

BILL ANALYSIS

S.B. 1064
By: Staples
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, rate changes for investor owned water and sewer utilities are effective after the utilities fulfill certain notice requirements described in Chapter 13, Water Code. Although regulatory authorities (either municipality or Texas Commission on Environmental Quality) are authorized to suspend or impose an interim rate until final rates are determined, they often do not. Because the rate changes are usually effective before the final determination is issued by the appropriate regulatory authority, customers may pay tariffs that are later determined to be unjustifiable.

Senate Bill 1064 suspends implementation of a rate change until a final decision is issued by the appropriate regulatory authority.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 13.182, Water Code, by adding Subsection (e) to prohibit a water or sewer utility, except as provided by Section 13.4133 (Emergency Rate Increase in Certain Circumstances), from implementing a rate change concerning which a hearing is set under Section 13.187 (Statement of Intent to Change Rates; Hearing; Determination of Rate Level) until the date on which the regulatory authority (either the Texas Commission on Environmental Quality or the governing body of a municipality) issues a final decision on the change.

SECTION 2. Amends Sections 13.187, Water Code, by amending Subsections (a), (d), (e), (f), (k), (l), (m), and (n) and adding Subsection (e-1), (n-1), and (n-2) as follows:

(a) Provides that a water or sewer utility may not make changes in its rates except by delivering a statement of intent to each taxpayer and with the regulatory authority having original jurisdiction at least 120, rather than 60, days before the proposed effective date of the proposed change, rather than before the effective date of the proposed change. Requires the statement of intent to include a billing comparison regarding the existing water rate and the new water rate computed for the use of 3,000 and 5,000 gallons of water, and a billing comparison regarding the existing sewer rate and the new sewer rate computed for the use of 5,000 gallons, unless the utility proposes a flat rate for sewer services. Requires the statement of intent to include information stating the period for protesting proposed rates concludes 90 days after the statement of intent is provided to customers.

(d) Makes conforming changes to specify use of the proposed effective date.

(e) Requires the regulatory authority to set a hearing on the proposed rate increase if, before the 91st day after the date the statement of intent was provided to the authority and each ratepayer under Subsection (a), rather than before the 91st day after the effective date of the rate change, the regulatory authority receives a certain complaint. Requires a hearing under this subsection to be set not later than the 120th day after the date the statement of intent was provided. Requires the regulatory authority to provide notice that

a hearing is being set to the utility and any affected municipality. Makes conforming and nonsubstantive changes.

(e-1) Requires the regulatory authority, if it receives a complaint from any affected municipality, or from the lesser of 1,000 or 10 percent of the ratepayers of the utility over whose rates the regulatory authority has original jurisdiction, not later than the 120th day after the date the utility files with the regulatory authority an application to change rates and delivers a statement of intent to each ratepayer, to hold a public meeting to receive public comments on the proposed rate increase. Authorizes the regulatory authority to hold the public meeting in any location it determines is appropriate. Requires the regulatory authority to require the utility to publish notice of the public meeting at least once in the newspaper of largest circulation in each county in which affected ratepayers are located. Sets forth the information the notice is required to contain.

(f) Makes conforming changes by providing that the regulatory authority may set the matter for hearing within 120 days after the statement of intent was provided to the authority and each ratepayer.

(k) Requires the regulatory authority, if the regulatory authority sets the matter for hearing, to suspend the date the rate change would otherwise be effective until the date the regulatory authority issues a final decision, and to fix interim rates as provided by Subsection (l). Deletes the provision that the regulatory authority is authorized to suspend the date of the rate change provided it receives a certain number of complaints. Deletes the limitations on how long the proposed rate may be suspended.

(l) Requires the regulatory authority to fix interim rates to remain in effect until a final determination is made on the proposed rate if it sets the matter for a hearing not later than the 120th day after the date the statement of intent is filed. Provides that the interim rates shall be based on information contained in the rate change application and may not be lower than the rates on the utility's approved tariff immediately before filing notice of intent to change rates.

(m) Requires the utility to refund or credit the difference between the interim rate and the final rate plus interest if the regulatory authority sets a final rate that is lower than the interim rate unless otherwise agreed to by the parties to the proceeding.

(n) Requires a local regulatory authority to make a final determination on the rate application within 150 days after the date the interim rate is established. Alternatively, the commission must make a final determination within 305 days after an interim rate is established. Deletes the provision that the regulatory authority may require the utility to refund money collected under a proposed rate before the rate was suspended or an interim rate was established.

(n-1) Provides that if the regulatory authority does not make a final determination by the established deadline, the proposed rate is automatically approved.

(n-2) Provides the regulatory authority may extend the deadlines established in (n) by agreement of all parties to the rate proceeding, in which case the commission shall make the determination. Requires hearings to be conducted in a timely manner.

SECTION 3. Repealer: Sections 13.187(i), (j), and (o) (Statement of Intent to Change Rates; Hearing; Determination of Rate Level), Water Code.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date.

EFFECTIVE DATE

September 1, 2005.

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