

HB1566/203494/1

BY: Economic Matters Committee

AMENDMENTS TO HOUSE BILL 1566

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 4, after “acquisition;” insert “prohibiting a person from acquiring a controlling interest in certain water services or sewage disposal providers for certain purposes without prior approval of the Public Service Commission; providing that the Commission may authorize a certain acquisition if the Commission finds that the acquisition is consistent with the public convenience and necessity;”; strike beginning with “requiring” in line 6 down through the first “a” in line 8 and substitute “providing that the acquiring entity and the selling utility are responsible for hiring certain experts to conduct an appraisal of the”; strike beginning with “requiring” in line 10 down through “manner;” in line 12; in line 15, after “utility” insert “and certain costs and fees”; in line 16, strike “acquiring utility or other”; in lines 17, 24, and 28, in each instance, strike “utility” and substitute “entity”; in line 20, after “time;” insert “providing for a certain extension; providing that a certain application is deemed approved under certain circumstances;”; and strike beginning with “authorizing” in line 21 down through “approval;” in line 23 and substitute “providing that a certain appraisal is presumed to be valid under certain circumstances;”.

AMENDMENT NO. 2

On page 4, in line 13, strike “AN ACQUIRING UTILITY” and substitute “A WATER COMPANY OR A SEWAGE COMPANY THAT IS ACQUIRING A SELLING UTILITY AS THE RESULT OF A VOLUNTARY ARM’S LENGTH TRANSACTION BETWEEN THE BUYER AND SELLER”; in line 17, strike “FILED WITH” and substitute “APPLIED TO”; strike beginning with the second “AN” in line 18 down through “NECESSITY” in line 19 and substitute “FOR AUTHORITY”; strike in their entirety lines 20 through 22, inclusive; in lines 23, 24, and 28, strike “(D)”, “(E)”, and “(F)”, respectively, and

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substitute “**(C)**”, “**(D)**”, and “**(E)**”, respectively; and in line 29, strike “**6-303**” and substitute “**6-304**”.

On page 5, strike in their entirety lines 1 through 6, inclusive; in lines 7 and 11, strike “**(I)**” and “**(J)**”, respectively, and substitute “**(F)**” and “**(G)**”, respectively; in line 8, strike “**IN THE STATE**” and substitute “**OR ANY OTHER WATER SERVICE OR SEWAGE DISPOSAL SERVICE PROVIDER IN THE STATE, INCLUDING ANY STATE, COUNTY, OR MUNICIPAL WATER SERVICE PROVIDER OR SEWAGE DISPOSAL SERVICE PROVIDER**”; strike beginning with “**OF**” in line 16 down through “**COMPANIES**” in line 17 and substitute “**, INCLUDING ALL TANGIBLE ASSETS, OF PUBLIC AND PRIVATE WATER SERVICE PROVIDERS AND SEWAGE DISPOSAL SERVICE PROVIDERS WITH FEWER THAN 400,000 CUSTOMERS**”;

and after line 18, insert:

“(A) WITHOUT PRIOR AUTHORIZATION OF THE COMMISSION, A PERSON MAY NOT ACQUIRE A CONTROLLING INTEREST IN ANY STATE, COUNTY, MUNICIPAL, OR SIMILAR NOT-FOR-PROFIT WATER SERVICE OR SEWAGE DISPOSAL SERVICE PROVIDER, FOR THE PURPOSE OF CONVERTING THE PROVIDER INTO A WATER COMPANY OR SEWAGE DISPOSAL COMPANY.

“(B) THE COMMISSION MAY AUTHORIZE AN ACQUISITION UNDER SUBSECTION (A) OF THIS SECTION IF THE COMMISSION FINDS THAT THE ACQUISITION IS CONSISTENT WITH THE PUBLIC CONVENIENCE AND NECESSITY.

6-304.”.

On page 7 in lines 15 and 25, and on page 8 in lines 10 and 28, in each instance, strike “**UTILITY**” and substitute “**ENTITY**”.

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On page 7, in lines 14 and 21, in each instance, strike the first “UTILITY” and substitute “ENTITY”.

AMENDMENT NO. 3

On page 5, strike beginning with “COMMISSION” in line 22 down through the first “THE” in line 23; in line 24, strike “SELECT AN EXPERT” and substitute “BE RESPONSIBLE FOR HIRING A UTILITY VALUATION EXPERT TO CONDUCT AN APPRAISAL OF THE SELLING UTILITY TO DETERMINE THE FAIR MARKET VALUE OF THE SELLING UTILITY”; strike in their entirety lines 25 through 27, inclusive; in lines 28 and 32, strike “(D)” and “(E)”, respectively, and substitute “(C)” and “(D)”, respectively; strike beginning with “EXPERT” in line 28 down through “COMPLIANCE” in line 29 and substitute “APPRAISAL SHALL BE COMPLETED IN ACCORDANCE”; and strike beginning with the first comma in line 30 down through “APPROACHES” in line 31.

