

## **BILL ANALYSIS**

Senate Research Center  
76R3883 JJT-F

H.B. 1362  
By: Clark (Ogden)  
Intergovernmental Relations  
4/26/1999  
Engrossed

### **DIGEST**

Currently, Section 13.255, Water Code, provides a mechanism for municipalities in Texas to be granted a single certification to provide water and sewer service for areas within their corporate limits when the certificate of convenience and necessity for those areas was previously held by another retail public utility. This situation generally arises when a previously rural area is incorporated or is annexed into a municipality due to urban growth. The municipality compensates the retail public utility for the transferred service area and infrastructure. This compensation is determined by an appraiser selected solely by the retail public utility with the cost of the appraiser to be paid by the municipality. The appraiser's decision is binding on the Texas Natural Resource Conservation Commission (TNRCC). This bill would provide a statutory due process mechanism whereby disputes over an appraiser's qualifications may be equitably resolved by the parties or TNRCC.

### **PURPOSE**

As proposed, H.B. 1362 provides a statutory due process mechanism whereby disputes over an appraiser's qualifications may be equitably resolved by the parties or Texas Natural Resource Conservation Commission.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 13.255, Water Code, by amending Subsection (l) and adding Subsection (n), to require the amount of compensation to be paid to a retail public utility (utility) under this section, rather than the compensation provided under Subsection (g), to be determined by a qualified individual or firm to serve as independent appraiser, who shall be selected by the affected utility, except as provided under Subsection (n). Requires the amount of compensation to be paid to the utility to be determined by a qualified individual or firm serving as independent appraiser to which the utility and the municipality agree, if the affected retail public utility is located in an area annexed under Section 43.023, 43.024, 43.025, or 43.028, Local Government Code. Requires the municipality and the utility to each appoint an individual or firm to serve as independent appraiser by a certain date, if the utility and municipality are unable to agree on a single individual or firm to serve as independent appraiser. Requires the independent appraisers to meet to attempt to reach an agreed determination of the amount of compensation by a certain date. Authorizes the utility or municipality to petition the Texas Natural Resource Conservation Commission (TNRCC) or a person designated by TNRCC for this purpose to appoint a third independent appraiser to reconcile the appraisals of the other appraisers, if the appraisers are unable to agree on a determination of compensation by a certain date. Prohibits the determination of the third appraiser from being less than the lesser or more than the greater of the two appraisals. Provides that a determination of compensation reached under this subsection is binding on TNRCC. Requires the utility and the municipality to share equally the costs of a third appraiser appointed under this subsection.

SECTION 2. Emergency clause.  
Effective date: upon passage.