

1-1 By: Watson, Nichols S.B. No. 1148
 1-2 (In the Senate - Filed March 10, 2015; March 17, 2015, read
 1-3 first time and referred to Committee on Natural Resources and
 1-4 Economic Development; April 15, 2015, reported favorably by the
 1-5 following vote: Yeas 9, Nays 0; April 15, 2015, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12			X	
1-13	X			
1-14			X	
1-15	X			
1-16	X			
1-17	X			
1-18	X			

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the functions of the Public Utility Commission of Texas
 1-22 in relation to the economic regulation of water and sewer service.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 5.315, Water Code, is amended to read as
 1-25 follows:

1-26 Sec. 5.315. DISCOVERY IN CASES USING PREFILED WRITTEN
 1-27 TESTIMONY. In a contested case hearing delegated by the commission
 1-28 to the State Office of Administrative Hearings that uses prefiled
 1-29 written testimony, all discovery must be completed before the
 1-30 deadline for the submission of that testimony[~~, except for water
 1-31 and sewer ratemaking proceedings~~].

1-32 SECTION 2. Section 13.041(d), Water Code, is amended to
 1-33 read as follows:

1-34 (d) In accordance with Subchapter K-1, the ~~[The]~~ utility
 1-35 commission may issue emergency orders, with or without a hearing:

1-36 (1) to compel a water or sewer service provider that
 1-37 has obtained or is required to obtain a certificate of public
 1-38 convenience and necessity to provide continuous and adequate water
 1-39 service, sewer service, or both, if the discontinuance of the
 1-40 service is imminent or has occurred because of the service
 1-41 provider's actions or failure to act; and

1-42 (2) to compel a retail public utility to provide an
 1-43 emergency interconnection with a neighboring retail public utility
 1-44 for the provision of temporary water or sewer service, or both, for
 1-45 not more than 90 days if service discontinuance or serious
 1-46 impairment in service is imminent or has occurred.

1-47 SECTION 3. Section 13.043, Water Code, is amended by adding
 1-48 Subsections (b-1) and (b-2) to read as follows:

1-49 (b-1) A municipally owned utility shall:

1-50 (1) disclose to any person, on request, the number of
 1-51 ratepayers who reside outside the corporate limits of the
 1-52 municipality; and

1-53 (2) provide to any person, on request, a list of the
 1-54 names and addresses of the ratepayers who reside outside the
 1-55 corporate limits of the municipality.

1-56 (b-2) The municipally owned utility may not charge a fee for
 1-57 disclosing the information under Subsection (b-1)(1). The
 1-58 municipally owned utility may charge a reasonable fee for providing
 1-59 information under Subsection (b-1)(2). The municipally owned
 1-60 utility shall provide information requested under Subsection
 1-61 (b-1)(1) by telephone or in writing as preferred by the person

2-1 making the request.

2-2 SECTION 4. Section 13.187(g-1), Water Code, is amended to
2-3 read as follows:

2-4 (g-1) If the regulatory authority is the utility
2-5 commission, the utility commission shall give reasonable notice of
2-6 the hearing, including notice to the governing body of each
2-7 affected municipality and county. The utility commission may
2-8 delegate to an administrative law judge of the State Office of
2-9 Administrative Hearings the responsibility and authority to give
2-10 reasonable notice of the hearing, including notice to the governing
2-11 body of each affected municipality and county. The utility is not
2-12 required to provide a formal answer or file any other formal
2-13 pleading in response to the notice, and the absence of an answer
2-14 does not affect an order for a hearing.

2-15 SECTION 5. Sections 13.1871(g), (h), (j), (m), and (p),
2-16 Water Code, are amended to read as follows:

2-17 (g) After written notice to the utility, the utility
2-18 commission may suspend the effective date of a rate change for not
2-19 more than 265 [~~205~~] days from the proposed effective date. If the
2-20 utility commission does not make a final determination on the
2-21 proposed rate before the expiration of the suspension period, the
2-22 proposed rate shall be considered approved. This approval is
2-23 subject to the authority of the utility commission thereafter to
2-24 continue a hearing in progress.

2-25 (h) The 265-day [~~205-day~~] period described by Subsection
2-26 (g) shall be extended by two days for each day a hearing exceeds 15
2-27 days.

