

- SUBJECT:** Allowing TCEQ's executive director to set interim water rates
- COMMITTEE:** Natural Resources — favorable, without amendment
- VOTE:** 7 ayes — Ritter, Callegari, Corte, Creighton, Frost, Lucio, D. Miller
1 nay — T. King
3 absent — Laubenberg, Martinez Fischer, Smithee
- SENATE VOTE:** On final passage, April 23 — 30-0, on Local and Uncontested Calendar
- WITNESSES:** (*On House companion bill, HB 1245:*)
For — Orville R. Bevel, Jr., T.A.M.E.R., Greater Lake Palestine Council;
(*Registered, but did not testify*, C.A. Cockrell, T.A.M.E.R., Greater Lake Palestine Council; Jay Wiesner, Callender Lakes P.O.A.)

Against — Steve Blackhurst, Aqua Texas; Robert Kelly, Tatiana Olea, Charles Profilet, Southwest Water Company; (*Registered, but did not testify*: Thomas Hodge, Canyon Lake Water Service Company; Mark Janay, SJWTX, Inc.)

On — (*Registered, but did not testify*: Doug Holcomb, Texas Commission on Environmental Quality)
- BACKGROUND:** Individuals may appeal water rate decisions to the Texas Commission on Environmental Quality (TCEQ).

Water Code, ch. 13.043, subsec. (h) allows TCEQ, on a motion by the executive director or appellant, to establish interim rates that apply until a final decision is made.
- DIGEST:** SB 719 would allow TCEQ's executive director to establish an interim rate to be used while an appeal of a water rate change was underway. The bill also would require a utility to provide TCEQ's executive director with a copy of a statement of intent to change rates at least 60 days before a rate change. TCEQ's executive director would be able to fix interim rates to remain in effect until a final determination was made on a proposed rate.

The bill would take effect September 1, 2009.

**SUPPORTERS
SAY:**

SB 719 would protect consumers from having to pay extraordinarily high water rates while waiting for a decision in a TCEQ contested case hearing. TCEQ's policy is to require customers to pay the contested rate proposed by the utility until the hearing is determined. Currently, TCEQ's executive director must go through the commission before being able to set an interim rate during a water rate appeal. Under the bill, TCEQ's executive director would be able to exercise discretion in establishing an interim rate without having first to obtain commission approval.

TCEQ contested case hearings can continue for long periods of time, resulting in consumers paying the higher rate for months or even years. A recent rate case, known as the Monarch Rate case, began in August of 2007 and was not resolved until December 2008. The case involved 93 water systems with approximately 22,500 customers in 24 counties. The bill would allow the TCEQ executive director to establish interim rates in large and lengthy cases like the Monarch case.

**OPPONENTS
SAY:**

The bill would prevent utilities from having a voice in the decision on whether or not to implement an interim rate. Under the current system, utilities can state their case before the commission before an interim rate is imposed. If the commission decides proposed rate changes are too high, customers are refunded the difference between the proposed rate and the TCEQ approved rate. Likewise, if the commission accepts a utility's proposed rate change, customers must pay the difference between the interim rate and the proposed rate in the form of a surcharge. Increasing the instances of TCEQ mandated interim rate could result in consumers being forced to pay more surcharges.

NOTES:

The companion bill, HB 1245 by B. Brown, was heard and left pending in the Natural Resources Committee on March 31.