

SB0854/737576/1

BY: Finance Committee

AMENDMENTS TO SENATE BILL 854
(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 12, 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 16, strike “FILED WITH” and substitute “APPLIED TO”; strike beginning with the second “AN” in line 17 down through “NECESSITY” in line 18 and substitute “FOR AUTHORITY”; strike in their entirety lines 19 through 21, inclusive; in lines 22, 23, and 27, strike “(D)”, “(E)”, and “(F)”, respectively, and

(Over)

substitute “(C)”, “(D)”, and “(E)”, respectively; and in line 28, strike “6-303” and substitute “6-304”.

On pages 4 and 5, strike in their entirety the lines beginning with line 29 on page 4 through line 5 on page 5, inclusive.

On page 5, in lines 6 and 10, strike “(I)” and “(J)”, respectively, and substitute “(F)” and “(G)”, respectively; in line 7, 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 15 down through the second “COMPANIES” in line 16 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 17, 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 14 and 24, and on page 8 in lines 9 and 27, in each instance, strike “UTILITY” and substitute “ENTITY”.

On page 7, in lines 13 and 20, in each instance, strike the first “UTILITY” and substitute “ENTITY”.

AMENDMENT NO. 3

On page 5, strike beginning with “COMMISSION” in line 21 down through the first “THE” in line 22; in line 23, 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 24 through 26, inclusive; in lines 27 and 31, strike “(D)” and “(E)”, respectively, and substitute “(C)” and “(D)”, respectively; strike beginning with “EXPERT” in line 27 down through “COMPLIANCE” in line 28 and substitute “APPRAISAL SHALL BE COMPLETED IN ACCORDANCE”; and strike beginning with the first comma in line 29 down through “APPROACHES” in line 30.

On page 6, in line 3, strike “UNDER THE COST APPROACH REQUIRED”; in the same line, strike “(D)” and substitute “(C)”; strike in their entirety lines 5 through 7, inclusive; in line 8, strike “6-304.” and substitute “6-305.”; strike beginning with “(A)” in line 9 down through “(B)” in line 13; after line 19, insert:

“6-306.”;

in line 20, 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.”

(Over)

(2)”;

in line 23, 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 24 down through “APPROVES” in line 25 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 26 on page 6 through line 4 on page 7, inclusive.

On page 7, in line 5, 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 10, strike “6-306.” and substitute “6-307.”; strike beginning with “THIS” in line 11 down through “(B)” in line 13; in lines 14 and 18, in each instance, strike “6-303” and substitute “6-304”; in line 16, strike “FILED UNDER § 6-101 OF THIS TITLE”; in line 21, after “BASE” insert “OF THE SELLING UTILITY”; in line 22, strike “§ 6-305 OF”; strike beginning with “RATE” in line 25 down through “THE” in line 27 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 28, strike “(C)” and substitute “(B) (1)”; in the same line, strike “THE” and substitute “SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE”; and after line 30, 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.

On page 7 in line 30, and on page 8 in lines 1 and 7, strike “(B)”, “(D)”, and “(E)(1)”, respectively, and substitute “(A)”, “(C)”, and “(D)”, respectively.

On page 8, in line 4, strike “§ 6-305 OF”; in line 7, strike “(B)(5)” and substitute “(A)(5)”; strike in their entirety lines 10 through 25, 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 28 down through “CHARGE” in line 29.

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.