

By: Workman

H.B. No. 1223

A BILL TO BE ENTITLED

AN ACT

relating to the procedures by which certain small water and sewer utilities may change rates.

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

SECTION 1. Chapter 13, Water Code, is amended by adding Subchapter F-1 to read as follows:

SUBCHAPTER F-1. RATE PROCEEDINGS OF CERTAIN

PUBLIC UTILITIES

Sec. 13.201. APPLICABILITY. This subchapter applies only to a public utility that provides retail water or sewer utility service through fewer than 1,000 taps or connections.

Sec. 13.202. EXEMPTION FROM PROCEEDINGS BEFORE REGULATORY AUTHORITY. Notwithstanding Section 13.187, a public utility to which this subchapter applies may make changes in its rates only as prescribed by this subchapter.

Sec. 13.203. RATE CHANGE ELECTION. (a) A public utility may make a change in its rates if the public utility holds an election to obtain ratepayer approval of the rate change and the rate change is approved under this section.

(b) A public utility holding an election under Subsection (a) shall mail to each ratepayer:

(1) a description of the proposed rate change that includes a billing comparison regarding the existing rates and the proposed rates;

1           (2) an envelope addressed to the commission;

2           (3) for each tap or connection for which the ratepayer  
3 receives a bill from the public utility, one ballot printed to  
4 permit voting for or against the rate change;

5           (4) notice that the ratepayer must send the ballot to  
6 the commission in the provided envelope for the ratepayer's vote to  
7 be counted; and

8           (5) notice of the date described by Subsection (d) on  
9 which the commission will stop accepting ballots for the election.

10          (c) The public utility may include with the envelope and  
11 ballot a statement, not to exceed 10 letter-sized pages in length,  
12 of the reason the public utility is holding the election.

13          (d) On or after the 61st day after the date the public  
14 utility mails a ballot to each ratepayer under Subsection (b), the  
15 commission shall count the ballots received by the commission. The  
16 rate change is approved if a majority of the ballots received by the  
17 commission not later than the 61st day after the date the public  
18 utility mailed the ballots are cast in favor of the rate change.

19          (e) If the rate change is approved:

20                 (1) the commission shall administratively certify the  
21 rate change and provide written notice of the approval to the public  
22 utility; and

23                 (2) the public utility shall provide written notice of  
24 the approval to each ratepayer.

25          Sec. 13.204. RATE CHANGE EFFECTIVE DATE. (a) A rate  
26 change approved under this subchapter may not take effect before  
27 the first day of a billing period that begins at least 60 days after

1 the date the public utility provides written notice of the approval  
2 to each ratepayer.

3 (b) A rate change established under this subchapter may not  
4 apply to service received before the effective date of the rate  
5 change.

6 Sec. 13.205. PROCEEDINGS BEFORE REGULATORY AUTHORITY  
7 ALLOWED. (a) A public utility may not file for a rate change under  
8 Section 13.187 before holding an election under this subchapter.

9 (b) If a majority of the ballots received by the commission  
10 under Section 13.203 are not cast in favor of the rate change:

11 (1) the public utility may file for a rate change under  
12 Section 13.187;

13 (2) the public utility may not recover through its  
14 rates the cost incurred by the utility under Section 13.187 or in an  
15 appeal of a proceeding under that section; and

16 (3) the commission shall appoint a public advocate to  
17 represent the ratepayers at any hearing conducted under Section  
18 13.187.

19 Sec. 13.206. RATE CHANGE FREQUENCY. A public utility may  
20 not hold an election under this subchapter more than once in a  
21 24-month period unless:

22 (1) the public utility applies to the commission for  
23 an exemption from this section; and

24 (2) the commission determines that the proposed rate  
25 change is necessary to ensure the provision of continuous and  
26 adequate service to the public utility's customers.

27 Sec. 13.207. APPLICATION OF OTHER PROVISIONS. (a) This

1 subchapter does not affect the application of a provision of this  
2 title not directly related to the procedures for applying for and  
3 receiving authority for a rate change.

4 (b) A service fee or service rule set by a public utility  
5 under this subchapter must comply with commission rules that apply  
6 to all retail public utilities.

7 (c) This subchapter does not affect:

8 (1) the authority of the commission under Section  
9 13.186 to determine if a public utility has unlawfully charged or  
10 received a rate for retail water or sewer utility service under this  
11 chapter; or

12 (2) the authority of a public utility to adjust the  
13 utility's rates outside the rate case process as otherwise allowed  
14 by this subchapter.

15 SECTION 2. This Act applies only to a proposed rate change  
16 for which a statement of intent has not been filed under Section  
17 13.187, Water Code, before the effective date of this Act. A  
18 proposed rate change to which a statement of intent filed before the  
19 effective date of this Act applies is governed by the law in effect  
20 on the date the statement was filed, and that law is continued in  
21 effect for that purpose.

22 SECTION 3. This Act takes effect September 1, 2011.