On page 6, in line 4, strike “UNDER THE COST APPROACH REQUIRED”; in the same line, strike “(D)” and substitute “(C)”; strike in their entirety lines 6 through 8, inclusive; in line 9, strike “6-304.” and substitute “6-305.”; strike beginning with “(A)” in line 10 down through “(B)” in line 14; after line 20, insert:

“6-306.”;

in line 21, strike “(C)” and substitute “(A)”; in the same line, after “(1)” insert “REASONABLE TRANSACTION AND CLOSING COSTS INCURRED BY THE ACQUIRING ENTITY SHALL BE INCLUDED IN THE RATE MAKING RATE BASE OF THE ACQUIRING ENTITY.”

(2)”;

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in line 24, strike “(2)” and substitute “(3)”; in the same line, strike “FEES” and substitute “UNLESS THE COMMISSION FINDS JUST CAUSE TO AUTHORIZE ADDITIONAL FEES, FEES”; strike beginning with “ANOTHER” in line 25 down through “APPROVES” in line 26 and substitute “\$50,000 IF THE ACTUAL FEES PAID EXCEED 5% OF THE FAIR MARKET VALUE”.

On pages 6 and 7, strike in their entirety the lines beginning with line 27 on page 6 through line 5 on page 7, inclusive.

On page 7, in line 6, strike “THE” and substitute “AS OF THE CLOSING DATE OF THE ACQUISITION, THE”; and in the same line, after “UTILITY” insert “, INCLUDING ADDITIONS UNDER SUBSECTION (A) OF THIS SECTION,”.

AMENDMENT NO. 4

On page 7, in line 11, strike “6-306.” and substitute “6-307.”; strike beginning with “THIS” in line 12 down through “(B)” in line 14; in lines 15 and 19, in each instance, strike “6-303” and substitute “6-304”; in line 17, strike “FILED UNDER § 6-101 OF THIS TITLE”; in line 22, after “BASE” insert “OF THE SELLING UTILITY”; in line 23, strike “§ 6-305 OF”; strike beginning with “RATE” in line 26 down through “THE” in line 28 and substitute “SCHEDULE OF RATES, SERVICE CHARGES, AND ANY ADDITIONAL FEES TO BE INCURRED BY THE CUSTOMERS OF THE SELLING UTILITY AT OR IMMEDIATELY AFTER THE CLOSING DATE OF”; in line 29, strike “(C)” and substitute “(B) (1)”; and in the same line, strike “THE” and substitute “SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE”.

On page 8, in lines 1, 2, and 8, strike “(B)”, “(D)”, and “(E) (1)”, respectively, and substitute “(A)”, “(C)”, and “(D)”, respectively; after line 1, insert:

“(2) THE COMMISSION MAY EXTEND A PROCEEDING UNDER THIS SUBTITLE FOR AN ADDITIONAL 30 DAYS IF THE COMMISSION FINDS THAT THE

PROCEEDINGS CANNOT BE COMPLETED WITHIN THE INITIAL SUSPENSION PERIOD.

(3) AFTER THE EXPIRATION OF 180 DAYS UNDER PARAGRAPH (1) OF THIS SUBSECTION AND ANY EXTENSION UNDER PARAGRAPH (2) OF THIS SUBSECTION, IF THE COMMISSION HAS NOT ENTERED A FINAL ORDER, THE APPLICATION SHALL BE DEEMED APPROVED.”;

in line 5, strike “§ 6-305 OF”; in line 8, strike “(B)(5)” and substitute “(A)(5)”; strike in their entirety lines 11 through 26, inclusive, and substitute:

“(E) AN APPRAISAL CONDUCTED UNDER THIS SUBTITLE IS PRESUMED TO BE VALID UNLESS SUBSTANTIAL EVIDENCE DEMONSTRATES A FAILURE TO ADHERE TO THE REQUIREMENTS OF § 6-304 OR § 6-305 OF THIS SUBTITLE.”;

and strike beginning with “THAT” in line 29 down through “CHARGE” in line 30.

On page 9, in line 1, strike “4” and substitute “3”; in lines 3 and 4, in each instance, strike “UTILITY’S” and substitute “ENTITY’S”; and strike beginning with “THAT” in line 5 down through “CHARGE” in line 6.