

By: Dutton

H.B. No. 856

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the powers and duties of the Texas Commission on  
3 Environmental Quality and other entities regarding water and sewer  
4 utilities.

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

6 SECTION 1. Sections 13.187(a), (b), (d), (e), (f), (k),  
7 (o), and (p), Water Code, are amended to read as follows:

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

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

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

20 (A) 10,000 gallons of water; and

21 (B) 30,000 gallons of water; and

22 (3) a billing comparison regarding the existing sewer  
23 rate and the new sewer rate computed for the use of 10,000 gallons,  
24 unless the utility proposes a flat rate for sewer services.

1 (b) A copy of the statement of intent shall be mailed or  
2 delivered to the appropriate offices of each affected municipality,  
3 to the executive director, and to any [~~other~~] affected persons as  
4 required by the regulatory authority's rules.

5 (d) If [~~Except as provided by Subsection (d-1), if~~] the  
6 application or the statement of intent is not substantially  
7 complete or does not comply with the regulatory authority's rules,  
8 it may be rejected and the proposed effective date of the rate  
9 change may be suspended until a properly completed application is  
10 accepted by the regulatory authority and a proper statement of  
11 intent is provided. The commission may also suspend the proposed  
12 effective date of any rate change if the utility does not have a  
13 certificate of public convenience and necessity or a completed  
14 application for a certificate or to transfer a certificate pending  
15 before the commission or if the utility is delinquent in paying the  
16 assessment and any applicable penalties or interest required by  
17 Section 5.701(n) of this code.

18 (e) The regulatory authority shall hold a hearing on the  
19 proposed rate increase if [~~If~~], before the 91st day after the  
20 [~~effective~~] date the statement of intent was provided to the  
21 authority and each ratepayer under Subsection (a) [~~of the rate~~  
22 ~~change~~], the regulatory authority receives a complaint from any  
23 affected municipality, or from the lesser of 1,000 or 10 percent of  
24 the ratepayers of the utility over whose rates the regulatory  
25 authority has original jurisdiction[, ~~the regulatory authority~~  
26 ~~shall set the matter for hearing~~].

27 (f) The regulatory authority may set the matter for hearing

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

7 (k) If the regulatory authority sets the matter for  
8 ~~[receives at least the number of complaints from ratepayers~~  
9 ~~required for the regulatory authority to set]~~ a hearing under  
10 Subsection (e), the proposed rates are suspended ~~[regulatory~~  
11 ~~authority may,~~] pending the hearing and until the date the  
12 regulatory authority issues a final decision on the matter ~~[a~~  
13 ~~decision, suspend the date the rate change would otherwise be~~  
14 ~~effective. Except as provided by Subsection (d-1), the proposed~~  
15 ~~rate may not be suspended for longer than:~~

16 ~~[(1) 90 days by a local regulatory authority, or~~  
17 ~~[(2) 150 days by the commission].~~

18 (o) If the [a] regulatory authority does not set a hearing  
19 on the proposed rate increase under Subsection (e) or (f), ~~[other~~  
20 ~~than the commission establishes interim rates or an escrow account,~~  
21 ~~the regulatory authority must make a final determination on the~~  
22 ~~rates not later than the first anniversary of the effective date of~~  
23 ~~the interim rates or escrowed rates or]~~ the rates are automatically  
24 approved as requested by the utility.

25 (p) Except to implement a rate adjustment provision  
26 approved by the regulatory authority by rule or ordinance, as  
27 applicable, or to adjust the rates of a newly acquired utility

1 system, a utility or two or more utilities under common control and  
2 ownership may not file a statement of intent to increase its rates  
3 more than once in a 36-month [~~12-month~~] period, unless the  
4 regulatory authority determines that a financial hardship exists. A  
5 utility or two or more utilities under common control and ownership  
6 must file a statement of intent to increase its rates no later than  
7 60 months after the effective date of the utility's last rate  
8 increase unless the utility can show good cause to delay the filing.  
9 If the regulatory authority requires the utility to deliver a  
10 corrected statement of intent, the utility is not considered to be  
11 in violation of the 36-month [~~12-month~~] filing requirement.

12 SECTION 2. Sections 13.187(d-1), (i), (j), (l), (m), and  
13 (n), Water Code, are repealed.

14 SECTION 3. Except as otherwise provided by this Act, this  
15 Act applies only to a statement of intent filed on or after the  
16 effective date of this Act. A rate change to which a statement of  
17 intent filed before the effective date of this Act applies is  
18 governed by the law in effect on the date the statement was filed,  
19 and that law is continued in effect for that purpose.

20 SECTION 4. This Act takes effect September 1, 2011.