

By: Perry

S.B. No. 1891

A BILL TO BE ENTITLED

AN ACT

relating to test years used for ratemaking purposes by certain water and sewer utilities.

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

SECTION 1. Subchapter F, Chapter 13, Water Code, is amended by adding Section 13.1831 to read as follows:

Sec. 13.1831. TEST YEAR. A regulatory authority shall fix rates for water and sewer services for a Class A, B, C, or D utility based on a test year the utility selects that:

(1) includes historic, future, or combined historic and future data;

(2) begins on the first day of a calendar or fiscal year quarter; and

(3) is a consecutive 12-month period that:

(A) begins not later than 18 months after the date the utility files the statement of intent to change rates; and

(B) ends not earlier than 18 months before the date the utility files the statement of intent to change rates.

SECTION 2. Section 13.183(a), Water Code, is amended to read as follows:

(a) In fixing the rates for water and sewer services, the regulatory authority shall fix its overall revenues at a level that will:

(1) permit the utility a reasonable opportunity to

1 earn a reasonable return on its invested capital used and useful in
2 rendering service to the public, based on test year information,
3 over and above its reasonable and necessary operating expenses; and

4 (2) preserve the financial integrity of the utility.

5 SECTION 3. Section 13.184(a), Water Code, is amended to
6 read as follows:

7 (a) Unless the utility commission establishes alternate
8 rate methodologies in accordance with Section 13.183(c), the
9 utility commission may not prescribe any rate that will yield more
10 than a fair return on the invested capital used and useful in
11 rendering service to the public based on test year information. The
12 governing body of a municipality exercising its original
13 jurisdiction over rates and services may use alternate ratemaking
14 methodologies established by ordinance or by utility commission
15 rule in accordance with Section 13.183(c). Unless the municipal
16 regulatory authority uses alternate ratemaking methodologies
17 established by ordinance or by utility commission rule in
18 accordance with Section 13.183(c), it may not prescribe any rate
19 that will yield more than a fair return on the invested capital used
20 and useful in rendering service to the public based on test year
21 information.

22 SECTION 4. Section 13.185, Water Code, is amended by
23 amending Subsections (b), (d), and (j) and adding Subsection (k) to
24 read as follows:

25 (b) Utility rates shall be based on the original cost of
26 property used by and useful to the utility during the test year in
27 providing service, including, if necessary to the financial

1 integrity of the utility, construction work in progress at cost as
2 recorded on the books of the utility. The inclusion of construction
3 work in progress is an exceptional form of rate relief to be granted
4 only on the demonstration by the utility by clear and convincing
5 evidence that the inclusion is in the ratepayers' best interest and
6 is necessary to the financial integrity of the utility.
7 Construction work in progress may not be included in the rate base
8 for major projects under construction to the extent that those
9 projects have been inefficiently or imprudently planned or managed.
10 Original cost is the actual money cost or the actual money value of
11 any consideration paid, other than money, of the property at the
12 time it shall have been dedicated to public use, whether by the
13 utility that is the present owner or by a predecessor, less
14 depreciation. Utility property funded by explicit customer
15 agreements or customer contributions in aid of construction such as
16 surcharges may not be included in invested capital.

17 (d) Net income is the total revenues of the utility less all
18 reasonable and necessary expenses as determined by the regulatory
19 authority. The regulatory authority shall:

20 (1) base a utility's expenses on [~~historic~~] test year
21 information [~~adjusted for known and measurable changes~~], as
22 determined by utility commission rules; and

23 (2) determine expenses and revenues in a manner
24 consistent with Subsections (e) through (h) of this section.

25 (j) Depreciation expense included in the cost of service
26 includes depreciation on all [~~currently used~~] depreciable utility
27 property owned by the utility except for property provided by

1 explicit customer agreements or funded by customer contributions in
2 aid of construction. Depreciation on all [~~currently used and~~
3 ~~useful~~] developer or governmental entity contributed property
4 shall be allowed in the cost of service.

5 (k) Notwithstanding Subsection (b), the regulatory
6 authority shall allow inclusion in the rate base of facilities
7 projected to be in service through the end of the test year.

8 SECTION 5. Section 13.002(22), Water Code, is repealed.

9 SECTION 6. The changes in law made by this Act apply only to
10 a rate proceeding that commences on or after the effective date of
11 this Act. A rate proceeding that commenced before the effective
12 date of this Act is governed by the law in effect on the date the
13 proceeding commenced, and that law is continued in effect for that
14 purpose.

15 SECTION 7. This Act takes effect September 1, 2025.