

BILL ANALYSIS

S.B. 873
By: Creighton
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties contend that certain water billing disputes sometimes result in costly and time-consuming litigation, the cost of which may ultimately be borne by water users through increased charges. S.B. 873 seeks to address this issue by revising certain water rates and services provisions.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 873 amends the Water Code to remove the authorization for a tenant, if an apartment house owner, condominium manager, manufactured home rental community owner, or other multiple use facility owner violates a rule of the Public Utility Commission of Texas (PUC) regarding submetering of utility service consumed exclusively within the tenant's dwelling unit or multiple use facility unit or nonsubmetered master metered utility costs, to recover three times the amount of any overcharge, a civil penalty equal to one month's rent, reasonable attorney's fees, and court costs from the owner or condominium manager. The bill also removes the exemption from civil liability for an owner of an apartment house, manufactured home rental community, or other multiple use facility or condominium manager who proves that a violation was a good faith, unintentional mistake. The bill instead authorizes a person claiming a violation of a PUC rule regarding utility costs by an apartment house owner, condominium manager, manufactured home rental community owner, or other multiple use facility owner to file a complaint with the PUC. The bill requires the PUC, if the PUC determines that the owner or condominium manager overcharged a complaining tenant for water or wastewater service from the retail public utility, to require the owner or condominium manager, as applicable, to repay the complaining tenant the amount overcharged. The bill defines "overcharge" as the amount, if any, a tenant is charged for submetered or nonsubmetered master metered utility service to the tenant's dwelling unit after a violation occurred relating to the assessment of a portion of utility costs in excess of the amount the tenant would have been charged under provisions relating to submetering and nonsubmetering for apartments and manufactured home rental communities and other multiple use facilities. The bill grants the PUC exclusive jurisdiction for violations under such provisions and establishes that nothing in these provisions of the bill relating to restitution limits or impairs the PUC enforcement authority under water rates and services violation and enforcement provisions.

S.B. 873 defines "condominium manager" or "manager of a condominium" and "utility costs" or "utility service costs" for purposes of provisions relating to submetering and nonsubmetering for apartments and manufactured home rental communities and other multiple use facilities. The bill redefines "owner" for those same purposes and excludes from the term the manager of an apartment home unless the manager is expressly identified as the landlord in the lease agreement.

S.B. 873 establishes that provisions relating to PUC submetering rules and nonsubmetering rules expressly do not limit the authority of an owner, operator, or manager of an apartment house, manufactured home rental community, or multiple use facility to charge, bill for, or collect rent, an assessment, an administrative fee, a fee relating to the upkeep or management of chilled water, boiler, heating, ventilation, air conditioning, or other building system, or any other amount that is unrelated to utility costs.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.