

SUBJECT: Appealing wholesale water or sewer service rates before rate proceedings

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 10 ayes — T. King, Harris, Bowers, Kacal, Lucio, Paul, Price, Ramos, Walle, Wilson

0 nays

1 absent — Larson

SENATE VOTE: On final passage, April 27 — 31-0

WITNESSES: None

BACKGROUND: Water Code sec. 12.013 requires the Public Utility Commission (PUC) to fix reasonable rates for the furnishing of raw or treated water. PUC's jurisdiction is limited to water furnished by a city, town, or village to another political subdivision on a wholesale basis.

DIGEST: SB 997 would prohibit the Public Utility Commission (PUC), in a proceeding to review water or sewer rates charged under a written contract or an appeal of the amount paid, from holding a hearing on or otherwise prescribing just and reasonable amounts to be charged under the contract unless it determined that the rate harmed the public interest. A determination would be final for purposes of appeal in the manner provided by current law.

A party adversely affected by a determination could seek judicial review, which would have to be by trial de novo. PUC would have to abate proceedings on the contract in the event of an appeal until the entry of a final judicial determination that a rate charged under the contract harmed the public interest.

Before holding a hearing or otherwise prescribing a just and reasonable rate to be charged under the contract, PUC would have to allow

contracting parties to amend the rate until at least 60 days after the date:

- of a final judicial determination in an appeal that a rate harmed the public interest; or
- the determination became final if a motion for rehearing was not filed on time.

If the parties amended their contract, a party could challenge before PUC the rate paid under the amended contract only after the fifth anniversary of the date the contract was amended or during a period agreed to by the parties that was between five and 25 years after the contract was amended.

The bill would take effect September 1, 2021, and would apply only to a rate proceeding that began on or after that date.

**SUPPORTERS
SAY:**

SB 997 would provide clarity in the process for setting wholesale water or sewer rates by establishing a process to appeal a Public Utility Commission (PUC) determination that the rates were adverse to the public interest. Currently, such a determination triggers PUC's jurisdiction to set just and reasonable rates, which is done through a hearing. Rate hearings can be expensive and time consuming for all parties and ultimately may be unproductive if it is found that PUC made an adverse public interest determination in error and the rates did not change. SB 997 would remedy this issue by providing a process for a wholesale water and sewer services provider to appeal a PUC determination by requesting a judicial review before the rate hearing.

The bill would provide the parties 60 days after a determination was made to reach an agreement to promote dispute resolution outside a hearing. If a new contracted rate was agreed to, the parties could not challenge the contract again for at least five years. SB 997 would be in the interest of both parties in a contract by allowing them to work out rates before the issue was decided at a hearing, saving them time and money while preserving their ability to have a remedy at PUC if and when a contract was not just. This also would make the process more efficient and ensure

that important water projects were not held up by a contractual dispute.

CRITICS
SAY:

No concerns identified.

NOTES:

The House companion bill, HB 3079 by Larson, was considered by the House Natural Resources Committee in a public hearing on April 6, reported favorably on April 8, and sent to the Calendars Committee.