

BILL ANALYSIS

C.S.H.B. 294
By: Walle
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that residents living in unincorporated areas of counties often depend on investor-owned water and sewer utilities for residential water and wastewater services. The parties contend, however, that some of these residents experience issues with water quality or loss of water service and that such issues are not adequately resolved. C.S.H.B. 294 seeks to address this issue by expanding the circumstances under which the attorney general is required to bring suit for the appointment of a receiver to collect the assets and carry on the business of a water or sewer utility on certain request.

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. 294 amends the Water Code to include as a water or sewer utility for which the attorney general is required to bring suit for the appointment of a receiver to collect the assets and carry on the business of the utility at the request of the Public Utility Commission of Texas or the Texas Commission on Environmental Quality a water or sewer utility that violates a final judgment issued by a district court in a suit brought by the attorney general under water rates and services provisions, certain water administration enforcement provisions, or Health and Safety Code provisions relating to minimum standards of sanitation and health protection measures.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 294 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

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision. (*But see SECTION 1 below.*)

85R 22043

17.96.772

Substitute Document Number: 85R 19238

13.2541 to read as follows:

Sec. 13.2541. APPOINTMENT OF TEMPORARY MANAGER. (a) Utility commission staff shall file a petition to appoint a temporary manager of an investor-owned water utility if the staff has reason to believe:

(1) the utility has repeated or continuous violations of commission rules or of the commission's predecessor agency rules regarding well capacity, storage tank capacity, service pump capacity, or pressure tank capacity for at least six years before the petition is filed;

(2) neither an owner of the utility nor the utility has borrowed money from a federally insured lending institution to remedy a violation of a rule described by Subdivision (1);

(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 2.7 million.

(b) If, after notice and an opportunity for a hearing, the utility commission finds that the facts alleged in the petition are true, the utility commission may appoint a temporary manager and may also refer the investor-owned utility to the attorney general for the appointment of a receiver under Section 13.412. The utility commission shall issue its final order not more than 180 days after the date the petition is filed.

(c) If the utility commission appoints a temporary manager, the manager shall have all the power and authority provided by Section 13.4132(c). Not more than 120 days after the appointment of the manager, the manager shall recommend to the utility commission whether or not the utility's certificate should be revoked. If the manager recommends revocation, the manager shall recommend one or more retail public utilities that could provide service to the certificated area.

(d) If a court appoints a receiver for the utility, the temporary manager's appointment ends when the receiver executes the bond required by Section 13.412. The temporary manager is eligible to be appointed as the receiver.

(e) Not more than 90 days after the appointment of a receiver by the court, the

receiver shall recommend to the utility commission whether or not the utility's certificate of convenience and necessity should be revoked. If the receiver recommends revocation, the receiver shall recommend one or more retail public utilities that could provide service to the certificated area. The receiver may recommend any other remedy authorized by this chapter.

(f) If the receiver recommends revocation, the utility commission staff shall file a petition to revoke the certificate of convenience and necessity under Section 13.254.

No equivalent provision. (*But see SECTION 1 above.*)

SECTION 2. This Act takes effect September 1, 2017.

SECTION 1. Section 13.412(a), Water Code, is amended to read as follows:

(a) At the request of the utility commission or the commission, the attorney general shall bring suit for the appointment of a receiver to collect the assets and carry on the business of a water or sewer utility that:

(1) has abandoned operation of its facilities;

(2) informs the utility commission or the commission that the owner is abandoning the system;

(3) violates a final order of the utility commission or the commission; ~~[or]~~

(4) allows any property owned or controlled by it to be used in violation of a final order of the utility commission or the commission; or

(5) violates a final judgment issued by a district court in a suit brought by the attorney general under:

(A) this chapter;

(B) Chapter 7; or

(C) Chapter 341, Health and Safety Code.

SECTION 2. Same as introduced version.