

By: Watson, Nichols

S.B. No. 1148

A BILL TO BE ENTITLED

AN ACT

relating to the functions of the Public Utility Commission of Texas  
in relation to the economic regulation of water and sewer service.

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

SECTION 1. Section 5.315, Water Code, is amended to read as  
follows:

Sec. 5.315. DISCOVERY IN CASES USING PREFILED WRITTEN  
TESTIMONY. In a contested case hearing delegated by the commission  
to the State Office of Administrative Hearings that uses prefiled  
written testimony, all discovery must be completed before the  
deadline for the submission of that testimony[~~, except for water  
and sewer ratemaking proceedings~~].

SECTION 2. Section 13.041(d), Water Code, is amended to  
read as follows:

(d) In accordance with Subchapter K-1, the [The] utility  
commission may issue emergency orders, with or without a hearing:

(1) to compel a water or sewer service provider that  
has obtained or is required to obtain a certificate of public  
convenience and necessity to provide continuous and adequate water  
service, sewer service, or both, if the discontinuance of the  
service is imminent or has occurred because of the service  
provider's actions or failure to act; and

(2) to compel a retail public utility to provide an  
emergency interconnection with a neighboring retail public utility

1 for the provision of temporary water or sewer service, or both, for  
2 not more than 90 days if service discontinuance or serious  
3 impairment in service is imminent or has occurred.

4 SECTION 3. Section 13.043, Water Code, is amended by adding  
5 Subsections (b-1) and (b-2) to read as follows:

6 (b-1) A municipally owned utility shall:

7 (1) disclose to any person, on request, the number of  
8 ratepayers who reside outside the corporate limits of the  
9 municipality; and

10 (2) provide to any person, on request, a list of the  
11 names and addresses of the ratepayers who reside outside the  
12 corporate limits of the municipality.

13 (b-2) The municipally owned utility may not charge a fee for  
14 disclosing the information under Subsection (b-1)(1). The  
15 municipally owned utility may charge a reasonable fee for providing  
16 information under Subsection (b-1)(2). The municipally owned  
17 utility shall provide information requested under Subsection  
18 (b-1)(1) by telephone or in writing as preferred by the person  
19 making the request.

20 SECTION 4. Section 13.187(g-1), Water Code, is amended to  
21 read as follows:

22 (g-1) If the regulatory authority is the utility  
23 commission, the utility commission shall give reasonable notice of  
24 the hearing, including notice to the governing body of each  
25 affected municipality and county. The utility commission may  
26 delegate to an administrative law judge of the State Office of  
27 Administrative Hearings the responsibility and authority to give

1 reasonable notice of the hearing, including notice to the governing  
2 body of each affected municipality and county. The utility is not  
3 required to provide a formal answer or file any other formal  
4 pleading in response to the notice, and the absence of an answer  
5 does not affect an order for a hearing.

6 SECTION 5. Sections 13.1871(g), (h), (j), (m), and (p),  
7 Water Code, are amended to read as follows:

8 (g) After written notice to the utility, the utility  
9 commission may suspend the effective date of a rate change for not  
10 more than 265 [~~205~~] days from the proposed effective date. If the  
11 utility commission does not make a final determination on the  
12 proposed rate before the expiration of the suspension period, the  
13 proposed rate shall be considered approved. This approval is  
14 subject to the authority of the utility commission thereafter to  
15 continue a hearing in progress.

16 (h) The 265-day [~~205-day~~] period described by Subsection  
17 (g) shall be extended by two days for each day a hearing exceeds 15  
18 days.

19 (j) If the regulatory authority receives at least the  
20 number of complaints from ratepayers required for the regulatory  
21 authority to set a hearing under Subsection (i), the regulatory  
22 authority may, pending the hearing and a decision, suspend the date  
23 the rate change would otherwise be effective. Except as provided by  
24 Subsection (h), the proposed rate may not be suspended for longer  
25 than:

- 26 (1) 90 days by a local regulatory authority; or  
27 (2) 265 [~~205~~] days by the utility commission.

