

By: Shapleigh

S.B. No. 326

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of certain sales of water to be transported by pipeline.

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

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

SUBCHAPTER O. REGULATION OF CERTAIN SALES OF WATER TO BE TRANSPORTED BY PIPELINE

Sec. 13.551. APPLICABILITY. (a) This subchapter applies only to the sale of raw or potable groundwater or surface water if the water, before or after the sale, is to be transported by pipeline:

(1) 50 miles or more; or

(2) from one river basin in this state to another river basin in this state.

(b) This subchapter applies to a sale of water by an individual or a business entity.

Sec. 13.552. POWER TO ENSURE COMPLIANCE; RATE REGULATION. The commission has all authority and power of the state to ensure that persons who supply or receive water the sale of which is subject to this subchapter comply with their obligations under this subchapter. For this purpose, the commission may:

(1) fix and regulate the rates for sales of that water;

and

1 (2) adopt rules for determining:

2 (A) the classification of customers and
3 services; and

4 (B) the applicability of rates.

5 Sec. 13.553. JUST AND REASONABLE RATES. The commission
6 shall ensure that the rate for water sold under this subchapter is
7 just and reasonable.

8 Sec. 13.554. FIXING OVERALL REVENUES. In fixing the rate
9 for a sale of water under this subchapter, the commission shall fix
10 the seller's revenues at a level that will:

11 (1) permit the seller a reasonable opportunity to earn
12 a reasonable return on the seller's invested capital used and
13 useful in supplying water to the purchaser over and above the
14 seller's reasonable and necessary operating expenses; and

15 (2) preserve the financial integrity of the seller.

16 Sec. 13.555. FAIR RETURN. The commission may not prescribe
17 any rate for a sale of water under this subchapter that will yield
18 more than a fair return on the invested capital used and useful in
19 supplying water to the purchaser.

20 Sec. 13.556. UNREASONABLE PREFERENCE OR PREJUDICE AS TO
21 RATES OR SERVICES. (a) A person who supplies water the sale of
22 which is subject to this subchapter may not make or grant any
23 unreasonable preference or advantage to any person within any
24 classification or subject any person within any classification to
25 any unreasonable prejudice or disadvantage.

26 (b) A person who supplies water the sale of which is subject
27 to this subchapter may not establish or maintain any unreasonable

1 differences as to rates for water either as between localities or as
2 between classes of service.

3 Sec. 13.557. EQUALITY OF RATES AND SERVICES. (a) A person
4 who supplies water the sale of which is subject to this subchapter
5 may not directly or indirectly by any device or in any manner
6 charge, demand, collect, or receive from any person a greater or
7 lesser compensation for any water supplied by the person than that
8 prescribed in the person's schedule of rates as properly applied to
9 the person to whom the water is supplied.

10 (b) A person may not knowingly receive or accept water from
11 a person for a compensation greater or less than that prescribed in
12 the supplier's schedule of rates as properly applied to the person
13 to whom the water is supplied.

14 Sec. 13.558. DISCRIMINATION; RESTRICTION ON COMPETITION.

15 (a) A person who supplies water the sale of which is subject to this
16 subchapter may not discriminate against any person who provides
17 water in competition with the person or engage in any other practice
18 that tends to restrict or impair that competition.

19 (b) A person who supplies water the sale of which is subject
20 to this subchapter by a pipeline owned or operated by the person:

21 (1) shall receive and transport water delivered to the
22 person by other water suppliers and perform the person's other
23 related duties without discrimination; and

24 (2) may not:

25 (A) discriminate in the transportation of water
26 the sale of which is subject to this subchapter among or against
27 other water suppliers with regard to facilities provided, services

1 rendered, or rates charged under the same or similar circumstances;
2 or

3 (B) discriminate in the transportation of water
4 produced or purchased by the person directly or indirectly.

5 (c) A person may refuse to transport:

6 (1) raw water in a pipeline owned or operated by the
7 person if the pipeline is being used to transport potable water; or

8 (2) potable water in a pipeline owned or operated by
9 the person if the pipeline is being used to transport raw water.

10 Sec. 13.559. CERTIFICATE OF CONVENIENCE AND NECESSITY.

11 (a) A person may not supply to another person water the sale of
12 which is subject to this subchapter unless the person supplying the
13 water obtains from the commission a certificate that the present or
14 future public convenience and necessity require that the water be
15 supplied.

16 (b) In determining whether to grant a certificate of public
17 convenience and necessity, the commission shall ensure that the
18 person supplying the water possesses the financial, managerial, and
19 technical capability to provide continuous and adequate service.

20 Sec. 13.560. CONTINUOUS AND ADEQUATE SERVICE. A person
21 that possesses or is required to possess a certificate of public
22 convenience and necessity issued under Section 13.559 shall render
23 continuous and adequate service.

24 Sec. 13.561. APPROVAL OF WATER SUPPLY CONTRACT. A contract
25 to supply water the sale of which is subject to this subchapter is
26 enforceable only if the contract is approved by the commission
27 after public notice and hearing.

1 SECTION 2. This Act applies only to a contract to supply
2 water that is entered into on or after the effective date of this
3 Act.

4 SECTION 3. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect September 1, 2003.