

SUBJECT: Amending certain district certificates of public convenience and necessity

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 10 ayes — Larson, Phelan, Ashby, Frank, Kacal, T. King, Lucio, Nevárez, Price, Workman

0 nays

1 absent — Burns

WITNESSES: For — Robert Laughman, Aqua Texas; (*Registered, but did not testify*: Buddy Garcia and Eric Wright, Aqua Texas; Kerry Cammack, SouthWest Water Company)

Against — None

On — (*Registered, but did not testify*: Tammy Benter, Public Utility Commission)

BACKGROUND: Water Code, sec. 13.242 requires a utility, county utility, or water supply or sewer service corporation to obtain a certificate of public convenience and necessity (CCN) from the Public Utility Commission (PUC) before rendering retail water or sewer services.

Under sec. 13.245, PUC may not grant a CCN to a utility for a service area within the boundaries or extraterritorial jurisdiction of a municipality without the consent of the municipality, unless certain conditions apply.

A class A utility is defined as a public utility that provides retail water or sewer service through 10,000 or more taps or connections.

Observers note that a partnership between utilities and municipal utility districts could relieve some of the burden on the districts and allow investment in community projects and facilities under a shared certificate of convenience and necessity.

DIGEST: CSHB 2777 would allow a class A utility to apply to the Texas Commission on Environmental Quality (TCEQ) for an amendment of a municipal utility district's certificate of public convenience and necessity (CCN) to allow the utility the same rights and powers under the certificate.

An application would have to include certain information including applicant identification, CCN number, written consent of the district, a statement that the application was supported by a contract between the district and utility, and a description of the proposed service area. The bill would not require the consent of a municipality to amend a CCN for an area within that municipality's extraterritorial jurisdiction.

The Public Utility Commission (PUC) would have to review an application within 60 days after it was filed and could not require any additional information for the application. If PUC found the application was complete, the commission would grant the application to amend the CCN.

PUC's decision would be final after reconsideration, if any, and could not be appealed.

A Class A utility that applied for an amendment of a CCN would not be required to file a business plan with the TCEQ executive director before constructing a public drinking water supply system.

An application would be exempt from:

- certain notice and hearing requirements;
- demonstrating that consolidation with another utility was not economically feasible; and
- other administrative procedures relating to agency standards.

This bill would not apply to a CCN held by a district located wholly or partially inside the corporate limits or extraterritorial jurisdiction of a

municipality with a population of at least 2 million (Houston).

CSHB 2777 would take effect September 1, 2017, and would apply only to an application for an amendment of a CCN filed on or after that date.

NOTES:

A companion bill, SB 1842 by Lucio, passed the Senate on May 4 and has been referred to the House Committee on Natural Resources.