

By: Thompson of Harris

H.B. No. 4763

A BILL TO BE ENTITLED

1 AN ACT
2 relating to requirements for the purchase or acquisition of certain
3 water and sewer systems.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 13.301, Water Code, is amended by
6 amending Subsection (h) and adding Subsections (l), (m), and (n) to
7 read as follows:

8 (h) A sale, acquisition, lease, or rental of any water or
9 sewer system owned by an entity required by law to possess a
10 certificate of public convenience and necessity, or a sale or
11 acquisition of or merger or consolidation with such an entity, that
12 is not completed in accordance with the provisions of this section
13 is void. Notwithstanding any other law that requires a system
14 owner's signature, the utility commission shall approve a
15 transaction to which this section applies if the owner has
16 abandoned operation of the facilities that are the subject of the
17 transaction and cannot be located or does not respond to an
18 application filed under Subsection (l).

19 (l) Notwithstanding any other provision of this section,
20 the utility commission by rule shall adopt an expedited process
21 that allows a person appointed by the utility commission or the
22 commission under Section 13.4132 as a temporary manager that is
23 also an operator of a Class A or Class B utility to apply for utility
24 commission approval of the person's acquisition of the stock,

1 ownership interest, or assets of the temporarily managed and
2 operated utility, its facilities, and its certificated service
3 area, if one has been granted to the utility. The expedited process
4 must:

5 (1) waive public notice requirements;

6 (2) be approved if the acquisition transaction is
7 considered to be in the public interest; and

8 (3) provide that:

9 (A) the person's appointment is considered
10 sufficient to demonstrate adequate financial, managerial, and
11 technical capability for providing continuous and adequate service
12 to the service area to be acquired and any areas currently
13 certificated to the person; and

14 (B) all used and useful invested capital and just
15 and reasonable operations and maintenance costs incurred by the
16 person during the person's appointment as temporary manager and
17 operator of the utility, utility in receivership, or utility in
18 supervision to be acquired are considered to be a regulatory asset
19 for the person and are recoverable in the person's next
20 comprehensive rate proceeding or system improvement charge
21 application.

22 (m) If a temporary rate under Section 13.046 is adopted
23 during the period described by Subsection (1)(3)(B), then all used
24 and useful invested capital and just and reasonable operations and
25 maintenance costs incurred by the person in excess of costs covered
26 by the temporary rate are considered to be a regulatory asset for
27 the person and are recoverable in the person's next comprehensive

1 rate proceeding or system improvement charge application.

2 (n) The utility commission and the commission shall provide
3 a reasonable period for a person acquiring a utility under
4 Subsection (1) to bring the acquired utility into compliance with
5 utility commission and commission rules before imposing a penalty
6 for any violation present in the acquired utility at the time of
7 acquisition.

8 SECTION 2. This Act takes effect September 1, 2023.