



# TEXAS LEGISLATIVE STUDY GROUP

*An Official Caucus of the Texas House of Representatives*

## **CONFERENCE COMMITTEE REPORT** **ELIGIBLE FOR CONSIDERATION FOR HB 4749**

It is the recommendation of the LSG to **vote NO if there is a motion to accept a Conference Committee Report for HB 4749.**

HB 4749, in its current form, potentially sets a very dangerous precedent. For more than 100 years, Texas has encouraged private infrastructure investment by promising to protect that investment. Accordingly, Texas has made a “regulatory compact” with utilities by issuing CCNs (Certificates of Convenience and Necessity) to carve out a geographic service area in which the utility will serve without interference from an opportunistic entrant. In exchange, the utility agrees the Public Utility Commission of Texas (PUCT) will set the rates the utility may charge its customers. A private utility promises to make the necessary investment to provide adequate service to everyone within the utility’s service territory at prices and service standards approved by the government. In return, the state agrees to give the utility the sole right to provide service in that territory so that the utility will have a reasonable chance to recover its investment and operating costs. No one else can provide service in CCN territory without first meeting the standard for getting a CCN. By placing a new MUD over an existing CCN, this bill would set a terrible precedent.

The territory contained in the proposed MUD created by HB 4749 is currently protected by an investor owned utility’s state issued CCN. The conference committee report for HB 4749 grants eminent domain authority to the MUD and gives potentially opportunistic entrants the ability to move into a utility’s certificated service territory and take the utility’s infrastructure investment and customers without any requirement to prove that the existing service quality is inadequate or insufficient.

The author of the bill claims that HB 4749 is a local bill. In fact, HB 4749 is not just a local bill as it potentially sets statewide precedent by giving every Texas city the formula for confiscating any utilities’ property. We fear this could have a very chilling effect on infrastructure investment in Texas.

According to the Chairman of the committee to which HB 4749 was referred, the bill would have failed in committee had the bill author not made an agreement to change the bill to the standard MUD template. Generally, MUD bills follow a strict procedure and a common template. The original version of HB 4749 did not follow the template, among other issues, so an agreement was made to amend the bill so that it could receive the necessary votes to pass committee. The committee passed 4749 and sent it to the Local and Consent Calendar. It ultimately passed out of the House.

Unfortunately, the Senate amended the bill and returned it to its original version. When the bill returned from the Senate, the author lost a vote on the House floor to concur with Senate Amendments and the bill was instead sent to a conference committee. The conference committee has returned the bill to the House in the same form that passed the Senate.

Because of the dangerous precedent set by the CCR for HB 4749, LSG recommends voting NO on the motion to accept the Conference Committee Report.

Should you have any questions concerning this recommendation please contact our Executive Director, Raul Lopez, at [Raul@Texaslsg.org](mailto:Raul@Texaslsg.org) or 512-787-7199.

OK for Distribution -  Rep Garnet Coleman