

BILL ANALYSIS

H.B. 3232
By: Rogers
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, if a water or wastewater utility other than a municipality or a county absorbs another system noncompliant with health, safety, or environmental protection requirements, those regulatory liabilities transfer to the absorbing utility. This serves as a regulatory disincentive for larger or well-run utilities to absorb other utilities that have noncompliance challenges. Ideally, larger or well-run utilities should be granted safe harbor protection so that they are not penalized by the state for absorbing other utilities with noncompliance issues provided the absorbing utility has a plan in place to fix the problems within the noncompliant system. Expanding safe harbor protection to all utilities would remove a regulatory disincentive for the regionalization of water or wastewater service. Greater regionalization, in turn, contributes to better economies of scale relating to water, workforce, and rate base utilization. More importantly, removing this disincentive would assist in bringing noncompliant systems into compliance with state and federal health, safety, and environmental protection requirements. H.B. 3232 seeks to expand this safe harbor protection by authorizing the Texas Commission on Environmental Quality to enter into a compliance agreement with a regional service regarding the integration of a water supply, sewer, or wastewater treatment service operated by certain retail public utilities.

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 rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 2 of this bill.

ANALYSIS

H.B. 3232 amends the Water Code to authorize the Texas Commission on Environmental Quality (TCEQ), if a water supply, sewer, or wastewater treatment service operated by a retail public utility, other than a municipality or county, is being integrated into a regional water supply, sewer, or wastewater treatment service administered by another entity, to enter into a compliance agreement with the regional service under which the TCEQ will not initiate an enforcement action against the regional service for existing or anticipated violations resulting from the operation by the regional service of the service being integrated. The compliance agreement must include provisions necessary to bring the service being integrated into compliance. The bill requires the TCEQ, not later than December 1, 2023, to adopt rules as necessary to implement these provisions of the bill.

H.B. 3232 establishes that statutory provisions relating to the suspension of TCEQ enforcement action against certain regional water, sewer, or solid waste services, as those provisions are amended by the bill, do not prohibit the TCEQ from initiating an enforcement action against a

regional service that is a party to an applicable compliance agreement if the regional service does not substantially comply with the agreement.

EFFECTIVE DATE

September 1, 2023.