

(The House considered SB 2306 by Williams, the Senate companion bill, in lieu of HB 3610, the House version of the bill, which had been set on the daily calendar and was analyzed by the House Research Organization. The bill subsequently was enacted as SB 2306.)

HOUSE  
RESEARCH

ORGANIZATION bill analysis

5/8/2009

HB 3610  
D. Miller

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SUBJECT: Allowing rates of depreciation on retired property for water utilities

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 7 ayes — Ritter, Callegari, Corte, Creighton, Frost, Laubenberg,  
D. Miller

0 nays

4 absent — T. King, Lucio, Martinez Fischer, Smithee

WITNESSES: For — Thomas Hodge, Canyon Lake Water Service Company; Robert Kelly, Tatiana Olea, Charles Profilet, Southwest Water Company; Bob Laughman, Aqua Texas; (*Registered, but did not testify*: Orville R. Bevel, Jr., C.A. Cockrell, Texans Against Monarchs Excessive Rates, Greater Lake Palestine Council; Steve Blackhurst, Aqua Texas; Mark Janay, SJWTX, Inc.; Jay Wiesner, Callender Lake P.O.A.)

Against — None

On — (*Registered, but did not testify*: Doug Holcomb, Texas Commission on Environmental Quality)

BACKGROUND: Under Water Code, sec. 13.183, the Texas Commission on Environmental Quality (TCEQ) is authorized to fix the overall revenue of a water and sewer utility at a level that will permit the utility to earn a reasonable return on its invested capital used in rendering service over and above its reasonable and necessary operating expenses and preserve the financial integrity of the utility.

Under Water Code, sec. 13.131, the TCEQ is required to fix proper and adequate rates and methods of depreciation, amortization, or depletion of the several classes of property of each utility. Every utility must carry a proper and adequate depreciation account in accordance with those rates and methods.

**DIGEST:** HB 3610 would amend Water Code, sec. 13.131 to require the TCEQ to require the book cost, less net salvage of depreciable utility plant retired, be charged in its entirety to the accumulated depreciation account, consistent with accounting treatment for other TCEQ and Public Utility Commission-regulated electric and gas utilities.

The 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, 2009.

**SUPPORTERS SAY:** HB 3610 would allow a utility to account for the cost of salvaging assets in book value if there were a loss on the salvage, rather than a gain.

The issue centers on the remaining net balance of a plant that is retired before its useful life. Water and sewer utilities constantly add and retire infrastructure for many reasons, including compliance issues, system maintenance or repairs, growth, and meeting system demands. TCEQ interprets the phrase “used and useful” under Water Code, sec. 13.183 to mean that any time invested capital is taken out of use, it is no longer “useful.” This prevents water and sewer utilities from being able to recover the remaining depreciation as a cost of service. Despite the invested capital being taken out of use, it often has continued useful life for depreciation purposes.

Currently, the 49 other states allow gas, electric, and water utilities to recover, as part of their cost of service, the remaining depreciation for assets previously used, but no longer in use. In Texas, gas and electric utilities are allowed to recover the remaining depreciation for these assets, but water and sewer utilities are not.

HB 3610 would allow water and sewer utilities to be able to recover, as a cost of service, any remaining depreciation on retired assets and would bring Texas into parity with all other 49 states, and water and sewer utilities into parity with gas and electric utilities in Texas.

Although this bill could allow assets to be left in a depreciable account where a utility still could make a return, the TCEQ could prevent this from happening through rulemaking.

**OPPONENTS** This bill would allow assets to be left in a depreciable account where a

SAY: utility still could make a return.

NOTES: The companion bill, SB 2306 by Williams, passed the Senate by 30-0 on April 23 and was reported favorably, without amendment, by the House Natural Resources Committee on May 5, making it eligible to be considered in lieu of HB 3610.