

By: Staples

S.B. No. 1064

A BILL TO BE ENTITLED

AN ACT

relating to rate changes by a water and sewer utility.

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

SECTION 1. Section 13.182, Water Code, is amended by adding Subsection (e) to read as follows:

(e) Except as provided by Section 13.4133, a utility may not implement a rate change concerning which a hearing is set under Section 13.187 until the date on which the regulatory authority issues a final decision on the change.

SECTION 2. Section 13.187, Water Code, is amended by amending Subsections (a), (d), (e), (f), (k), (l), (m), and (n) and adding Subsections (e-1), (n-1), and (n-2) to read as follows:

(a) A utility may not make changes in its rates except by delivering a statement of intent to each ratepayer and with the regulatory authority having original jurisdiction at least 120 ~~60~~ days before the proposed effective date of the proposed change. The proposed effective date of the new rates must be the first day of a billing period, and the new rates may not apply to service received before the proposed effective date of the new rates. The statement of intent must include:

(1) the information required by the regulatory authority's rules;

(2) a billing comparison regarding the existing water rate and the new water rate computed for the use of:

1 (A) 3,000 gallons of water;

2 (B) 5,000 gallons of water;

3 (C) 10,000 gallons of water; and

4 (D) [~~B~~] 30,000 gallons of water; and

5 (3) a billing comparison regarding the existing sewer
6 rate and the new sewer rate computed for the use of 5,000 gallons
7 and 10,000 gallons, unless the utility proposes a flat rate for
8 sewer services; and

9 (4) the proposed effective date and the deadline by
10 which customers must file any protests of the proposed rates,
11 provided that the protest period concludes 90 days after the
12 statement of intent is provided to the ratepayers.

13 (d) If the application or the statement of intent is not
14 substantially complete or does not comply with the regulatory
15 authority's rules, it may be rejected and the proposed effective
16 date of the rate change may be suspended until a properly completed
17 application is accepted by the regulatory authority and a proper
18 statement of intent is provided. The commission may also suspend
19 the proposed effective date of any rate change if the utility does
20 not have a certificate of public convenience and necessity or a
21 completed application for a certificate or to transfer a
22 certificate pending before the commission or if the utility is
23 delinquent in paying the assessment and any applicable penalties or
24 interest required by Section 5.701(n) [~~of this code~~].

25 (e) The regulatory authority shall set a hearing on the
26 proposed rate increase if [~~if~~], before the 91st day after the
27 [~~effective~~] date the statement of intent was provided to the

1 authority and each ratepayer under Subsection (a) [~~of the rate~~
2 ~~change~~], the regulatory authority receives a complaint from any
3 affected municipality, or from the lesser of 1,000 or 10 percent of
4 the ratepayers of the utility over whose rates the regulatory
5 authority has original jurisdiction. A hearing under this
6 subsection must be set not later than the 120th day after the date
7 the statement of intent was provided. The[~~, the~~] regulatory
8 authority must provide notice to the utility and any affected
9 municipality that a hearing is being set on the proposed rate
10 increase [~~shall set the matter for hearing~~].

11 (e-1) If the regulatory authority receives a complaint from
12 any affected municipality, or from the lesser of 1,000 or 10 percent
13 of the ratepayers of the utility over whose rates the regulatory
14 authority has original jurisdiction, the regulatory authority
15 shall, not later than the 120th day after the date the utility files
16 with the regulatory authority an application to change rates and
17 delivers a statement of intent to each ratepayer, hold a public
18 meeting to receive public comments on the proposed rate increase.
19 The regulatory authority may hold the public meeting in any
20 location the regulatory authority determines is appropriate. The
21 regulatory authority shall require the utility to publish notice of
22 the public meeting at least once in the newspaper of largest
23 circulation in each county in which affected ratepayers are
24 located. The notice must state:

25 (1) the time, location, and nature of the public
26 meeting; and

27 (2) a description, including a telephone number, of

1 the manner in which a person may contact the regulatory authority
2 for further information.

3 (f) The regulatory authority may set the matter for hearing
4 on its own motion at any time within 120 days after the [~~effective~~]
5 date the statement of intent was provided to the authority and each
6 ratepayer under Subsection (a) [~~of the rate change~~]. If more than
7 half of the ratepayers of the utility receive service in a county
8 with a population of more than 2.5 million, the hearing must be held
9 at a location in that county.

10 (k) If the regulatory authority sets the matter for
11 [~~receives at least the number of complaints from ratepayers~~
12 ~~required for the regulatory authority to set~~] a hearing under
13 Subsection (e), the regulatory authority shall:

14 (1) [~~may,~~] pending the hearing and a decision, suspend
15 the date the rate change would otherwise be effective until the date
16 the regulatory authority issues a final decision on the matter; and

17 (2) fix interim rates as provided by Subsection (1).

18 [~~The proposed rate may not be suspended for longer than:~~

19 [~~(1) 90 days by a local regulatory authority; or~~

20 [~~(2) 150 days by the commission.~~]

21 (1) If the regulatory authority sets the matter for a
22 hearing, the regulatory authority shall, not later than the 120th
23 day after the date the statement of intent is filed, [~~At any time~~
24 during the pendency of the rate proceeding the regulatory authority
25 may] fix interim rates to remain in effect until a final
26 determination is made on the proposed rate. The interim rates shall
27 be based on the information contained in the rate change

1 application and may not be lower than the rates on the utility's
2 approved tariff immediately before filing the notice of intent to
3 change the rates. If the regulatory authority is the commission,
4 the executive director shall set the interim rates.

5 (m) If the regulatory authority sets a final rate that is
6 lower than the interim rate, the utility shall refund or credit the
7 difference between the interim rate and the final rate plus
8 interest as determined by the regulatory authority unless otherwise
9 agreed to by the parties to the rate proceeding. If the regulatory
10 authority sets a final rate that is higher than the interim rate,
11 the utility shall be allowed to collect the difference between the
12 interim rate and final rate unless otherwise agreed to by the
13 parties to the rate proceeding.

14 (n) The [~~For good cause shown, the~~] regulatory authority
15 must make a final determination on the rates not later than:

16 (1) if the determination is made by a local regulatory
17 authority, 150 days after the date the interim rates are
18 established; or

19 (2) if the determination is made by the commission,
20 305 days after the effective date the interim rates are established
21 [~~may at any time during the proceeding require the utility to refund~~
22 ~~money collected under a proposed rate before the rate was suspended~~
23 ~~or an interim rate was established to the extent the proposed rate~~
24 ~~exceeds the existing rate or the interim rate].~~

25 (n-1) If the regulatory authority does not make the
26 determination within the deadline provided by Subsection (n), the
27 proposed rates are automatically approved.

1 (n-2) Notwithstanding Subsection (n-1), the deadline for
2 making a determination under Subsection (n) may be extended by the
3 agreement of all parties to the rate proceeding, in which case the
4 commission shall make the determination. A hearing shall be
5 conducted in a timely manner to allow the commission to make its
6 final determination on the proposed rates.

7 SECTION 3. Subsections (i), (j), and (o), Section 13.187,
8 Water Code, are repealed.

9 SECTION 4. This Act applies only to a statement of intent
10 filed on or after the effective date of this Act. A rate change to
11 which a statement of intent filed before the effective date of this
12 Act applies is governed by the law in effect on the date the
13 statement was filed, and that law is continued in effect for that
14 purpose.

15 SECTION 5. This Act takes effect September 1, 2005.