

By: Nevárez

H.B. No. 2852

Substitute the following for H.B. No. 2852:

By: Bonnen of Brazoria

C.S.H.B. No. 2852

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to municipal fees charged to public school districts for  
3 water and sewer service.

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

5 SECTION 1. The legislature finds that the imposition of  
6 fees for water service that are based on the number of students or  
7 employees of a public school district diverts to other purposes  
8 money appropriated in accordance with Section 1, Article VII, Texas  
9 Constitution, for the education of students. For that reason, the  
10 imposition of fees on those bases by a political subdivision  
11 violates the Texas Constitution.

12 SECTION 2. The heading to Section 13.044, Water Code, is  
13 amended to read as follows:

14 Sec. 13.044. RATES CHARGED BY MUNICIPALITY TO CERTAIN  
15 SPECIAL DISTRICTS [~~DISTRICT~~].

16 SECTION 3. Subchapter C, Chapter 13, Water Code, is amended  
17 by adding Section 13.0441 to read as follows:

18 Sec. 13.0441. FEES CHARGED BY MUNICIPALITY TO PUBLIC SCHOOL  
19 DISTRICTS. (a) This section applies only to fees charged by a  
20 municipality for water or sewer service to a public school  
21 district.

22 (b) Notwithstanding the provisions of a resolution,  
23 ordinance, or agreement, a public school district charged a fee  
24 that violates Section 13.088 may appeal the charge by filing a

1 petition with the utility commission. The utility commission shall  
2 hear the appeal de novo, and the municipality charging the fee has  
3 the burden of proof to establish that the fee complies with Section  
4 13.088. The utility commission shall fix the fees to be charged by  
5 the municipality in accordance with this chapter, including Section  
6 13.088.

7 SECTION 4. Subchapter D, Chapter 13, Water Code, is amended  
8 by adding Section 13.088 to read as follows:

9 Sec. 13.088. MUNICIPAL FEES FOR PUBLIC SCHOOL DISTRICTS. A  
10 municipally owned utility that provides retail water or sewer  
11 utility service to a public school district may not charge the  
12 district a fee based on the number of district students or employees  
13 in addition to the rates the utility charges the district for the  
14 service.

15 SECTION 5. (a) This section applies only to a public  
16 school district that, after September 1, 2009, was charged a fee for  
17 retail water or sewer utility service based on the number of  
18 district students or employees in addition to the rates charged for  
19 the service.

20 (b) Notwithstanding any other law or agreement, on the  
21 petition of a public school district, the Public Utility Commission  
22 of Texas shall evaluate a fee for retail water or sewer utility  
23 service charged by a municipally owned utility to the district  
24 after September 1, 2009, to determine whether the fee complies with  
25 Section 13.088, Water Code, as added by this Act.

26 (c) If the Public Utility Commission of Texas determines  
27 under Subsection (b) of this section that the fee does not comply

1 with Section 13.088, Water Code, as added by this Act, the  
2 commission:

3 (1) shall fix or eliminate the fees to be charged by  
4 the municipally owned utility in accordance with Section 13.088,  
5 Water Code, as added by this Act;

6 (2) shall establish the original effective date of the  
7 fee that does not comply with Section 13.088, Water Code, as added  
8 by this Act, based on information submitted by the municipally  
9 owned utility;

10 (3) by order shall require the municipally owned  
11 utility to refund to the public school district money collected  
12 from the fee described by Subdivision (2) of this subsection in  
13 excess of the fee fixed under Subdivision (1) of this subsection;  
14 and

15 (4) may allow the public school district to recover  
16 from the municipally owned utility any reasonable expenses incurred  
17 by the district in the process of submitting a petition under this  
18 section.

19 (d) This section expires and a public school district may  
20 not submit a petition under this section after September 1, 2020.

21 SECTION 6. This Act takes effect immediately if it receives  
22 a vote of two-thirds of all the members elected to each house, as  
23 provided by Section 39, Article III, Texas Constitution. If this  
24 Act does not receive the vote necessary for immediate effect, this  
25 Act takes effect September 1, 2015.