

BILL ANALYSIS

C.S.H.B. 33
By: Berman
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current Texas Law states that in contested rate cases, water and sewer utilities are allowed to recover reasonable rate case expenses (attorney and consultant fees) if the customers protest the rate increase. Utilities recover their rate case expenses through a surcharge that is added to each customer's bill until the allowable amount is recovered. Water and sewer utilities are also allowed to implement these rate increases, while that rate increase is being challenged by consumers. The consumer is essentially being charged with double expenses, they must pay for their legal fees challenging the increase and that of the utility companies'. In order to create more consumer friendly water and sewer utilities, C.S.H.B. 33 would require the utility companies to pay their own legal fees, would prevent utility companies from implementing new rates until the decision of hearings involving those rate increases are final, and would allow the Texas Commission on Environmental Quality Executive Director to set interim rates during the appeal process.

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 Sections 13.043 (e) and (h), Water Code, by providing that the commission prohibit the recovery of any rate case expenses incurred by the retail public utility in the appeal proceedings. Authorizes the commission or executive director to establish interim rates to be in effect until a final decision is made concerning a filed appeal.

SECTION 2. Amends Section 13.185 (h), Water Code, by adding a new Subdivision (3) prohibiting the regulatory authority from including rate case expenses incurred during the hearing process for ratemaking purposes. Renumbers Subdivisions accordingly.

SECTION 3. Sections 13.187 (a), (d), (d-1), (e), (f), (k), (l), and (o), Water Code, are amended as follows: (a) Prohibits a utility from making changes to its rates except by delivering a statement of intent to each rate payer and with the regulatory authority having original jurisdiction at least 120 rather than 60 days before the proposed effective date of the proposed change. References a proposed effective date of a proposed change.

(d) References a proposed effective date of a rate change

(d-1) Authorizes the regulatory authority to suspend the proposed effective date of a rate change for not more than 90 days from the proposed effective date. References proposed effective date of a rate change. Deletes language providing that an exception requiring the suspension be extended by two days for each day a hearing exceeds 15 days. If the local regulatory authority does not make a final determination on the proposed rate before the expiration of the applicable suspension period, the proposed rate is required to be considered approved. The approval is subject to the local regulatory authority's continuation of a hearing in progress.

(e) Requires the regulatory authority to hold a hearing on the proposed rate increase if, before the 91st day after the date the statement of intent was provided to the regulatory authority and each ratepayer under Subsection (a), the regulatory authority receives the required number of complaints. The regulatory authority is allowed to set the matter for hearing within the required

time set by code, after the date the statement of intent was provided to the regulatory authority and each ratepayer. C.S.H.B. 33 provides that if the regulatory authority sets the matter for hearing, as provided by code, then it is required, pending the hearing and decision, to suspend the date the rate change would otherwise be effective until the date the regulatory authority issues a final decision.

(f) The regulatory authority may set the matter for hearing on its own motion at any time within 120 days after the date the statement of intent was provided to the authority and each ratepayer under Subsection (a).

(k) If the regulatory authority sets the matter for a hearing under Subsection (e), the regulatory authority is required, pending the hearing and a decision, to suspend the date the rate change would otherwise be effective until the date the regulatory authority issues a final decision on the matter. Deletes language providing that except as provided by Subsection (d-1), the proposed rate may not be suspended for longer than 90 days by a local regulatory authority, or 150 days by the commission.

(l) The regulatory authority or the executive director is allowed to fix an interim rate until a final determination is made on the proposed rate.

(o) If the regulatory authority does not set a hearing on the proposed rate increase under Subsection (e) or (f), then rates are automatically approved as requested by the utility. Deletes language providing that other than the commission establishing interim rates or an escrow account, the regulatory authority must make a final determination on the rates not later than the first anniversary of the effective date of the interim rates or escrowed rates.

SECTION 4. Repeals Sections 13.187 (i), (j), and (n) of the Water Code.

SECTION 5. Provides that this Act only applies to statements of intent filed on or after the effective date of this Act, all other statements of intent are governed by law in effect when those statements were filed.

SECTION 6. Effective Date: September 1, 2007

EFFECTIVE DATE

September 1, 2007

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 33 instructs the commission to prohibit the recovery of any rate case expenses and allows the executive director to establish interim rates until a final decision is made concerning proposed rates or a final determination is made in a filed appeal. The substitute prohibits the regulatory authority from including rate case expenses incurred during the hearing process.

C.S.H.B. 33 amends Sections 13.187 (d-1), (l), and (o) of the Water Code and does not repeal these Sections like the original does. The original measure repealed Section 13.187(m) of the Water Code and the substitute does not.