

BILL ANALYSIS

Senate Research Center
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S.B. 700
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Water & Rural Affairs
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

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 the Public Utility Commission (PUC). This transfer was based in part on a finding by the Sunset Advisory Commission that PUC, as a ratemaking agency, was best positioned to regulate water and wastewater utility rates. While the transfer has been successful, interested parties note that certain improvements could be made to ensure that water utilities—most of which pale in comparison to the size of the electric utilities that PUC also regulates—are able to navigate the rate approval process and make needed upgrades to their system.

S.B. 700 makes changes to the procedures for water ratemaking cases to improve and streamline the ratemaking process for utilities and consumers.

As proposed, S.B. 700 amends current law relating to the regulation of certain classes of retail public water utilities.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the regulatory authority is modified in SECTION 3 (Section 13.183, Water Code) of this bill.

Rulemaking authority previously granted to the regulatory authority is modified in SECTION 5 (Section 13.1871, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 13.002, Water Code, by amending Subdivisions (4-b) and (4-c) and adding Subdivision (4-d), as follows:

(4-b) Increases from 500 to 2,300 the minimum amount of taps through which a public utility provides retail water or sewer utility service to meet the definition of "Class B utility."

(4-c) Redefines "Class C utility" to mean a public utility that provides retail water or sewer utility service through 500 or more taps or connections but fewer than 2,300, rather than fewer than 500, taps or connections.

(4-d) Defines "Class D utility."

SECTION 2. Amends Section 13.046, Water Code, by adding Subsection (d), as follows:

(d) Requires the Public Utility Commission (PUC), at the time PUC approves the acquisition of a nonfunctioning retail water or sewer utility service provider under Section 13.301 (Report of Sale, Merger, ETC.; Investigation; Disallowance of Transaction), to determine the duration of the temporary rates for the retail public utility, which must be for a reasonable period, and rule on the reasonableness of the temporary rates under Subsection (b) (relating to the types of rules and processes PUC is authorized

to establish regarding the take-over of a nonfunctioning water or sewer service) if PUC did not make a ruling before the application was filed under Section 13.301.

SECTION 3. Amends Section 13.183(c), Water Code, to delete existing text requiring the regulatory authority, when adopting specific alternative ratemaking methodologies for water or sewer rates, to base those rates on factors other than rate of return and those specified in Section 13.185 (Components of Invested Capital and Net Income).

SECTION 4. Amends Section 13.187(a-1), Water Code, to require the statement of intent issued by PUC to include a billing comparison regarding the existing water rate and the new water rate computed for the use of 5,000 and 10,000 gallons of water, rather than 10,000 and 30,000, gallons of water.

SECTION 5. Amends Sections 13.1871(a), (b), and (d), Water Code, as follows:

(a) Provides that except as provided by Sections 13.18715 and 13.1872, rather than as provided by Section 13.1872, this section applies only to a Class B utility.

(b) Makes a conforming change.

(d) Deletes existing text requiring PUC, in adopting rules relating to the information required in the application, to ensure that a utility can file a less burdensome and complex application than is required of a Class A utility.

SECTION 6. Amends Subchapter F, Chapter 13, Water Code, by adding Section 13.18715, as follows:

Sec. 13.18715. CLASS C UTILITIES: STATEMENT OF INTENT TO CHANGE RATES; HEARING; DETERMINATION OF RATE LEVEL. (a) Provides that this section only applies to a Class C utility.

(b) Prohibits a utility from making changes in its rates except by complying with the procedures to change rates described by Section 13.1871 (Class B Utilities: Statement of Intent to Change Rates; Hearing; Determination of Rate Level).

(c) Authorizes the utility, notwithstanding Section 13.1871(n) (relating to a utility mailing a notice of a hearing about rate changes), to send the notice required by that subsection by mail or e-mail or to deliver a copy of the notice to the ratepayers.

SECTION 7. Amends the heading to Section 13.1872, Water Code, to read as follows:

Sec. 13.1872. CLASS D UTILITIES: RATE ADJUSTMENT.

SECTION 8. Amends Section 13.1872, Water Code, by amending Subsection (a) and adding Subsection (c-1), as follows:

(a) Provides that this applies only a Class D utility, rather than a Class C utility.

(c-1) Authorizes a utility that chooses to comply with Section 13.1871 as authorized under Subsection (c)(2) (relating to the exception to utilities making rate changes by complying with Section 13.187) of this section to send the notice required by Section 13.1871(n) by mail or e-mail or to deliver a copy of the notice to the ratepayers.

SECTION 9. Amends Subchapter F, Chapter 13, Water Code, by adding Section 13.1873, as follows:

Sec. 13.1873. APPLICATION FEE. Requires PUC, in adopting rules relating to the information required in an application for a Class B, Class C, or Class D utility to change rates, to ensure that a Class B utility can file a less burdensome and complex application

than is required of a Class A utility and that a Class C or Class D utility can file a less burdensome and complex application than is required of a Class A or Class B utility.

SECTION 10. Amends Section 13.258(a), Water Code, to authorize a Class A utility, notwithstanding any other provision of this chapter, to apply to the utility commission, rather than the commission, for an amendment of a certificate of convenience and necessity 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.

SECTION 11. Makes application of this Act prospective.

SECTION 12. Effective date: September 1, 2019.