

SUBJECT: Prohibiting certain water and sewer fees charged to public school districts

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 10 ayes — Keffer, D. Bonnen, Burns, Frank, Kacal, T. King, Larson,  
Lucio, Nevárez, Workman

0 nays

1 absent — Ashby

WITNESSES: For — Wayne Pierce, Equity Center; Rey Villarreal, La Feria Independent School District; (*Registered, but did not testify*: Erica Mulder, Dallas Regional Chamber; Ramon Mendoza, La Feria Independent School District; Dominic Giarratani, Texas Association of School Boards)

Against — Robert Rowan, City of Austin; Heather Mahurin, Texas Municipal League; (*Registered, but did not testify*: Larry Casto, City of Dallas; Hilary Shine, City of Killeen; Tony Privett, City of Lubbock; Jeff Coyle, City of San Antonio; Erica Mulder, Dallas Regional Chamber; Dan Pearson, El Paso Water Utility; Michael Booth, Heritage Commodity; Hope Wells, San Antonio Water System; Dean Robbins, Texas Water Conservation Association; Leslie Lewis Dunbar, Val Verde County Landowners)

On — Tammy Benter, Public Utility Commission of Texas; (*Registered, but did not testify*: Paul Colbert)

BACKGROUND: Under Water Code, sec. 13.042, for the purpose of regulating rates and services, the governing body of each municipality has exclusive original jurisdiction over all water and sewer utility rates, operations, and services provided by a water and sewer utility within its corporate limits.

DIGEST: CSHB 2852 would prohibit a municipally owned utility providing retail water or sewer utility service to a public school district from charging the district a fee based on the district's number of students or employees in

addition to the rates charged for the service.

This would apply only to a public school district that, after September 1, 2009, was charged a fee based on the number of students and employees in addition to the rates charged for the service.

A school district could appeal such a fee charge by petitioning the Public Utility Commission (PUC). The PUC would be required to evaluate a fee charged by a municipally owned utility to the district after September 1, 2009, to determine if the fee was based on the number of students or employees. The municipality charging the fee would have the burden of proof to establish that the fee was not based on the number of students and employees. If the PUC found against the city, the PUC would be required to fix or eliminate the fees and the municipally owned utility would have to refund the money collected. The PUC could allow the school district to recover from the municipality any reasonable expenses incurred in petitioning the PUC.

Under the bill, school districts could submit petitions until September 1, 2020.

This 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, 2015.

**SUPPORTERS  
SAY:**

CSHB 2852 would ensure that school districts were charged appropriately for water and sewer service. Municipally owned utilities typically charge for water and wastewater service per gallon. Since 2009, two school districts in the valley have been charged per student/employee in the district for water and sewer service on top of the regular per gallon rate. The utility costs were so high that one of the schools had to temporarily shut down.

The bill would protect these school districts, and any others in the future, from unreasonable rates by prohibiting municipally owned utilities from charging per capita rates to school districts in addition to the per gallon

rate. The bill also would allow affected school districts to file a petition to appeal the per capita rate with the PUC and, if successful, get reimbursed and recover reasonable expenses after submitting the petition.

Water and wastewater fees based on the number of students or employees of a public school district in addition to the regular per gallon rate is essentially a double charge that diverts money to purposes other than education.

**OPPONENTS  
SAY:**

CSHB 2852 would create a limited appellate process for school districts to appeal water rates with the PUC that no other residents or entities in a city would have. An appellate process would increase costs to cities and ratepayers by shifting the burden to a city to defend the rate. There is no specific procedure in law instructing how cities regulate water rates, except that the rates be fair and reasonable. This bill could impact how a city set fees in order to have a more diverse income stream.