

Amend CSHB 3526 (Senate committee report) by adding the following appropriately numbered SECTIONS of the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Sections 11.0842(a) and (b), Water Code, are amended to read as follows:

(a) If a person violates this chapter, a rule or order adopted under this chapter, Section 12.052, or Section 16.236, or a permit, certified filing, or certificate of adjudication issued under this chapter, the commission may assess an administrative penalty against that person as provided by this section. The commission may assess an administrative penalty for a violation relating to a water division or a river basin or segment of a river basin regardless of whether a watermaster has been appointed for the water division or river basin or segment of the river basin.

(b) The penalty may be in an amount not to exceed \$5,000 for each day the person is in violation of this chapter, a [the] rule or order adopted under this chapter, or a [the] permit, certified filing, or certificate of adjudication issued under this chapter. The penalty may be in an amount not to exceed \$10,000 for each day the person is in violation of a rule or order adopted under Section 12.052. The penalty may be in an amount not to exceed \$1,000 for each day the person is in violation of a [the] rule or order adopted under Section 16.236 [of this code]. Each day a violation continues may be considered a separate violation for purposes of penalty assessment.

SECTION \_\_\_\_\_. Section 12.052, Water Code, is amended by amending Subsections (a), (c), and (e) and adding Subsections (g) and (h) to read as follows:

(a) The commission shall make and enforce rules and orders and shall perform all other acts necessary to provide for the safe construction, maintenance, operation, repair, and removal of dams located in this state.

(a-1) In order to maintain the structural integrity of dams located in this state, the commission may require the owner or owners of a dam to develop and implement an operation and maintenance plan to comply with the rules and orders promulgated under this section.

(a-2) In determining the frequency with which dams located in this state are inspected, the commission shall give preference to inspecting dams that are classified as posing a high or significant hazard as defined by commission rule.

(c) If the owner of a dam that is required to be constructed, reconstructed, maintained, operated, repaired, or removed in order to comply with the rules and orders promulgated under [~~Subsection (a) of~~] this section wilfully fails or refuses to comply within the 30-day period following the date of the commission's final, nonappealable order to do so or if a person wilfully fails to comply with any rule or other order issued by the commission under this section within the 30-day period following the effective date of the order, the person [~~he~~] is liable for [~~to~~] a penalty of not more than \$10,000 [~~\$5,000~~] a day for each day the person [~~he~~] continues to violate this section. The state may recover the penalty by suit brought for that purpose in the district court of Travis County.

(e) If the commission issues an emergency order under authority of this section without notice to the dam owner, the commission shall fix a time and place for a hearing which shall be held as soon as practicable to affirm, modify, or set aside the emergency order. The notice does not have to comply with Chapter 2001, Government Code. If the nature of the commission's action requires further proceedings, those proceedings shall be conducted as appropriate under Chapter 2001, Government Code [~~the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes)~~].

(g) The commission may assess an administrative penalty as provided by Section 11.0842 against a person who violates a rule or order adopted under this section.

(h) This section does not affect the right of any private corporation, individual, or political subdivision that has a justiciable interest in pursuing any available common law remedy to enforce a right or to prevent or seek redress or compensation for the violation of a right or otherwise redress an injury.

SECTION \_\_\_\_\_. Section 13.043(h), Water Code, is amended to read as follows:

(h) The commission or executive director may [~~on a motion~~

~~by the executive director or by the appellant under Subsection (a), (b), or (f) of this section,~~] establish interim rates to be in effect until a final decision is made in an appeal filed under Subsection (a), (b), or (f).

SECTION \_\_\_\_\_. Sections 13.187(f), (i), (j), (k), (l), (n), and (o), Water Code, are amended to read as follows:

(f) The regulatory authority may set the matter for hearing on its own motion at any time within 120 days after the effective date of the rate change. ~~[If more than half of the ratepayers of the utility receive service in a county with a population of more than 2.5 million, the hearing must be held at a location in that county.]~~

(i) The regulatory authority or the executive director, pending final action in a rate proceeding, may order the utility to deposit all or part of the rate increase received or to be received into an escrow account with a financial institution approved by the regulatory authority. Unless otherwise agreed to by the parties to the rate proceeding, the utility shall refund or credit against future bills all sums collected during the pendency of the rate proceeding in excess of the rate finally ordered plus interest as determined by the regulatory authority.

(j) For good cause shown, the regulatory authority or the executive director may authorize the release of funds to the utility from the escrow account during the pendency of the proceeding.

(k) If the regulatory authority receives at least the number of complaints from ratepayers required for the regulatory authority to set a hearing under Subsection (e), the regulatory authority or the executive director may, pending the hearing and a decision, suspend the date the rate change would otherwise be effective. Except as provided by Subsection (d-1), the proposed rate may not be suspended for longer than:

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

(2) 250 ~~[150]~~ days by the commission or executive director.

(l) At any time during the pendency of the rate proceeding the regulatory authority or the executive director may fix interim rates to remain in effect until a final determination is made on the

proposed rate.

(n) For good cause shown, the regulatory authority or the executive director may at any time during the proceeding require the utility to refund money collected under a proposed rate before the rate was suspended or an interim rate was established to the extent the proposed rate exceeds the existing rate or the interim rate.

(o) If a regulatory authority other than the commission or the executive director establishes 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 or the rates are automatically approved as requested by the utility.