2-28 (j) If the regulatory authority receives at least the
2-29 number of complaints from ratepayers required for the regulatory
2-30 authority to set a hearing under Subsection (i), the regulatory
2-31 authority may, pending the hearing and a decision, suspend the date
2-32 the rate change would otherwise be effective. Except as provided by
2-33 Subsection (h), the proposed rate may not be suspended for longer
2-34 than:

2-35 (1) 90 days by a local regulatory authority; or

2-36 (2) 265 [~~205~~] days by the utility commission.

2-37 (m) The regulatory authority shall give reasonable notice
2-38 of the hearing, including notice to the governing body of each
2-39 affected municipality and county. The utility commission may
2-40 delegate to an administrative law judge of the State Office of
2-41 Administrative Hearings the responsibility and authority to give
2-42 reasonable notice for the hearing, including notice to the
2-43 governing body of each affected municipality and county. The
2-44 utility is not required to provide a formal answer or file any other
2-45 formal pleading in response to the notice, and the absence of an
2-46 answer does not affect an order for a hearing.

2-47 (p) A utility may put a changed rate into effect throughout
2-48 the area in which the utility sought to change its rates, including
2-49 an area over which the utility commission is exercising appellate
2-50 or original jurisdiction, by filing a bond with the utility
2-51 commission if the suspension period has been extended under
2-52 Subsection (h) and the utility commission fails to make a final
2-53 determination before the 266th [~~206th~~] day after the date the rate
2-54 change would otherwise be effective.

2-55 SECTION 6. Sections 13.301(a) and (h), Water Code, are
2-56 amended to read as follows:

2-57 (a) A utility or a water supply or sewer service
2-58 corporation, on or before the 120th day before the effective date of
2-59 a sale, acquisition, lease, or rental of a water or sewer system
2-60 owned by an entity that is required by law to possess a certificate
2-61 of public convenience and necessity or the effective date of a sale
2-62 or acquisition of or merger or consolidation with such an entity [~~a~~
2-63 ~~utility or water supply or sewer service corporation~~], shall:

2-64 (1) file a written application with the utility
2-65 commission; and

2-66 (2) unless public notice is waived by the utility
2-67 commission for good cause shown, give public notice of the action.

2-68 (h) A sale, acquisition, lease, or rental of any water or
2-69 sewer system owned by an entity required by law to possess a

3-1 certificate of public convenience and necessity or a sale or
 3-2 acquisition of or merger or consolidation with such an entity that
 3-3 is not completed in accordance with the provisions of this section
 3-4 is void.

3-5 SECTION 7. Sections 13.4133(a) and (c), Water Code, are
 3-6 amended to read as follows:

3-7 (a) Notwithstanding the requirements of Subchapter F, the
 3-8 utility commission may authorize an emergency rate increase for a
 3-9 utility for which a person has been appointed under Section 13.4132
 3-10 or for which a receiver has been appointed under Section 13.412 if
 3-11 the increase is necessary to ensure the provision of continuous and
 3-12 adequate services to the utility's customers. The commission and
 3-13 utility commission shall coordinate as needed to carry out this
 3-14 section.

3-15 (c) An emergency order may be issued under this section for
 3-16 a term not to exceed 15 months. The utility commission shall
 3-17 schedule a hearing to establish a final rate within 15 months after
 3-18 the date on which an emergency rate increase takes effect. The
 3-19 utility commission shall require the utility to provide notice of
 3-20 the hearing to each customer. The additional revenues collected
 3-21 under an emergency rate increase are subject to refund if the
 3-22 utility commission finds that the rate increase was larger than
 3-23 necessary to ensure continuous and adequate service.

3-24 SECTION 8. Chapter 13, Water Code, is amended by adding
 3-25 Subchapter K-1 to read as follows:

3-26 SUBCHAPTER K-1. EMERGENCY ORDERS

3-27 Sec. 13.451. ISSUANCE OF EMERGENCY ORDER. (a) The utility
 3-28 commission may issue an emergency order authorized under this
 3-29 chapter after providing the notice and opportunity for a hearing
 3-30 that the utility commission considers practicable under the
 3-31 circumstances or without notice or opportunity for a hearing. If
 3-32 the utility commission considers the provision of notice and
 3-33 opportunity for a hearing practicable, the utility commission shall
 3-34 provide the notice not later than the 10th day before the date set
 3-35 for the hearing.

