BILL ANALYSIS

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Residents in an extraterritorial jurisdiction (ETJ) may file an appeal with the Public Utility Commission (PUC) if water rates are increased under Section 13.043 of the Water Code. However, no such process exists for ETJ residents who are transferred from one service provider to another, even when rates increase. The city council members who determine provider transfers are not elected by residents in the ETJ, yet residents are still subjected to rate increases. This amounts to taxation without representation.

S.B. 387 outlines the process by which ratepayers in an ETJ may appeal a rate increase when there is a transfer to a new service provider.

- The ratepayer may appeal the increased rates by filing a petition for review with the PUC within 90 days.
    - The petition must be signed by the lesser of 10,000 or 10 percent of the impacted ratepayers.
    - The PUC shall hear the appeal and fix the rates to ensure they are fair. The rates will then be in effect for one year or until the provider changes the rates.
    - This is the same process currently used for consumers in an ETJ. This bill extends the process to include provider transfers.
- Until December 1, 2021, ratepayers may appeal transfer rate increases up to five years before the effective date (September 1, 2021).

Committee Substitute

C.S.S.B. 387 clarifies that this process only applies to municipally owned utilities (MOU) because residents in the ETJ of an MOU are the only ones that do not have a vote on their rates.

C.S.S.B. 387 amends current law relating to the appeal of rates for water or sewer service charged to certain customers of a municipality.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 13.043, Water Code, by amending Subsection (b) and adding Subsection (b-4), as follows:

> (b) Authorizes ratepayers of the following entities to appeal the decision of the governing body of the entity affecting their water, drainage, or sewer rates to the Public Utility Commission (PUC):
>
> > (1) and (2) makes no changes to these subdivisions;
>
> > (3) a municipally owned utility, if the ratepayers reside outside the corporate limits of the municipality, including a decision of a governing body that results in

an increase in rates when the municipally owned utility takes over the provision of service to ratepayers previously served by another retail public utility;

(4) and (5) makes no changes to these subdivisions.

(b-4) Provides that Subsection (b)(3) does not apply to a municipally owned utility that takes over the provision of service to ratepayers previously served by another retail public utility if the municipally owned utility:

(1) takes over the service at the request of the ratepayer;

(2) takes over the service in the manner provided by Subchapter H (Sale of Property and Mergers); or

(3) is required to take over the service by state law, an order of the Texas Commission on Environmental Quality, or an order of the PUC.

SECTION 2. (a) Authorizes a ratepayer described by Section 13.043(b), Water Code, as amended by this Act, notwithstanding Section 13.043(c), Water Code, to use the appeal process in Section 13.043 (Appellate Jurisdiction), Water Code, to appeal increased rates charged to the ratepayer by a municipally owned utility by filing a petition for review with the PUC and the municipally owned utility not later than December 1, 2021, if the municipally owned utility began providing service to the ratepayer on or after September 1, 2016.

(b) Provides that Subsection (a) of this section applies only to rates that the municipally owned utility has not changed since the municipally owned utility began providing service to the ratepayer.

SECTION 3. Effective date: September 1, 2021.