1 (m) The regulatory authority shall give reasonable notice  
2 of the hearing, including notice to the governing body of each  
3 affected municipality and county. The utility commission may  
4 delegate to an administrative law judge of the State Office of  
5 Administrative Hearings the responsibility and authority to give  
6 reasonable notice for the hearing, including notice to the  
7 governing body of each affected municipality and county. The  
8 utility is not required to provide a formal answer or file any other  
9 formal pleading in response to the notice, and the absence of an  
10 answer does not affect an order for a hearing.

11 (p) A utility may put a changed rate into effect throughout  
12 the area in which the utility sought to change its rates, including  
13 an area over which the utility commission is exercising appellate  
14 or original jurisdiction, by filing a bond with the utility  
15 commission if the suspension period has been extended under  
16 Subsection (h) and the utility commission fails to make a final  
17 determination before the 266th [~~206th~~] day after the date the rate  
18 change would otherwise be effective.

19 SECTION 6. Sections 13.301(a) and (h), Water Code, are  
20 amended to read as follows:

21 (a) A utility or a water supply or sewer service  
22 corporation, on or before the 120th day before the effective date of  
23 a sale, acquisition, lease, or rental of a water or sewer system  
24 owned by an entity that is required by law to possess a certificate  
25 of public convenience and necessity or the effective date of a sale  
26 or acquisition of or merger or consolidation with such an entity [~~a~~  
27 ~~utility or water supply or sewer service corporation~~], shall:

1           (1) file a written application with the utility  
2 commission; and

3           (2) unless public notice is waived by the utility  
4 commission for good cause shown, give public notice of the action.

5           (h) A sale, acquisition, lease, or rental of any water or  
6 sewer system owned by an entity required by law to possess a  
7 certificate of public convenience and necessity or a sale or  
8 acquisition of or merger or consolidation with such an entity that  
9 is not completed in accordance with the provisions of this section  
10 is void.

11           SECTION 7. Sections 13.4133(a) and (c), Water Code, are  
12 amended to read as follows:

13           (a) Notwithstanding the requirements of Subchapter F, the  
14 utility commission may authorize an emergency rate increase for a  
15 utility for which a person has been appointed under Section 13.4132  
16 or for which a receiver has been appointed under Section 13.412 if  
17 the increase is necessary to ensure the provision of continuous and  
18 adequate services to the utility's customers. The commission and  
19 utility commission shall coordinate as needed to carry out this  
20 section.

21           (c) An emergency order may be issued under this section for  
22 a term not to exceed 15 months. The utility commission shall  
23 schedule a hearing to establish a final rate within 15 months after  
24 the date on which an emergency rate increase takes effect. The  
25 utility commission shall require the utility to provide notice of  
26 the hearing to each customer. The additional revenues collected  
27 under an emergency rate increase are subject to refund if the

1 utility commission finds that the rate increase was larger than  
2 necessary to ensure continuous and adequate service.

3 SECTION 8. Chapter 13, Water Code, is amended by adding  
4 Subchapter K-1 to read as follows:

5 SUBCHAPTER K-1. EMERGENCY ORDERS

6 Sec. 13.451. ISSUANCE OF EMERGENCY ORDER. (a) The utility  
7 commission may issue an emergency order authorized under this  
8 chapter after providing the notice and opportunity for a hearing  
9 that the utility commission considers practicable under the  
10 circumstances or without notice or opportunity for a hearing. If  
11 the utility commission considers the provision of notice and  
12 opportunity for a hearing practicable, the utility commission shall  
13 provide the notice not later than the 10th day before the date set  
14 for the hearing.

15 (b) The utility commission by order or rule may delegate to  
16 the utility commission's executive director the authority to:

17 (1) receive applications and issue emergency orders  
18 under this subchapter; and

19 (2) authorize, in writing, a representative or  
20 representatives to act on the utility commission's executive  
21 director's behalf under this subchapter.

