

By: Cortez

H.B. No. 2708

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the imposition of a tax on water consumption by certain
3 residential water customers and the use of the revenue generated by
4 the tax to finance water projects; providing for penalties;
5 authorizing a fee.

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

7 SECTION 1. Chapter 13, Water Code, is amended by adding
8 Subchapter O to read as follows:

9 SUBCHAPTER O. RESIDENTIAL WATER CONSUMPTION TAX

10 Sec. 13.551. DEFINITIONS. In this subchapter:

11 (1) "Commercial customer" means a customer who is not
12 a residential customer.

13 (2) "Customer" means a person who purchases water from
14 a retail public utility.

15 (3) "Day" means a calendar day.

16 (4) "Gallon" means a unit of liquid measurement as
17 customarily used in the United States that contains 231 cubic
18 inches by volume.

19 (5) "Residential customer" means a customer with a
20 residential retail water utility service connection served without
21 a meter or through a meter of any size whose water account does not
22 primarily serve a commercial purpose.

23 Sec. 13.552. IMPOSITION OF WATER CONSUMPTION TAX. (a) Each
24 retail public utility shall collect from each residential customer

1 who consumes more than 81,000 gallons of water in a three-month
2 period a tax as provided by this subchapter.

3 (b) The amount of the tax is equal to the amount in dollars
4 computed by:

5 (1) dividing 9 by 10 to the 9th power;

6 (2) multiplying the amount computed under Subdivision
7 (1) by the square of the number of gallons of water consumed by the
8 customer;

9 (3) subtracting from the amount computed under
10 Subdivision (2) the amount computed by multiplying 0.0007 by the
11 number of gallons of water consumed by the customer; and

12 (4) adding the amount computed under Subdivision (3)
13 to 12.5.

14 (c) To aid retail public utilities in computing the amount
15 of the tax to be collected, the commission shall provide each retail
16 public utility with a document detailing the amount of tax that
17 would be owed for each gallon of water consumed in one-gallon
18 increments from 81,001 to 500,000 gallons.

19 (d) The three-month periods to be used to determine whether
20 the tax is imposed are the three-month periods beginning on the
21 first day of a retail public utility's billing period in January,
22 April, July, and October of each calendar year.

23 (e) Each retail public utility shall determine the amount of
24 tax owed by each residential customer on whom the tax is imposed not
25 later than the 30th day after the date each three-month period ends
26 and collect the tax from the customer in the same manner in which
27 the utility collects the utility's regular charges for water

1 service, except as otherwise provided by this subchapter.

2 Sec. 13.553. EXEMPTIONS. The tax does not apply to:

3 (1) an owner of an apartment house as defined by
4 Section 184.011, Utilities Code;

5 (2) a tenant of a dwelling unit as defined by Section
6 184.011, Utilities Code; or

7 (3) an owner or tenant of a recreational vehicle park
8 as defined by Section 13.087.

9 Sec. 13.554. APPEALS. (a) A customer may appeal to the
10 commission a determination by a retail public utility that the
11 customer is a residential customer. The appeal must be filed not
12 later than the 30th day after the date the retail public utility
13 issues the customer a bill for taxes imposed under this subchapter.
14 The customer must submit proof that the customer's water account
15 primarily serves a commercial purpose. A water account is
16 considered to primarily serve a commercial purpose if over 60
17 percent of the water consumed is consumed for economic gain. If the
18 commission determines that the customer has failed to submit
19 adequate proof that the customer's water account primarily serves a
20 commercial purpose, the commission may impose a fee on the customer
21 in an amount sufficient to cover the administrative expenses
22 incurred by the commission in adjudicating the appeal.

23 (b) A retail public utility may provide an internal appeals
24 process for a residential customer who experiences a single
25 anomalous high water consumption period because of a water leak or
26 similar cause that is beyond the customer's control. A high water
27 consumption period may be considered anomalous only if the

1 customer's consumption of water in each of the four three-month
2 periods preceding the period in question did not exceed 75 percent
3 of the water consumption during the period in question. A retail
4 public utility may approve an appeal only if the customer provides
5 adequate proof that the customer addressed the underlying cause of
6 the anomalous consumption not later than the 30th day after the date
7 the customer was informed of the customer's high water consumption
8 level.

9 Sec. 13.555. PAYMENT OF TAX. (a) Not later than the 60th
10 day after the date each three-month period as described by Section
11 13.552(d) ends, each retail public utility shall pay to the
12 comptroller the total amount of the taxes the utility collected
13 under this subchapter for that period.

14 (b) For each three-month period a retail public utility
15 makes timely payment of the taxes imposed under this subchapter,
16 the utility is entitled to retain an amount equal to one percent of
17 the total amount of the taxes collected as reimbursement for the
18 costs of collection.

19 Sec. 13.556. REPORT. Not later than the 60th day after the
20 date each three-month period as described by Section 13.552(d)
21 ends, each retail public utility shall file with the board a report
22 on a form prescribed by the board that shows for each range of water
23 consumption in 10,000-gallon increments from 81,001 gallons to
24 600,000 gallons during the three-month period the number of
25 customers of the utility.

26 Sec. 13.557. ENFORCEMENT. (a) The board by rule shall
27 provide for penalties or other remedies for violations of this

1 subchapter, including penalties on:

2 (1) a residential customer for failing to timely pay a
3 tax imposed on the customer under this subchapter; or

4 (2) a retail public utility for failing to:

5 (A) make a good faith effort to collect a tax
6 imposed on a residential customer under this subchapter;

7 (B) timely pay to the comptroller the taxes
8 collected by the utility under this subchapter;

9 (C) timely file with the board a report required
10 by this subchapter; or

11 (D) accurately measure or report the water
12 consumption of the utility's customers.

13 (b) The board by rule may provide that a penalty imposed
14 under this section incurs interest at a rate specified by the board.

15 (c) The commission shall enforce this subchapter in
16 accordance with the rules adopted by the board.

17 Sec. 13.558. ALLOCATION OF REVENUE. (a) The revenue from
18 the taxes imposed under this subchapter and any penalties and
19 interest on the taxes shall be deposited to the credit of:

20 (1) the state water implementation fund for Texas if
21 that fund is created by legislation enacted by the 83rd
22 Legislature, Regular Session, 2013; or

23 (2) the Texas Water Development Fund II if the state
24 water implementation fund for Texas is not created by legislation
25 enacted by the 83rd Legislature, Regular Session, 2013.

26 (b) The commission shall report to the comptroller any
27 administrative expenses incurred by the commission in implementing

1 this subchapter. At the end of each state fiscal year, the
2 comptroller shall transfer from the applicable fund under
3 Subsection (a) to the general revenue fund to the credit of the
4 commission an amount equal to the amount of administrative expenses
5 reported by the commission.

6 SECTION 2. Not later than December 1, 2013, the Texas Water
7 Development Board shall adopt rules under Subchapter O, Chapter 13,
8 Water Code, as added by this Act.

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