

BILL ANALYSIS

C.S.H.B. 2777
By: Phelan
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that a partnership between certain utilities and municipal utility districts could alleviate some of the debt burden of the municipal utility districts and allow investment in other community projects and facilities. C.S.H.B. 2777 seeks to address this issue by providing for an application for the amendment of certain certificates of convenience and necessity.

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. 2777 amends the Water Code to authorize a Class A utility to apply to the Texas Commission on Environmental Quality (TCEQ) for an amendment of a certificate of convenience and necessity held by a municipal utility district not located wholly or partly inside of the corporate limits or extraterritorial jurisdiction of a municipality with a population of two million or more to allow the utility to have the same rights and powers under the certificate as the district. The bill requires the application to be accompanied by information identifying the applicant, the identifying number of the certificate of convenience and necessity to be amended, the written consent of the district that holds the certificate of convenience and necessity, a written statement by the district that the application is supported by a contract between the district and the utility for the utility to provide services inside the certificated area and inside the boundaries of the district, and a description of the proposed service area. The bill prohibits the Public Utility Commission of Texas (PUC) from requiring any information for an application other than the information required by the bill.

C.S.H.B. 2777 requires the PUC to review whether the application is complete, not later than the 60th day after the date an applicant files an application for an amendment. The bill requires the PUC, if the PUC finds that the application is complete, to find that the amendment of the certificate is necessary for the service, accommodation, convenience, or safety of the public and grant the application and amend the certificate. The bill makes the PUC decision final after reconsideration, if any, authorized by PUC rule and prohibits the decision from being appealed. The bill establishes that the consent of a municipality is not required for the PUC to amend a certificate for an area that is in the municipality's extraterritorial jurisdiction. The bill exempts an application from certain provisions relating to certificates of convenience and necessity. The bill exempts an application for an amendment of a certificate of convenience and necessity under the

bill's provisions from the Administrative Procedure Act.

C.S.H.B. 2777 amends the Health and Safety Code to include among the entities exempt from the requirement to file a business plan for a public drinking water supply system with the executive director of TCEQ a Class A utility that has applied for or been granted an amendment of a certificate of convenience and necessity under the bill's provisions for the area in which the construction of the system will operate.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2777 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	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Section 13.002, Water Code, is amended.	SECTION 1. Same as introduced version.
SECTION 2. Section 13.244(a), Water Code, is amended.	SECTION 2. Same as introduced version.
SECTION 3. Section 13.246, Water Code, is amended.	SECTION 3. Same as introduced version.
SECTION 4. Subchapter G, Chapter 13, Water Code, is amended by adding Section 13.258 to read as follows:	SECTION 4. Subchapter G, Chapter 13, Water Code, is amended by adding Section 13.258 to read as follows:
<u>Sec. 13.258. UTILITY'S APPLICATION FOR AMENDMENT AND USE OF MUNICIPAL UTILITY DISTRICT'S CERTIFICATE UNDER CONTRACT. (a) Notwithstanding any other provision of this chapter, a Class A utility may apply to the commission for an amendment of a municipal utility district's certificate of convenience and necessity to allow the utility to have the same rights and powers under the certificate as the municipal utility district.</u>	<u>Sec. 13.258. UTILITY'S APPLICATION FOR AMENDMENT AND USE OF MUNICIPAL UTILITY DISTRICT'S CERTIFICATE UNDER CONTRACT. (a) Notwithstanding any other provision of this chapter, a Class A utility may apply to the commission for an amendment of a certificate of convenience and necessity held by a municipal utility district to allow the utility to have the same rights and powers under the certificate as the municipal utility district.</u>
<u>(b) An application under this section must be accompanied by:</u>	<u>(b) This section does not apply to a certificate of convenience and necessity held by a municipal utility district located wholly or partly inside of the corporate limits or extraterritorial jurisdiction of a municipality with a population of two million or more.</u>
<u>(1) information identifying the applicant;</u> <u>(2) the identifying number of the certificate of convenience and necessity to be</u>	<u>(c) An application under this section must be accompanied by:</u> <u>(1) information identifying the applicant;</u> <u>(2) the identifying number of the certificate of convenience and necessity to be</u>

amended;

(3) the written consent of the municipal utility district that holds the certificate of convenience and necessity;

(4) a written statement by the municipal utility district that the application is supported by a contract between the municipal utility district and the utility for the utility to provide services inside the certificated area and inside the boundaries of the municipal utility district; and

(5) a description of the proposed service area by:

(A) a metes and bounds survey certified by a licensed state land surveyor or a registered professional land surveyor;

(B) the Texas State Plane Coordinate System;

(C) verifiable landmarks, including roads, creeks, or railroad lines; or

(D) if a recorded plat of the area exists, lot and block number.

(c) For an application under this section, the utility commission may not require any information other than the information required by this section.

(d) Not later than the 60th day after the date an applicant files an application for an amendment under this section, the utility commission shall review whether the application is complete. If the utility commission finds that the application is complete, the utility commission shall:

(1) find that the amendment of the certificate is necessary for the service, accommodation, convenience, or safety of the public; and

(2) grant the application and amend the certificate.

(e) The utility commission's decision under this section becomes final after reconsideration, if any, authorized by utility commission rule, and may not be appealed.

(f) The consent of a municipality is not required for the utility commission to amend a certificate as provided by Subsection (a) for an area that is in the municipality's extraterritorial jurisdiction.

(g) Sections 13.241(d) and 13.245 do not apply to an application under this section.

(h) Chapter 2001, Government Code, does not apply to an application for an amendment of a certificate of public convenience and necessity under this section.

amended;

(3) the written consent of the municipal utility district that holds the certificate of convenience and necessity;

(4) a written statement by the municipal utility district that the application is supported by a contract between the municipal utility district and the utility for the utility to provide services inside the certificated area and inside the boundaries of the municipal utility district; and

(5) a description of the proposed service area by:

(A) a metes and bounds survey certified by a licensed state land surveyor or a registered professional land surveyor;

(B) the Texas State Plane Coordinate System;

(C) verifiable landmarks, including roads, creeks, or railroad lines; or

(D) if a recorded plat of the area exists, lot and block number.

(d) For an application under this section, the utility commission may not require any information other than the information required by this section.

(e) Not later than the 60th day after the date an applicant files an application for an amendment under this section, the utility commission shall review whether the application is complete. If the utility commission finds that the application is complete, the utility commission shall:

(1) find that the amendment of the certificate is necessary for the service, accommodation, convenience, or safety of the public; and

(2) grant the application and amend the certificate.

(f) The utility commission's decision under this section becomes final after reconsideration, if any, authorized by utility commission rule, and may not be appealed.

(g) The consent of a municipality is not required for the utility commission to amend a certificate as provided by Subsection (a) for an area that is in the municipality's extraterritorial jurisdiction.

(h) Sections 13.241(d) and 13.245 do not apply to an application under this section.

(i) Chapter 2001, Government Code, does not apply to an application for an amendment of a certificate of convenience and necessity under this section.

SECTION 5. Section 341.035(d), Health and Safety Code, is amended.

SECTION 5. Same as introduced version.

SECTION 6. The change in law made by this Act applies only to an application for an amendment of a certificate of public convenience and necessity filed on or after the effective date of this Act. An application filed before the effective date of this Act is governed by the law in effect on the date the application is filed, and the former law is continued in effect for that purpose.

SECTION 6. Same as introduced version.

SECTION 7. This Act takes effect September 1, 2017.

SECTION 7. Same as introduced version.