3-36 (b) The utility commission by order or rule may delegate to
 3-37 the utility commission's executive director the authority to:

3-38 (1) receive applications and issue emergency orders
 3-39 under this subchapter; and

3-40 (2) authorize, in writing, a representative or
 3-41 representatives to act on the utility commission's executive
 3-42 director's behalf under this subchapter.

3-43 (c) Chapter 2001, Government Code, does not apply to the
 3-44 issuance of an emergency order under this subchapter without a
 3-45 hearing.

3-46 (d) A law under which the utility commission acts that
 3-47 requires notice of hearing or that prescribes procedures for the
 3-48 issuance of emergency orders does not apply to a hearing on an
 3-49 emergency order issued under this subchapter unless the law
 3-50 specifically requires notice for an emergency order. The utility
 3-51 commission shall give notice of the hearing as it determines is
 3-52 practicable under the circumstances.

3-53 (e) An emergency order issued under this subchapter does not
 3-54 vest any rights in a person affected by the order and the order
 3-55 expires according to its terms.

3-56 (f) The utility commission may adopt rules necessary to
 3-57 administer this subchapter.

3-58 Sec. 13.452. APPLICATION FOR EMERGENCY ORDER. A person
 3-59 other than the utility commission or the staff of the utility
 3-60 commission who desires the issuance of an emergency order under
 3-61 this subchapter must submit a sworn written application to the
 3-62 utility commission. The application must:

3-63 (1) describe the emergency condition or other
 3-64 condition justifying the issuance of the order;

3-65 (2) allege facts to support the findings required
 3-66 under this subchapter;

3-67 (3) estimate the dates on which the proposed order
 3-68 should begin and end;

3-69 (4) describe the action sought and the activity

4-1 proposed to be allowed, mandated, or prohibited; and
4-2 (5) include any other statement, including who must
4-3 sign the application for the order, and any information required by
4-4 the utility commission.

4-5 Sec. 13.453. NOTICE OF ISSUANCE. Notice of the issuance of
4-6 an emergency order must be provided as required by utility
4-7 commission rule.

4-8 Sec. 13.454. HEARING TO AFFIRM, MODIFY, OR SET ASIDE ORDER.

4-9 (a) If the utility commission or the utility commission's
4-10 executive director issues an emergency order under this subchapter
4-11 without a hearing, a hearing must be held to affirm, modify, or set
4-12 aside the emergency order unless the person affected by the order
4-13 waives the right to a hearing. If the person does not waive the
4-14 right to a hearing, the utility commission or the utility
4-15 commission's executive director shall set a time and place for a
4-16 hearing to be held before the utility commission or the State Office
4-17 of Administrative Hearings, which must be as soon as practicable
4-18 after the order is issued.

4-19 (b) At a hearing required under Subsection (a), or within a
4-20 reasonable time after the hearing, the utility commission shall
4-21 affirm, modify, or set aside the emergency order.

4-22 (c) A hearing to affirm, modify, or set aside an emergency
4-23 order must be conducted in accordance with Chapter 2001, Government
4-24 Code, and utility commission rules. Utility commission rules
4-25 relating to a hearing to affirm, modify, or set aside an emergency
4-26 order must provide for presentation of evidence by the applicant,
4-27 if any, under oath, presentation of rebuttal evidence under oath,
4-28 and cross-examination of witnesses under oath.

4-29 Sec. 13.455. TERM OF ORDER. An emergency order issued under
4-30 this subchapter must be limited to a reasonable time as specified in
4-31 the order. Except as otherwise provided by this chapter, the term
4-32 of an emergency order may not exceed 180 days. An emergency order
4-33 may be renewed once for a period not to exceed 180 days.

4-34 SECTION 9. Section 5.507, Water Code, is amended to read as
4-35 follows:

4-36 Sec. 5.507. EMERGENCY ORDER FOR OPERATION OF UTILITY THAT
4-37 DISCONTINUES OPERATION OR IS REFERRED FOR APPOINTMENT OF RECEIVER.
4-38 The commission [~~or the Public Utility Commission of Texas~~] may
4-39 issue an emergency order appointing a willing person to temporarily
4-40 manage and operate a utility under Section 13.4132. Notice of the
4-41 action is adequate if the notice is mailed or hand delivered to the
4-42 last known address of the utility's headquarters.

4-43 SECTION 10. Section 5.508, Water Code, is repealed.

4-44 SECTION 11. This Act takes effect September 1, 2015.

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