

By: Miller of Comal

H.B. No. 2400

A BILL TO BE ENTITLED

AN ACT

relating to the powers and duties of the Texas Commission on Environmental Quality and other entities regarding water and sewer utilities and certain conservation and reclamation districts.

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

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

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

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

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

(A) 10,000 gallons of water; and

(B) 30,000 gallons of water; and

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

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

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

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

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

on its own motion at any time within 120 days after the ~~[effective]~~  
date the statement of intent was provided to the authority and each  
ratepayer under Subsection (a) ~~[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.

(k) If the regulatory authority sets the matter for  
~~[receives at least the number of complaints from ratepayers~~  
~~required for the regulatory authority to set]~~ a hearing under  
Subsection (e), the regulatory authority shall ~~[may]~~, pending the  
hearing and a decision, suspend the date the rate change would  
otherwise be effective until the date the regulatory authority  
issues a final decision on the matter. ~~[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) 150 days by the commission.]~~

(o) If the [a] regulatory authority does not set a hearing  
on the proposed rate increase under Subsection (e) or (f), ~~[other~~  
~~than the commission 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 2. Section 13.242(c), Water Code, is amended to  
read as follows:

(c) The commission may by rule allow a municipality or

1 utility or water supply corporation to render retail water or sewer  
2 service without a certificate of public convenience and necessity  
3 if the municipality has given notice under Section 13.255 [~~of this~~  
4 ~~code~~] that it intends to provide retail water or sewer service to an  
5 area or if the utility or water supply corporation has less than 15  
6 potential connections and is not within the certificated area of  
7 another retail public utility.

8 SECTION 3. Section 13.248, Water Code, is amended to read as  
9 follows:

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

17 SECTION 4. Section 49.321, Water Code, is amended to read as  
18 follows:

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

23 SECTION 5. Section 49.324, Water Code, is amended to read as  
24 follows:

25 Sec. 49.324. ORDER OF DISSOLUTION. The commission or the  
26 executive director may enter an order dissolving the district [~~at~~  
27 ~~the conclusion of the hearing~~] if the commission or executive

1 director [~~it~~] finds that the district has performed none of the  
2 functions for which it was created for a period of five consecutive  
3 years [~~before the day of the proceeding~~] and that the district has  
4 no outstanding bonded indebtedness.

5 SECTION 6. Section 49.326(a), Water Code, is amended to  
6 read as follows:

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

10 SECTION 7. Section 54.030(b), Water Code, is amended to  
11 read as follows:

12 (b) The governing body of a district which desires to  
13 convert into a district operating under this chapter shall adopt  
14 and enter in the minutes of the governing body a resolution  
15 declaring that in its judgment, conversion into a municipal utility  
16 district operating under this chapter and under Article XVI,  
17 Section 59, of the Texas Constitution, would serve the best  
18 interest of the district and would be a benefit to the land and  
19 property included in the district. The resolution shall also  
20 request that the commission approve [~~to hold a hearing on the~~  
21 ~~question of~~] the conversion of the district.

22 SECTION 8. Section 54.032, Water Code, is amended to read as  
23 follows:

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

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

4 (c) The notice shall:

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

8 (2) [~~(3)~~] notify all interested persons how they may  
9 offer comments [~~to appear and offer testimony~~] for or against the  
10 proposal contained in the resolution.

11 SECTION 9. Section 54.033, Water Code, is amended to read as  
12 follows:

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

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

27 (c) The findings of the commission or the executive director

1 entered under this section shall be subject to appeal or review  
2 within 30 days after entry of the order [~~of the commission~~] granting  
3 or denying the conversion.

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

7 SECTION 10. The following are repealed:

8 (1) Sections 13.187(d-1), (i), (j), (l), (m), and (n),  
9 Water Code; and

10 (2) Sections 49.322 and 54.031, Water Code.

11 SECTION 11. Except as otherwise provided by this Act, this  
12 Act applies only to a statement of intent filed on or after the  
13 effective date of this Act. A rate change to which a statement of  
14 intent filed before the effective date of this Act applies is  
15 governed by the law in effect on the date the statement was filed,  
16 and that law is continued in effect for that purpose.

17 SECTION 12. This Act takes effect September 1, 2011.