

- SUBJECT:** Transferring authority to operate a water utility in a certain city
- COMMITTEE:** State Affairs — favorable, without amendment
- VOTE:** 10 ayes — Cook, Giddings, Craddick, Farrar, Frullo, Geren, Harless, Huberty, Smithee, Sylvester Turner
- 0 nays
- 3 absent — Hilderbran, Menéndez, Oliveira
- WITNESSES:** For — Alan Hooks, City of Blue Mound; James Schiele, Eagle Mountain - Saginaw ISD; (*Registered, but did not testify*: Dan Barrett, City of Blue Mound; Shanna Igo, Texas Municipal League)
- Against — Charles Profilet, SouthWest Water Company
- On — (*Registered, but did not testify*: Doug Holcomb, TCEQ)
- BACKGROUND:** A certificate of convenience and necessity (CCN) is issued by the Texas Commission on Environmental Quality (TCEQ). It authorizes a utility to provide water or sewer utility service to a specific area and obligates the utility to provide continuous and adequate service to every customer who requests service in the area.
- According to the 2010 U.S. Census, Tarrant County is the only county in Texas with a population of 1.7 million or more that contains two cities with populations of 300,000 or more.
- DIGEST:** HB 1160 would require TCEQ to transfer a CCN for water and wastewater service to a certain city if it prevailed in a condemnation proceeding to acquire an investor-owned utility's assets within the city. The transfer would be effective on the date the court in the condemnation proceeding issued an order transferring the property of the investor-owned utility and requiring the city to ensure continuous and adequate water and sewer service to the city's residents.
- The bill would apply to a city with a population less than 2,500 in Tarrant County where the investor-owned utility provides service to the entire city

and charges rates for 5,000 gallons of water to residential customers at rates at least 50 percent higher than those charged by municipally owned utilities in other parts of the county (Blue Mound).

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013.

**SUPPORTERS
SAY:**

HB 1160 would ensure that the City of Blue Mound's water and sewer utility continued to operate after the completion of condemnation proceedings against an investor-owned water and sewer utility. While TCEQ normally can process uncontested CCN applications in 180 days or less, contested CCN transfers can take much longer and parties can incur costs exceeding \$100,000. HB 1160 would ensure the immediate transfer of the CCN to Blue Mound after the completion of the condemnation proceeding, saving the ratepayers money and time and ensuring that water and wastewater utility service to the city's residents was not disrupted.

HB 1160's scope would be limited. It is a local bill that would affect only the City of Blue Mound. It would not affect other governments or investor-owned utilities, nor would it affect the ongoing condemnation procedure.

Residents of Blue Mound pay water rates that are 300 percent greater than those of some neighboring cities. Blue Mound is not a wealthy community, with the average home valued at \$60,000. Its residents cannot afford to pay the exorbitant rates charged by Monarch Utilities. By operating its own utility, the City of Blue Mound could lower rates.

Some critics argue that the only reason cities can charge lower rates is because their services are subsidized by taxpayers. This is not the case. In fact, Blue Mound's neighbor, Fort Worth, structures its utility rates to recover costs. No general fund or taxes subsidize Fort Worth's utility.

HB 1160 would help ensure that local officials could start working together immediately to address safety concerns. In the past, fire hydrants have been inoperable and the investor-owned utility did not notify the school district of a boil-water notice related to unsafe drinking water for a day and a half. These issues are best handled by local officials.

OPPONENTS
SAY:

HB 1160 would undercut the opportunity of a private business to earn a profit on its investment. SouthWest Water Company, which owns Monarch Utilities, has invested \$70 million in infrastructure improvements in the state in the last seven years. The company is entitled to a fair and reasonable rate of return on those investments. Many of the improvements were made to correct violations that were found when SouthWest Water Company purchased other companies. Recently, Monarch invested \$100,000 to rehabilitate a water well within the city and made improvements to the sewer system.

Monarch Utilities has filed two rate applications since acquiring the Blue Mound system in 2005. TCEQ approved a settlement between Blue Mound and Monarch Utilities in May 2012 and found that the rate structure was reasonable and adequate to allow the utility to recover the costs of providing the service.

It is unfair to compare an investor-owned utility's rate structure with that of a municipally owned utility because city-owned utilities subsidize water and wastewater infrastructure with taxes.

OTHER
OPPONENTS
SAY:

The bill should follow TCEQ's existing procedures for transferring CCNs. TCEQ's system ensures that before a CCN is awarded, the applicant has financial, managerial, and technical expertise to administer a water supply or waste water utility.