

By: Nevárez

H.B. No. 2852

A BILL TO BE ENTITLED

AN ACT

relating to municipal rates for water and sewer service charged to public school districts.

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

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

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

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

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

Sec. 13.0441. RATES CHARGED BY MUNICIPALITY TO PUBLIC SCHOOL DISTRICTS. (a) This section applies to rates charged by a municipality for water or sewer service to a public school district.

(b) Notwithstanding the provisions of a resolution, ordinance, or agreement, a public school district may appeal the rates charged to the district by the municipality by filing a

1 petition with the utility commission. The utility commission shall
2 hear the appeal de novo, and the municipality shall have the burden
3 of proof to establish that the rates are just and reasonable. The
4 utility commission shall fix the rates to be charged by the
5 municipality in accordance with this chapter, including Section
6 13.088, and the municipality may not increase those rates without
7 the approval of the utility commission.

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

10 Sec. 13.088. MUNICIPAL RATES FOR PUBLIC SCHOOL DISTRICTS.

11 (a) A municipally owned utility that provides retail water or sewer
12 utility service to a public school district shall charge the
13 district for that service the lowest rates the utility charges
14 commercial businesses or nonprofit organizations that receive
15 retail water or sewer utility service from the utility.

16 (b) A municipally owned utility that provides retail water
17 or sewer utility service to a public school district may not charge
18 the district:

19 (1) a fee that the utility does not charge commercial
20 businesses that receive retail water or sewer utility service from
21 the utility; or

22 (2) a fee based on the number of district students or
23 employees.

24 SECTION 5. (a) This section applies only to a public
25 school district that, after August 1, 2012, was charged a rate or
26 fee for retail water or sewer utility service based on the number of
27 district students or employees.

1 (b) Notwithstanding any other law or agreement, on the
2 petition of a public school district, the Public Utility Commission
3 of Texas shall evaluate a rate or fee for retail water or sewer
4 utility service charged by a municipally owned utility to the
5 district after August 1, 2012, to determine whether the rate or fee
6 complies with Chapter 13, Water Code, as amended by this Act.

7 (c) If the Public Utility Commission of Texas determines
8 under Subsection (b) of this section that the rate or fee does not
9 comply with Chapter 13, Water Code, as amended by this Act, the
10 commission:

11 (1) shall fix the rate or fee to be charged by the
12 municipally owned utility in accordance with Chapter 13, Water
13 Code, as amended by this Act;

14 (2) shall establish the original effective date of the
15 rate or fee that does not comply with Chapter 13, Water Code, as
16 amended by this Act, based on information submitted by the
17 municipally owned utility;

18 (3) shall by order require the municipally owned
19 utility to refund to the public school district money collected
20 from the rate or fee described by Subdivision (2) of this subsection
21 in excess of the rate or fee fixed under Subdivision (1) of this
22 subsection; and

23 (4) may allow the public school district to recover
24 from the municipally owned utility any reasonable expenses incurred
25 by the district in the process of submitting a petition under this
26 section.

27 (d) This section expires and a public school district may

1 not submit a petition under this section after September 1, 2020.

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