

- SUBJECT:** Changing water class rates and authorizing alternative ratemaking
- COMMITTEE:** Natural Resources — favorable, without amendment
- VOTE:** 11 ayes — Larson, Metcalf, Dominguez, Farrar, Harris, T. King, Lang, Nevárez, Oliverson, Price, Ramos
- 0 nays
- SENATE VOTE:** On final passage, April 9 — 31-0
- WITNESSES:** *On House companion bill, HB 1587:*
For — (*Registered but did not testify:* Morgan Johnson, San Jose Water; Jess Heck, SouthWest Water Company; Jerry Valdez, Texas Alliance of Water Providers; Chris Frandsen, Texas League of Women Voters)
- Against — None
- On — (*Registered but did not testify:* Tammy Benter, Public Utility Commission of Texas)
- BACKGROUND:** Water Code sec. 13.002 defines a "Class B utility" as a public utility that provides retail water or sewer utility service between 500 and 10,000 taps or connections. A "Class C utility" provides retail water or sewer utility service through fewer than 500 taps or connections.
- Sec. 13.046 requires the Public Utility Commission (PUC) to allow a retail public utility that takes over the provision of services for a nonfunctioning retail water or sewer utility service provider to charge a reasonable rate for the services provided to the customers of the nonfunctioning system and to bill the customers for the services at that rate immediately to recover service costs.
- In 2013, the Texas Legislature transferred responsibility for rate and other economic regulation of water and wastewater utilities from the Texas Commission on Environmental Quality (TCEQ) to PUC. It has been

suggested that, while the transfer has been successful, certain improvements could be made to help water utilities navigate the rate approval process and implement necessary system upgrades.

DIGEST:

SB 700 would restructure water rate classes and ratemaking processes for public water and wastewater utilities, authorize temporary or emergency rates for troubled systems, and allow rate adjustments for the smallest utility class.

Water rate classes. SB 700 would change, for the purposes of water rates and services, the number of taps or connections that constituted a utility class. A Class B utility would range from 2,300 taps or connections to fewer than 10,000 taps or connections; a Class C utility would range from 500 taps or connections to fewer than 2,300 taps or connections; and a Class D utility would be fewer than 500 tap or connections.

Emergency orders. The bill would authorize the Texas Commission on Environmental Quality (TCEQ) to issue emergency orders to ensure safe drinking water or environmental protection, with or without a hearing:

- to compel a certified retail public utility to provide water or sewer service, or both, that complied with all PUC statutory and regulatory requirements; and
- to compel a retail public utility to provide an emergency interconnection with a neighboring retail public utility for the provision of temporary water or sewer service, or both, for not more than 90 days.

PUC would be authorized, on request by TCEQ, to establish reasonable compensation for temporary service under an emergency order to allow the retail public utility receiving the service to temporarily adjust its rate structure to ensure proper payment. If an emergency order was issued without a hearing, notice of a hearing to affirm, modify or set aside the order would be adequate if the notice was mailed or hand delivered to the last known address of the retail public utility's headquarters.

At the time that PUC approved the acquisition of a nonfunctioning retail water or sewer utility service provider, PUC would have to determine the duration of the temporary rates for the retail public utility, which would have to be for a reasonable period. If PUC did not make a ruling on the reasonableness of the temporary rates before the application was filed, the utility commission would have to rule on the rates upon approval of the acquisition.

Rate adjustments. SB 700 would authorize PUC to, by rule, adopt specific alternative ratemaking methodologies for water or sewer rates to allow for more timely and efficient cost recovery as specified in the bill, including system improvement charges.

Rate changes. The bill would change to 5,000 and 10,000 gallons, rather than 10,000 and 30,000 gallons, the amount of water used as the basis for the billing comparison of a statement of intent to change rates for Class A and Class B utilities.

The bill would change the applicability of Class C rate adjustment provisions to apply to Class D utilities and would prohibit Class D utilities from increasing rates more than 5 percent.

Class C utilities could not change rates except by complying with the same requirements as Class B utilities. The bill would repeal references to price indexes as they relate to rate adjustments for Class C utilities.

A Class D utility could choose to send notice of intent to change rates. A Class C utility or Class D utility could send a statement of intent to change rates by mail or email or could deliver a copy of the notice to ratepayers.

Applications. PUC would be required to ensure that the application for a Class B utility was less burdensome and complex than an application for a Class A utility, and that the application for a Class C or D utility was less burdensome and complex than an application for a Class B utility.

The bill also would authorize a Class A utility to apply to PUC for an

amendment of a certificate of convenience and necessity that was held by a municipal utility district to allow the utility to have the same rights and powers under the certificate as the municipal utility district.

The bill would take effect September 1, 2019.

NOTES:

The bill sponsor plans to offer a floor amendment that would authorize the executive director of the Texas Commission on Environmental Quality to issue emergency orders related to ensuring safe drinking water and environmental protection.