22 (c) Chapter 2001, Government Code, does not apply to the  
23 issuance of an emergency order under this subchapter without a  
24 hearing.

25 (d) A law under which the utility commission acts that  
26 requires notice of hearing or that prescribes procedures for the  
27 issuance of emergency orders does not apply to a hearing on an

1 emergency order issued under this subchapter unless the law  
2 specifically requires notice for an emergency order. The utility  
3 commission shall give notice of the hearing as it determines is  
4 practicable under the circumstances.

5 (e) An emergency order issued under this subchapter does not  
6 vest any rights in a person affected by the order and the order  
7 expires according to its terms.

8 (f) The utility commission may adopt rules necessary to  
9 administer this subchapter.

10 Sec. 13.452. APPLICATION FOR EMERGENCY ORDER. A person  
11 other than the utility commission or the staff of the utility  
12 commission who desires the issuance of an emergency order under  
13 this subchapter must submit a sworn written application to the  
14 utility commission. The application must:

15 (1) describe the emergency condition or other  
16 condition justifying the issuance of the order;

17 (2) allege facts to support the findings required  
18 under this subchapter;

19 (3) estimate the dates on which the proposed order  
20 should begin and end;

21 (4) describe the action sought and the activity  
22 proposed to be allowed, mandated, or prohibited; and

23 (5) include any other statement, including who must  
24 sign the application for the order, and any information required by  
25 the utility commission.

26 Sec. 13.453. NOTICE OF ISSUANCE. Notice of the issuance of  
27 an emergency order must be provided as required by utility

1 commission rule.

2 Sec. 13.454. HEARING TO AFFIRM, MODIFY, OR SET ASIDE ORDER.

3 (a) If the utility commission or the utility commission's  
4 executive director issues an emergency order under this subchapter  
5 without a hearing, a hearing must be held to affirm, modify, or set  
6 aside the emergency order unless the person affected by the order  
7 waives the right to a hearing. If the person does not waive the  
8 right to a hearing, the utility commission or the utility  
9 commission's executive director shall set a time and place for a  
10 hearing to be held before the utility commission or the State Office  
11 of Administrative Hearings, which must be as soon as practicable  
12 after the order is issued.

13 (b) At a hearing required under Subsection (a), or within a  
14 reasonable time after the hearing, the utility commission shall  
15 affirm, modify, or set aside the emergency order.

16 (c) A hearing to affirm, modify, or set aside an emergency  
17 order must be conducted in accordance with Chapter 2001, Government  
18 Code, and utility commission rules. Utility commission rules  
19 relating to a hearing to affirm, modify, or set aside an emergency  
20 order must provide for presentation of evidence by the applicant,  
21 if any, under oath, presentation of rebuttal evidence under oath,  
22 and cross-examination of witnesses under oath.

23 Sec. 13.455. TERM OF ORDER. An emergency order issued under  
24 this subchapter must be limited to a reasonable time as specified in  
25 the order. Except as otherwise provided by this chapter, the term  
26 of an emergency order may not exceed 180 days. An emergency order  
27 may be renewed once for a period not to exceed 180 days.



1           SECTION 9. Section 5.507, Water Code, is amended to read as  
2 follows:

3           Sec. 5.507. EMERGENCY ORDER FOR OPERATION OF UTILITY THAT  
4 DISCONTINUES OPERATION OR IS REFERRED FOR APPOINTMENT OF RECEIVER.  
5 The commission [~~or the Public Utility Commission of Texas~~] may  
6 issue an emergency order appointing a willing person to temporarily  
7 manage and operate a utility under Section 13.4132. Notice of the  
8 action is adequate if the notice is mailed or hand delivered to the  
9 last known address of the utility's headquarters.

10          SECTION 10. Section 5.508, Water Code, is repealed.

11          SECTION 11. This Act takes effect September 1, 2015.