

SUBJECT: Representation by OPUC of water or sewer utility matters before TCEQ

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 9 ayes — Cook, Menendez, Craddick, Frullo, Harless, Hilderbran,
Huberty, Solomons, Turner

0 nays

4 absent — Gallego, Geren, Oliveira, Smithee

WITNESSES: For — (*Registered, but did not testify*: Chad Blevins, Public Citizen of
Texas)

Against — None

On — (*Registered, but did not testify*: Sheri Givens, Office of Public
Utility Counsel)

BACKGROUND: The Texas Commission on Environmental Quality (TCEQ)'s Office of
Public Interest Counsel (OPIC) is charged with representing the public
interest before the commission. The Sunset Advisory Committee
determined that because OPIC is a division of TCEQ that reports to its
executive director and commissioners, water and wastewater ratepayers
lack an effective entity that can intervene to specifically represent their
interests in rate cases.

The Sunset Advisory Commission recognized that the Office of Public
Utility Counsel (OPUC)'s independence enables it to effectively represent
electric and telephone ratepayers in cases before the Public Utility
Commission (PUC) and the courts. OPUC represents the interests of
residential and small business ratepayers by providing evidence and expert
witnesses, cost allocation, and rate design for its represented ratepayers.

DIGEST: CSHB 3754 would transfer the powers and duties of OPIC to OPUC to
represent residential and small commercial consumers in water or sewer
utility service matters before TCEQ. CSHB 3754 also would transfer the
funding used in relation to all powers, duties, functions, programs, and
activities of OPIC to OPUC.

OPUC would be required to represent the interests of residential and small commercial consumers regarding water rates and services.

OPUC would:

- have to assess the effect of utility rate changes and other regulatory actions on residential consumers in Texas;
- have to advocate a position determined to be most advantageous to a substantial number of residential consumers;
- be entitled to the same access as a party, other than TCEQ staff, to records gathered by the TCEQ; and
- be entitled to discovery of any nonprivileged matter that was relevant to the subject matter of a proceeding or petition before TCEQ.

OPUC could:

- appear or intervene on behalf of a residential consumer or small business consumer;
- initiate or intervene in a judicial proceeding that involved an action taken by an administrative agency in certain circumstances;
- represent an individual residential or small commercial consumer with respect to the consumer's disputed complaint concerning retail services that were unresolved before the TCEQ; and
- recommend legislation to the Legislature that OPUC determined would positively affect the interests of residential and small commercial consumers.

This bill would not limit the authority of TCEQ to represent residential or small commercial consumers.

The appearance of OPUC in a proceeding would not preclude the appearance of other parties on behalf of residential or small commercial consumers. OPUC could not be grouped with any other party.

The bill would take effect September 1, 2011.

NOTES:

According to the fiscal note, CSHB 3754 would not have a significant fiscal implication for the state.