, will seek

are located in a municipality; and
(5) the utility is located in a county with a population of more than four million.
(b) If, after notice and hearing, the utility commission finds that the facts alleged in the petition are true, the utility commission may revoke the investor-owned water utility's certificate on or before the 90th day after the date the petition is filed.
(c) At the time the utility commission revokes the certificate it shall appoint a temporary manager and temporarily transfer the certificate to the temporary manager. On accepting the transfer, the temporary manager has all the powers necessary to operate and manage the utility until the utility commission certifies another retail public utility.
(d) Not more than 12 months after the date the utility commission appoints a temporary manager under Subsection (c), the utility commission shall offer at auction any property that the utility commission determines is rendered useless or valueless to the decertified investor-owned water utility as a result of the decertification.
(e) Any person, including public and private water utilities and the temporary manager appointed under Subsection (c), may apply for approval to bid on the decertified utility's assets and property. The utility commission shall review each application and approve applicants that it determines have the financial, managerial, and technical ability to provide safe, adequate, and continuous water service to the decertified utility's customers. Only approved applicants may bid in the auction. The utility commission shall request proposals from all approved bidders.
(f) Before the auction, the utility commission and the temporary manager shall:
(1) make the books and records of the decertified utility available to all approved bidders; and
(2) provide an opportunity for all approved bidders to inspect the decertified utility's assets and property.
(g) Each bid must:
(1) estimate the rates the bidder would charge for service during the first five years following the date of the sale; and
(2) agree that the bidder, if the bidder purchases the assets and property, will

funds available under the board's safe drinking water revolving fund for improvements to remedy and prevent damages from previous violations of commission rules related to safe drinking water.

(h) The utility commission shall, upon completion of the sale to the selected bidder, transfer the certificate of public convenience and necessity from the temporary manager to the selected bidder.

SECTION 2. This Act takes effect September 1, 2015.

consider making improvements to remedy and prevent damages from previous violations of commission rules related to safe drinking water before the third anniversary of the purchase date.

(h) The utility commission shall select the bidder that has the best plan to remedy previous violations of commission rules, as determined by the utility commission, and, on completion of the sale to the selected bidder and payment to the decertified utility, transfer the certificate of public convenience and necessity from the temporary manager to the selected bidder.

(i) This section expires December 31, 2019.

SECTION 2. Same as introduced version.