SECTION \_\_\_\_\_. Section 13.242(c), Water Code, is amended to read as follows:

(c) The commission may by rule allow a municipality or utility or water supply corporation to render retail water or sewer service without a certificate of public convenience and necessity if the municipality has given notice under Section 13.255 [~~of this code~~] that it intends to provide retail water or sewer service to an area or if the utility or water supply corporation has less than 15 potential connections and is not within the certificated area of another retail public utility.

SECTION \_\_\_\_\_. Section 13.248, Water Code, is amended to read as follows:

Sec. 13.248. CONTRACTS VALID AND ENFORCEABLE. Contracts between retail public utilities designating areas to be served and customers to be served by those retail public utilities, when approved by the commission or the executive director after public notice [~~and hearing~~], are valid and enforceable and are incorporated into the appropriate areas of public convenience and necessity.

SECTION \_\_\_\_\_. Sections 37.006(f) and (g), Water Code, are amended to read as follows:

(f) A person whose license or registration has been expired for 60 [~~30~~] days or less may apply for renewal of the license or registration by paying to the commission a renewal fee in an amount

prescribed by commission rule not to exceed 1-1/2 times the normally required renewal fee.

(g) A person whose license or registration has been expired for more than 60 [~~30~~] days may not renew the license or registration. The person may obtain a new license or registration by complying with the requirements and procedures, including the examination requirements, for obtaining an original license or registration.

SECTION \_\_\_\_\_. Section 49.321, Water Code, is amended to read as follows:

Sec. 49.321. DISSOLUTION AUTHORITY. After notice [~~and hearing~~], the commission or executive director may dissolve any district that is inactive for a period of five consecutive years and has no outstanding bonded indebtedness.

SECTION \_\_\_\_\_. Section 49.324, Water Code, is amended to read as follows:

Sec. 49.324. ORDER OF DISSOLUTION. The commission or the executive director may enter an order dissolving the district [~~at the conclusion of the hearing~~] if the commission or executive director [~~it~~] finds that the district has performed none of the functions for which it was created for a period of five consecutive years [~~before the day of the proceeding~~] and that the district has no outstanding bonded indebtedness.

SECTION \_\_\_\_\_. Section 49.326(a), Water Code, is amended to read as follows:

(a) Appeals from an [~~a commission~~] order dissolving a district shall be filed and heard in the district court of any of the counties in which the land is located.

SECTION \_\_\_\_\_. Section 54.030(b), Water Code, is amended to read as follows:

(b) The governing body of a district which desires to convert into a district operating under this chapter shall adopt and enter in the minutes of the governing body a resolution declaring that in its judgment, conversion into a municipal utility district operating under this chapter and under Article XVI, Section 59, of the Texas Constitution, would serve the best interest of the district and would be a benefit to the land and

property included in the district. The resolution shall also request that the commission approve ~~[to hold a hearing on the question of]~~ the conversion of the district.

SECTION \_\_\_\_\_. Section 54.032, Water Code, is amended to read as follows:

Sec. 54.032. CONVERSION OF DISTRICT: NOTICE. (a) Notice of the conversion ~~[hearing]~~ shall be given by publishing notice in a newspaper with general circulation in the county or counties in which the district is located.

(b) The notice shall be published once a week for two consecutive weeks ~~[with the first publication to be made not less than 14 full days before the time set for the hearing]~~.

(c) The notice shall:

(1) ~~[state the time and place of the hearing,~~  
~~[(2)]~~ set out the resolution adopted by the district in full; and

(2) ~~[(3)]~~ notify all interested persons how they may offer comments ~~[to appear and offer testimony]~~ for or against the proposal contained in the resolution.

SECTION \_\_\_\_\_. Section 54.033, Water Code, is amended to read as follows:

Sec. 54.033. CONVERSION OF DISTRICT; FINDINGS. (a) If ~~[After a hearing, if]~~ the commission or the executive director finds that conversion of the district into one operating under this chapter would serve the best interest of the district and would be a benefit to the land and property included in the district, the commission or executive director ~~[it]~~ shall enter an order making this finding and the district shall become a district operating under this chapter and no confirmation election shall be required.

(b) If the commission or the executive director finds that the conversion of the district would not serve the best interest of the district and would not be a benefit to the land and property included in the district, the commission or executive director ~~[it]~~ shall enter an order against conversion of the district into one operating under this chapter.

(c) The findings of the commission or the executive director entered under this section shall be subject to appeal or review

within 30 days after entry of the order [~~of the commission~~] granting or denying the conversion.

(d) A copy of the [~~commission~~] order converting a district shall be filed in the deed records of the county or counties in which the district is located.

SECTION \_\_\_\_\_. Sections 49.322 and 54.031, Water Code, are repealed.

SECTION \_\_\_\_\_. (a) The changes in law made by this Act to Sections 11.0842 and 12.052, Water Code, apply only to a violation that occurs on or after the effective date of this Act. For purposes of this section, a violation occurs before the effective date of this Act if any element of the violation occurs before that date.

(b) A violation that occurs before the effective date of this Act is governed by the law in effect on the date of the violation, and the former law is continued in effect for that purpose.

SECTION \_\_\_\_\_. The changes in law made by Section 13.187, Water Code, as amended by this Act, apply only to a rate application or appeal filed with the Texas Commission on Environmental Quality on or after the effective date of this Act. A rate application or appeal filed with the commission before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.