

By: Nichols

S.B. No. 727

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the authority of a municipality to regulate the
3 provision by a water and sewer utility of service in the
4 municipality's extraterritorial jurisdiction.

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

6 SECTION 1. Sections 13.042(a), (b), (e), and (f), Water
7 Code, are amended to read as follows:

8 (a) Subject to the limitations imposed in this chapter and
9 for the purpose of regulating rates and services so that those rates
10 may be fair, just, and reasonable and the services adequate and
11 efficient, the governing body of each municipality has exclusive
12 original jurisdiction over all water and sewer utility rates,
13 operations, and services provided by a water and sewer utility
14 within its corporate limits and extraterritorial jurisdiction.

15 (b) The governing body of a municipality by ordinance may
16 elect to have the commission exercise exclusive original
17 jurisdiction over the utility rates, operation, and services of
18 utilities, within the incorporated limits and extraterritorial
19 jurisdiction of the municipality.

20 (e) The commission shall have exclusive original
21 jurisdiction over water and sewer utility rates, operations, and
22 services not within the incorporated limits or extraterritorial
23 jurisdiction of a municipality exercising exclusive original
24 jurisdiction over those rates, operations, and services as provided

1 in this chapter.

2 (f) This subchapter does not give the commission power or
3 jurisdiction to regulate or supervise the rates or service of a
4 utility owned and operated by a municipality, directly or through a
5 municipally owned corporation, within its corporate limits or
6 extraterritorial jurisdiction or to affect or limit the power,
7 jurisdiction, or duties of a municipality that regulates land and
8 supervises water and sewer utilities within its corporate limits or
9 extraterritorial jurisdiction, except as provided by this code.

10 SECTION 2. Section 13.043(b), Water Code, is amended to
11 read as follows:

12 (b) Ratepayers of the following entities may appeal the
13 decision of the governing body of the entity affecting their water,
14 drainage, or sewer rates to the commission:

15 (1) a nonprofit water supply or sewer service
16 corporation created and operating under Chapter 67;

17 (2) a utility under the jurisdiction of a municipality
18 inside the corporate limits and extraterritorial jurisdiction of
19 the municipality;

20 (3) a municipally owned utility, if the ratepayers
21 reside outside the corporate limits of the municipality;

22 (4) a district or authority created under Article III,
23 Section 52, or Article XVI, Section 59, of the Texas Constitution
24 that provides water or sewer service to household users; and

25 (5) a utility owned by an affected county, if the
26 ratepayer's rates are actually or may be adversely affected. For
27 the purposes of this section ratepayers who reside outside the

1 boundaries of the district or authority shall be considered a
2 separate class from ratepayers who reside inside those boundaries.

3 SECTION 3. Sections 13.082(a) and (b), Water Code, are
4 amended to read as follows:

5 (a) Notwithstanding any other provision of this section,
6 municipalities shall continue to regulate each kind of local
7 utility service inside their boundaries and extraterritorial
8 jurisdiction until the commission has assumed jurisdiction over the
9 respective utility pursuant to this chapter.

10 (b) If a municipality does not surrender its jurisdiction,
11 local utility service within the boundaries and extraterritorial
12 jurisdiction of the municipality shall be exempt from regulation by
13 the commission under this chapter to the extent that this chapter
14 applies to local service, and the municipality shall have,
15 regarding service within its boundaries and extraterritorial
16 jurisdiction, the right to exercise the same regulatory powers
17 under the same standards and rules as the commission or other
18 standards and rules not inconsistent with them. The commission's
19 rules relating to service and response to requests for service for
20 utilities operating within a municipality's corporate limits and
21 extraterritorial jurisdiction apply unless the municipality adopts
22 its own rules.

23 SECTION 4. Section 13.083, Water Code, is amended to read as
24 follows:

25 Sec. 13.083. RATE DETERMINATION. A municipality regulating
26 its water and sewer utilities under this chapter shall require from
27 those utilities all necessary data to make a reasonable

1 determination of rate base, expenses, investment, and rate of
2 return within the municipal boundaries and extraterritorial
3 jurisdiction. The standards for this determination shall be based
4 on the procedures and requirements of this chapter, and the
5 municipality shall retain any personnel necessary to make the
6 determination of reasonable rates required under this chapter.

7 SECTION 5. Section 13.139(b), Water Code, is amended to
8 read as follows:

9 (b) The governing body of a municipality, as the regulatory
10 authority for public utilities operating within its corporate
11 limits and extraterritorial jurisdiction, and the commission as the
12 regulatory authority for public utilities operating outside the
13 corporate limits and extraterritorial jurisdiction of any
14 municipality, after reasonable notice and hearing on its own
15 motion, may:

16 (1) ascertain and fix just and reasonable standards,
17 classifications, regulations, service rules, minimum service
18 standards or practices to be observed and followed with respect to
19 the service to be furnished;

20 (2) ascertain and fix adequate and reasonable
21 standards for the measurement of the quantity, quality, pressure,
22 or other condition pertaining to the supply of the service;

23 (3) prescribe reasonable regulations for the
24 examination and testing of the service and for the measurement of
25 service; and

26 (4) establish or approve reasonable rules,
27 regulations, specifications, and standards to secure the accuracy

1 of all meters, instruments, and equipment used for the measurement
2 of any utility service.

3 SECTION 6. This Act applies only to a statement of intent to
4 change rates delivered to a regulatory authority on or after the
5 effective date of this Act. A statement of intent delivered before
6 the effective date of this Act is governed by the law in effect on
7 the date the statement was delivered, and that law is continued in
8 effect for that purpose.

9 SECTION 7. This Act takes effect September 1, 2007.