

BILL ANALYSIS

Senate Research Center
80R930 JJT-D

H.B. 149
By: Phillips (Estes)
Natural Resources
5/11/2007
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

When a retail water or sewer system becomes nonfunctional, another retail public utility provider can take over the nonfunctional system in order to avoid disruption of service to the customers of the system. The rates charged by the nonfunctioning system usually do not meet the costs to the new provider to provide service and the infrastructure of the system is often in non-compliance with state regulatory standards. There is no expedited process to adjust the price of the service to reflect the actual costs to the new provider. Currently, the new provider is required to continue to charge the current rates and operate at a loss until the rate adjustment process is complete through the Texas Commission on Environment Quality (TCEQ). Additionally, a new provider of a system which was in non-compliance before its acquisition, may place the new provider's existing system in non-compliance and subject the provider to fines from TCEQ.

H.B. 149 requires TCEQ to establish a procedure that allows 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. The bill also requires TCEQ to provide a reasonable period for the retail public utility that takes over the nonfunctioning system to bring the nonfunctioning system into compliance with TCEQ rules during which TCEQ is prohibited from imposing a penalty for any deficiency in the system that is present at the time the utility takes over the nonfunctioning system.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Natural Resource Conservation Commission [Texas Commission on Environmental Quality] in SECTION 1 (Section 13.046, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

[While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

SECTION 1. Amends Subchapter C, Chapter 13, Water Code, by adding Section 13.046, as follows:

Sec. 13.046. TEMPORARY RATES FOR SERVICES PROVIDED FOR NONFUNCTIONING SYSTEM; SANCTIONS FOR NONCOMPLIANCE. (a) Requires the Texas Natural Resource Conservation Commission (TNRCC) by rule to establish a procedure that allows 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.

(b) Requires the rules to provide a streamlined process that the retail public utility that takes over the nonfunctioning system may use to apply to TNRCC for a ruling on the reasonableness of the rates the utility is charging under Subsection (a). Requires the process to allow for adequate consideration of costs for interconnection or other costs incurred in making services available and of the

costs that may necessarily be incurred to bring the nonfunctioning system into compliance with TNRCC rules.

(c) Requires TNRCC to provide a reasonable period for the retail public utility that takes over the nonfunctioning system to bring the nonfunctioning system into compliance with TNRCC rules during which TNRCC is prohibited from imposing a penalty for any deficiency in the system that is present at the time the utility takes over the nonfunctioning system. Requires TNRCC to consult with the utility before determining the period and authorizes TNRCC to grant an extension of the period for good cause.

SECTION 2. Effective date: September 1, 2007.