

Chapter 673

S.B. No. 789

AN ACT

1
2 relating to the authority of certain municipalities to provide
3 sewer service to areas within the municipal boundaries without
4 obtaining a certificate of public convenience and necessity.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 13.247(a), Water Code, is amended to
7 read as follows:

8 (a) If an area is within the boundaries of a municipality,
9 all retail public utilities certified or entitled to certification
10 under this chapter to provide service or operate facilities in that
11 area may continue and extend service in its area of public
12 convenience and necessity within the area pursuant to the rights
13 granted by its certificate and this chapter, unless the
14 municipality exercises its power of eminent domain to acquire the
15 property of the retail public utility under Subsection (d). Except
16 as provided by Section 13.2475 or 13.255, a municipally owned or
17 operated utility may not provide retail water and sewer utility
18 service within the area certificated to another retail public
19 utility without first having obtained from the utility commission a
20 certificate of public convenience and necessity that includes the
21 areas to be served.

22 SECTION 2. Subchapter G, Chapter 13, Water Code, is amended
23 by adding Section 13.2475 to read as follows:

24 Sec. 13.2475. CERTIFICATES OF PUBLIC CONVENIENCE AND

1 NECESSITY TO PROVIDE SEWER SERVICE IN CERTAIN MUNICIPALITIES.

2 (a) This section applies only to a municipality:

3 (1) with a population of more than 95,000;

4 (2) located in a county that:

5 (A) borders Lake Palestine; and

6 (B) has a population of more than 200,000;

7 (3) that owns and operates a utility that provides
8 sewer service; and

9 (4) that has an area within the boundaries of the
10 municipality that is certificated to another retail public utility
11 that provides sewer service.

12 (b) A municipality may provide sewer service to an area
13 entirely within the municipality's boundaries without first having
14 to obtain from the utility commission a certificate of public
15 convenience and necessity that includes the area to be served,
16 regardless of whether the area to be served is certificated to
17 another retail public utility.

18 (c) Not less than 30 days before the municipality begins
19 providing sewer service to an area certificated to another retail
20 public utility, the municipality shall provide notice to the retail
21 public utility and the utility commission of its intention to
22 provide service to the area.

23 (d) On receipt of the notice required by Subsection (c), a
24 retail public utility may:

25 (1) petition the utility commission to decertify its
26 certificate for the area to be served by the municipality; or

27 (2) discontinue service to the area to be served by the

1 municipality, provided that there is no interruption of service to
2 any customer.

3 (e) This section may not be construed to limit the right of a
4 retail public utility to provide service in an area certificated to
5 the retail public utility.

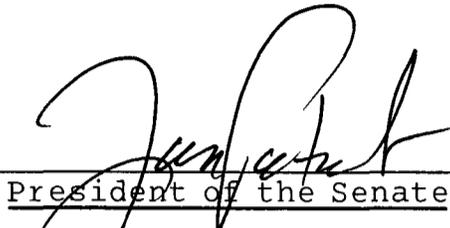
6 (f) This section does not expand a municipality's power of
7 eminent domain under Chapter 21, Property Code.

8 SECTION 3. As soon as practicable after the effective date
9 of this Act, the Public Utility Commission of Texas shall adopt
10 rules and establish procedures relating to the notice required
11 under Section 13.2475, Water Code, as added by this Act.

12 SECTION 4. This Act takes effect September 1, 2015.

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S.B. No. 789


President of the Senate


Speaker of the House

I hereby certify that S.B. No. 789 passed the Senate on April 30, 2015, by the following vote: Yeas 30, Nays 1; and that the Senate concurred in House amendment on May 26, 2015, by the following vote: Yeas 31, Nays 0.


Secretary of the Senate

I hereby certify that S.B. No. 789 passed the House, with amendment, on May 21, 2015, by the following vote: Yeas 133, Nays 10, two present not voting.

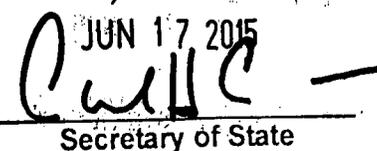

Chief Clerk of the House

Approved:

Date

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
4:09 pm O'CLOCK

JUN 17 2015

Secretary of State

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 22, 2015

TO: Honorable Dan Patrick, Lieutenant Governor, Senate

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB789 by Eltife (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.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Water Code to authorize certain municipalities to provide sewer service in areas of the municipal boundaries without obtaining a Certificate of Public Convenience and Necessity (CCN) from the Public Utility Commission (PUC). A municipality would be required to provide notice to a retail public utility and PUC no less than 30 days prior to the municipality providing sewer service. In response to the notice, the retail public utility may file a petition with PUC to decertify the portion of their CCN that is being served by the municipality, or discontinue service to the area being served by the municipality. Based on the applicability criteria, the provisions of the bill would apply only to the City of Tyler.

According to the PUC, the provisions of the bill would not have a significant fiscal impact on the agency and any additional workload could be handled with existing resources.

Local Government Impact

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies: 473 Public Utility Commission of Texas, 582 Commission on Environmental Quality, 475 Office of Public Utility Counsel

LBB Staff: UP, EK, KVe, SD, TL, JLi, SZ

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 7, 2015

TO: Honorable Carol Alvarado, Chair, House Committee on Urban Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB789 by Eltife (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.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Water Code to authorize certain municipalities to provide sewer service in areas of the municipal boundaries without obtaining a Certificate of Public Convenience and Necessity (CCN) from the Texas Commission on Environmental Quality (TCEQ). A municipality would be required to provide notice to a retail public utility and TCEQ no less than 30 days prior to the municipality providing sewer service. In response to the notice, the retail public utility may file a petition with TCEQ to decertify the portion of their CCN that is being served by the municipality, or discontinue service to the area being served by the municipality. Based on the applicability criteria, the provisions of the bill would apply only to the City of Tyler.

The bill would require TCEQ to adopt rules and establish procedures for required notices. According to TCEQ, the provisions of the bill would not have a significant fiscal impact on the agency.

Local Government Impact

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies: 582 Commission on Environmental Quality, 473 Public Utility Commission of Texas, 475 Office of Public Utility Counsel

LBB Staff: UP, EK, KVe, SD, TL, JLi, SZ

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 10, 2015

TO: Honorable Charles Perry, Chair, Senate Committee on Agriculture, Water & Rural Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB789 by Eltife (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.), **As Introduced**

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The bill would require TCEQ to adopt rules and establish procedures for required notices. According to TCEQ, the provisions of the bill would not have a significant fiscal impact on the agency.

Local Government Impact

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