

BILL ANALYSIS

C.S.H.B. 1772
By: Turner, Chris
Urban Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns have been raised about multifamily properties and the impact that unexpected utility service disconnection has on the residents. Tenants in nonsubmetered master metered apartment properties usually pay a flat rate for utilities, which is typically included in their monthly rent, with the landlord being responsible for directly paying the utility company for the property as a whole. One of the biggest concerns regarding this method is that it leaves tenants with little to no recourse in getting service restored when it is unexpectedly disconnected as a result of a landlord's failure to meet the lease agreement. Recent reports indicate that this scenario is not uncommon among large numbers of apartment and condominium complexes, particularly in low-income urban areas where buildings might be older and, therefore, not submetered.

C.S.H.B. 1772 seeks to prevent placing residents' health and lives at risk as a result of disconnection by requiring written notice to be provided to tenants and to the municipality in which the apartment complex is located of a pending disconnection in gas or electric utility service.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTION 2 and to the Railroad Commission of Texas in SECTION 3 of this bill.

ANALYSIS

C.S.H.B. 1772 amends the Property Code to require a customer, defined in the bill as a person who is responsible for bills received for electric or gas utility service provided to nonsubmetered master metered multifamily property, to provide written notice of a service disconnection to each tenant or owner at the property not later than the fifth day after the date the customer receives a notice of service disconnection from an electric service provider or gas utility and sets out notice requirements. The bill requires the customer, if the property is located in a municipality, to provide the same notice to the governing body of that municipality by certified mail and authorizes the governing body of the municipality to provide additional notice to the property's tenants and owners after receipt of such notice. The bill specifies that a customer is not required to provide these notices if the customer avoids the disconnection by paying the bill.

C.S.H.B. 1772 amends the Utilities Code to require a retail electric provider or vertically integrated electric utility in an area where customer choice has not been introduced and a gas utility, not including a municipally owned utility, an electric cooperative, or a gas utility owned by an electric cooperative, to send a written notice of service disconnection, not later than the 10th day before the date the service is scheduled for disconnection, to a municipality before the provider or utility disconnects service to a nonsubmetered master metered multifamily property for nonpayment if the property is located in the municipality and the municipality establishes an authorized representative to receive the notice. The bill establishes that these customer safeguards are in addition to safeguards provided by other law or agency rules and that its

provisions do not prohibit a municipality or the Railroad Commission of Texas from adopting safeguards exceeding those provided by its provisions.

C.S.H.B. 1772 requires the Public Utility Commission of Texas (PUC) and the railroad commission by rule to develop a mechanism by which a municipality may provide the PUC and the railroad commission, as applicable, with the contact information of the municipality's authorized representative to whom the required disconnection notice must be sent and requires the contact information to be made available to the public.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1772 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the original and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Chapter 17, Utilities Code, is amended by adding Subchapter E to read as follows: <u>SUBCHAPTER E. PROTECTION AGAINST UTILITY SERVICE DISCONNECTION</u> <u>Sec. 17.201. DEFINITIONS. In this subchapter:</u> <u>(1) "Customer" means a person who receives electricity or gas service from a utility, including a landlord, premises owner, and property manager.</u> <u>(2) "Electric service provider" includes:</u> <u>(A) an electric utility, as defined by Section 31.002;</u> <u>(B) a retail electric provider;</u> <u>(C) an electric cooperative; and</u> <u>(D) a municipally owned utility.</u> <u>(3) "Gas utility" has the meaning assigned by Section 181.021.</u> <u>(4) "Nonsubmetered master metered property" means an apartment, a leased or owner-occupied condominium, or one or more buildings containing at least 10 dwellings that receive electric utility service or gas utility service that is master metered but not submetered.</u> <u>Sec. 17.202. NOTICE OF DISCONNECTION TO NONSUBMETERED MASTER METERED MULTIFAMILY PROPERTY CUSTOMERS, MUNICIPALITIES, AND TENANTS. (a) An electric service provider or a gas utility may not disconnect</u>	SECTION 2. (part) Chapter 17, Utilities Code, is amended by adding Subchapter E to read as follows: <u>SUBCHAPTER E. PROTECTION AGAINST UTILITY SERVICE DISCONNECTION</u> <u>Sec. 17.201. DEFINITION. In this subchapter,</u> <u>"nonsubmetered master metered multifamily property" means an apartment, a leased or owner-occupied condominium, or one or more buildings containing at least 10 dwellings that receive electric utility service that is master metered but not submetered.</u> <u>Sec. 17.202. NOTICE OF DISCONNECTION TO MUNICIPALITIES FOR NONSUBMETERED MASTER METERED MULTIFAMILY PROPERTIES. (a) A retail electric provider or a vertically integrated electric utility, not including a municipally owned utility or an</u>

service to a nonsubmetered master metered property for nonpayment for services unless the electric service provider or gas utility sends a written notice of service disconnection to a customer and, if the property is located in a municipality, to the governing body of that municipality not later than the 30th day before the date the electric service provider or gas utility, as applicable, disconnects the electric or gas service.

(See added Section 17.201, Utilities Code, above.)

(b) A customer shall provide written notice of a service disconnection to each tenant or owner at a nonsubmetered master metered property not later than the fifth day after the date the customer receives a notice of service disconnection from an electric service provider or gas utility. A customer must provide the notice by mail to the tenant or owner's preferred mailing address. The written notice must state the service to be disconnected, the date and reason for the disconnection, the customer's

electric cooperative, in an area where customer choice has not been introduced shall send a written notice of service disconnection to a municipality before the retail electric provider or vertically integrated electric utility disconnects service to a nonsubmetered master metered multifamily property for nonpayment if:

(1) the property is located in the municipality; and

(2) the municipality establishes an authorized representative to receive the notice as described by Section 17.203(c).

