

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

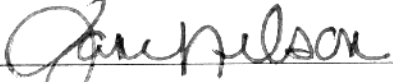
May 21 - 2013
Date

Honorable David Dewhurst
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 1160 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.



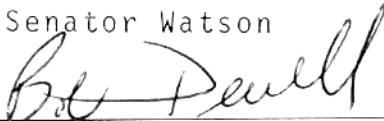
Senator Nelson, Chair



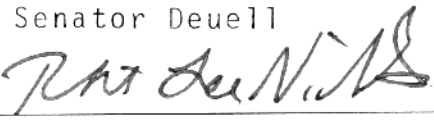
Senator Eltife




Senator Watson



Senator Deuell



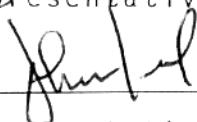
On the part of the Senate
Senator Nichols



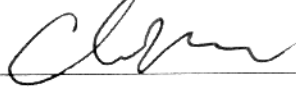
Representative Geren, Chair



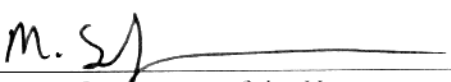
Representative Frullo



Representative Kuenster



Representative Paddie



On the part of the House
Representative Schaefer

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

H.B. No. 1160

A BILL TO BE ENTITLED

AN ACT

relating to the transfer of a certificate of convenience and necessity in certain municipalities.

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

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:

(1) a municipality that:

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

(B) is located in a county that:

(i) has a population of 1.7 million or more;

and

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

(C) is served by a public utility that:

(i) provides service to the entire municipality; and

(ii) 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; and

(2) a municipality:

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

1 (B) located in a county that:

2 (i) borders Lake Palestine; and

3 (ii) has a population of more than 200,000;

4 (C) that owns and operates a utility that
5 provides sewer service; and

6 (D) that has an area within the boundaries of the
7 municipality that is certificated to another retail public utility
8 that provides sewer service.

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

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

21 (2) will possess the financial, managerial, and
22 technical capability to provide continuous and adequate water and
23 sewer service to the area to the satisfaction of or in accordance
24 with the orders of a trial court at the time of transfer.

25 (c) The transfer of the certificate shall not be effective
26 unless:

27 (1) a judgment that transfers the real property of the

1 public utility to the municipality becomes final and is not subject
2 to further appeal; and

3 (2) the municipality has paid to the public utility
4 the fair market value compensation due, as set by agreement or as
5 ordered by a court judgment, for that taking of real property.

6 (d) This section does not expand, restrict, or otherwise
7 alter the law with regard to a municipality's right to exercise the
8 power of eminent domain under Chapter 21, Property Code.

9 SECTION 2. Section 552.024, Local Government Code, as added
10 by this Act, applies only to a condemnation proceeding in which the
11 petition is filed on or after September 1, 2011. A condemnation
12 proceeding in which the petition is filed before September 1, 2011,
13 is governed by the law in effect on the date the petition was filed,
14 and that law is continued in effect for that purpose.

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

House Bill 1160
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Subchapter B, Chapter 552, Local Government Code, is amended by adding Section 552.024.

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.

SENATE VERSION (CS)

SECTION 1. Same as House version.

Sec. 552.024. Same as House version.

(See Section. 13.2475(a), Water Code, in SECTION 3 below.)

CONFERENCE

SECTION 1. Same as House version.

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

- (1) a municipality that:
 - (A) has a population of not more than 2,500;
 - (B) is located in a county that:
 - (i) has a population of 1.7 million or more; and
 - (ii) has two municipalities with a population of 300,000 or more; and
 - (C) is served by a public utility that:
 - (i) provides service to the entire municipality; and
 - (ii) 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; **and**
- (2) a municipality:**
 - (A) with a population of more than 95,000;**
 - (B) located in a county that:**
 - (i) borders Lake Palestine; and**
 - (ii) has a population of more than 200,000;**
 - (C) that owns and operates a utility that provides sewer service; and**
 - (D) that has an area within the boundaries of the municipality that is certificated to another retail public utility that provides sewer service.**

[The conference committee may have exceeded the limitations imposed on its jurisdiction, but only the presiding officer can make the final determination on this issue.]

House Bill 1160
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION (CS)	CONFERENCE
(b) - (c).	(b) - (c). Same as House version.	(b) - (c). Same as House version.
No equivalent provision.	SECTION 2. Section 13.247(a), Water Code, is amended.	No equivalent provision.
No equivalent provision.	SECTION 3. Subchapter G, Chapter 13, Water Code, is amended by adding Section 13.2475 to read as follows: <u>Sec. 13.2475. CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE SEWER SERVICE IN CERTAIN MUNICIPALITIES.</u> <u>(a) This section applies only to a municipality:</u> <u>(1) with a population of more than 95,000;</u> <u>(2) located in a county that:</u> <u>(A) borders Lake Palestine; and</u> <u>(B) has a population of more than 200,000;</u> <u>(3) that owns and operates a utility that provides sewer service; and</u> <u>(4) that has an area within the boundaries of the municipality that is certificated to another retail public utility that provides sewer service.</u>	No equivalent provision. <i>(See Section 552.024(a)(2), Local Government Code, above.)</i>
No equivalent provision.	<u>(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.</u>	No equivalent provision.

House Bill 1160
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

SECTION 2. Saving provision.

SECTION 4. Substantially the same as House version.

SECTION 2. Same as Senate version.

SECTION 3. Effective date.

SECTION 5. Same as House version.

SECTION 3. Same as House version.

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 21, 2013

TO: Honorable David Dewhurst, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1160 by Geren (Relating to the transfer of a certificate of convenience and necessity in certain municipalities.), **Conference Committee Report**

No fiscal implication to the State is anticipated.

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:

LBB Staff: UP, SZ, SD, TP, AG

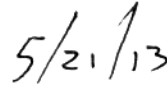
Certification of Compliance with Rule 13, Section 6(b), House Rules of Procedure

Rule 13, Section 6(b), House Rules of Procedure, requires that a copy of a conference committee report signed by a majority of each committee of the conference must be furnished to each member of the committee in person or if unable to deliver in person by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Section 10(a) of this rule. The paper copies of the report submitted to the chief clerk under Section 10(b) of this rule must contain a certificate that the requirement of this subsection has been satisfied, and that certificate must be attached to the printed copy of the report furnished to each member under Section 10(d) of this rule. Failure to comply with this subsection is not a sustainable point of order under this rule.

I certify that a copy of the conference committee report on H. B. 1160 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Section 10(b), Rule 13, House Rules of Procedure.



(name)



(date)