(b) The retail electric provider or vertically integrated electric utility in an area where customer choice has not been introduced shall send the notice required by this section not later than the 10th day before the date electric service is scheduled for disconnection.

SECTION 1. Subchapter G, Chapter 92, Property Code, is amended by adding Section 92.302 to read as follows:

Sec. 92.302. NOTICE OF UTILITY DISCONNECTION OF NONSUBMETERED MASTER METERED MULTIFAMILY PROPERTY TO MUNICIPALITIES, OWNERS, AND TENANTS. (a) In this section:

(1) "Customer" means a person who is responsible for bills received for electric utility service or gas utility service provided to nonsubmetered master metered multifamily property.

(2) "Nonsubmetered master metered multifamily property" means an apartment, a leased or owner-occupied condominium, or one or more buildings containing at least 10 dwellings that receive electric utility service or gas utility service that is master metered but not submetered.

(b) A customer shall provide written notice of a service disconnection to each tenant or owner at a nonsubmetered master metered multifamily property not later than the fifth day after the date the customer receives a notice of service disconnection from an electric service provider or a gas utility. The customer must provide the notice by mail to the tenant's or owner's preferred mailing address or hand deliver the notice to the tenant or owner. The written notice must include the customer's contact information

contact information, and the tenant's remedies under Section 92.301, Property Code.
(See Subsection (c) below.)

(c) If the property is located in a municipality, the customer shall provide the notice described by Subsection (b) to the governing body of that municipality by certified mail. The notice must include the following text:
"Notice to residents of [name and address of nonsubmetered master metered property]: Electric service to this property is scheduled for disconnection on [date] because [reason for disconnection]."
The governing body of the municipality may provide additional notice to the property's tenants and owners after receipt of the service disconnection notice under Subsection (b).

Sec. 17.203. ADDITIONAL SAFEGUARDS. (a) The customer safeguards provided by this subchapter are in addition to safeguards provided by other law or commission rules.
(b) This subchapter does not prohibit a municipality, an electric cooperative, or the commission from adopting customer safeguards that exceed the safeguards provided by this chapter.

No equivalent provision.

No equivalent provision, but see added

and the tenant's remedies under Section 92.301. The notice must include the following text in both English and Spanish:
"Notice to residents of (name and address of nonsubmetered master metered multifamily property): Electric (or gas) service to this property is scheduled for disconnection on (date) because (reason for disconnection)."

(c) If the property is located in a municipality, the customer shall provide the same notice described by Subsection (b) to the governing body of that municipality by certified mail. The governing body of the municipality may provide additional notice to the property's tenants and owners after receipt of the service disconnection notice under this subsection.

(d) A customer is not required to provide the notices described by this section if the customer avoids the disconnection by paying the bill

SECTION 2. (part)

Sec. 17.203. ADDITIONAL SAFEGUARDS. (a) The customer safeguards provided by this subchapter are in addition to safeguards provided by other law or agency rules.
(b) This subchapter does not prohibit a municipality or the commission from adopting customer safeguards that exceed the safeguards provided by this chapter.

(c) The commission by rule shall develop a mechanism by which a municipality may provide the commission with the contact information of the municipality's authorized representative to whom the notice required by Section 17.202 must be sent. The commission shall make the contact information available to the public.

SECTION 3. Chapter 104, Utilities Code, is

amended by adding Subchapter H to read as follows:

SUBCHAPTER H. PROTECTION
AGAINST UTILITY SERVICE
DISCONNECTION

Sec. 104.351. DEFINITIONS. In this subchapter:

(1) "Customer" means any person in whose name gas utility service is billed, including individuals, governmental units at all levels of government, corporate entities, and any other entity with legal capacity to be billed for gas service.

(2) "Gas utility" has the meaning assigned by Section 181.021 but does not include a municipally owned utility or a gas utility that is owned by an electric cooperative.

(3) "Nonsubmetered master metered multifamily property" means an apartment, a leased or owner-occupied condominium, or one or more buildings containing at least 10 dwellings that receive gas utility service that is master metered but not submetered.

Sec. 104.352. NOTICE OF
DISCONNECTION TO MUNICIPALITIES
FOR NONSUBMETERED MASTER
METERED MULTIFAMILY

PROPERTIES. (a) A gas utility shall send a written notice of service disconnection to a municipality before the gas utility disconnects service to a nonsubmetered master metered multifamily property for nonpayment if:

(1) the property is located in the municipality; and

(2) the municipality establishes an authorized representative to receive the notice as described by Section 104.353(c).

(b) The gas utility shall send the notice required by this section not later than the 10th day before the date gas utility service is scheduled for disconnection.

Sec. 104.353. ADDITIONAL
SAFEGUARDS. (a) The customer

safeguards provided by this subchapter are in addition to safeguards provided by other law or agency rules.

(b) This subchapter does not prohibit a municipality or the regulatory authority from adopting customer safeguards that exceed the safeguards provided by this chapter.

(c) The regulatory authority by rule shall develop a mechanism by which a municipality may provide the regulatory authority with the contact information of the

municipality's authorized representative to whom the notice required by Section 104.352 must be sent. The regulatory authority shall make the contact information available to the public.

SECTION 2. The change in law made by this Act applies only in regard to disconnection of service for nonpayment of a utility bill issued for a billing period that begins on or after the effective date of this Act.

SECTION 4. Same as introduced version.

SECTION 3. This Act takes effect September 1, 2013.

SECTION 5. Same as introduced version.