

BILL ANALYSIS

S.B. 700
By: Nichols
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

It has been noted that several years ago the legislature transferred responsibility for rate and other economic regulation of water and wastewater utilities from the Texas Commission on Environmental Quality to the Public Utility Commission of Texas. It has been suggested that, while the transfer has been successful, certain improvements could be made to ensure that water utilities are able to navigate the rate approval process and make needed upgrades to their systems. S.B. 700 seeks to address this issue by setting out provisions relating to retail public utilities that provide water or sewer service.

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 rulemaking authority is expressly granted to a regulatory authority in SECTION 4 of this bill and to the Public Utility Commission of Texas in SECTIONS 4, 9, and 10 of this bill.

ANALYSIS

S.B. 700 amends the Water Code to change, for purposes of water rates and services, the number of taps or connections that constitute a utility, as follows:

- a Class B utility from a range of 500 or more but fewer than 10,000 to a range of 2,300 or more but fewer than 10,000; and
- a Class C utility from fewer than 500 to a range of 500 or more but fewer than 2,300.

S.B. 700 provides for a Class D utility that has fewer than 500 taps or connections.

S.B. 700 authorizes the Texas Commission on Environmental Quality (TCEQ), in accordance with applicable provisions relating to emergency and temporary orders, to issue emergency orders with or without a hearing to do the following:

- compel a retail public utility that has obtained a certificate of public convenience and necessity to provide water or sewer service, or both, that complies with all statutory and regulatory requirements of TCEQ if necessary to ensure safe drinking water or environmental protection; and
- compel a retail public utility to provide an emergency interconnection with a neighboring retail public utility for the provision of temporary water or sewer service, or both, for not more than 90 days if necessary to ensure safe drinking water or environmental protection.

S.B. 700 authorizes the Public Utility Commission of Texas (PUC), on request by TCEQ and on an expedited basis, to establish reasonable compensation for the temporary service required for such an emergency interconnection and allow the retail public utility receiving the service to make a temporary adjustment to its rate structure to ensure proper payment. The bill establishes that, if an emergency order is issued without a hearing, certain notice of a hearing to affirm, modify, or set aside the order is adequate if the notice is mailed or hand delivered to the last known address of the retail public utility's headquarters.

S.B. 700 changes the entity that has obtained or is required to obtain a certificate of public convenience and necessity for whom the PUC may issue an emergency order to compel 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 entity's actions or failure to act, from a water or sewer service provider to a retail public utility.

S.B. 700 requires the PUC, at the time the PUC approves the acquisition of a nonfunctioning retail water or sewer utility service provider under applicable provisions, to determine the duration of the temporary rates for the acquiring retail public utility, which must be for a reasonable period, and rule on the reasonableness of the temporary rates if the PUC did not make a ruling before the application for the acquisition was filed.

S.B. 700 removes the specification that the specific alternative ratemaking methodologies for water or sewer rates that a regulatory authority may adopt for purposes of ensuring that retail customers receive a higher quality, more affordable, or more reliable water or sewer service, encouraging regionalization, or maintaining financially stable and technically sound utilities be based on factors other than rate of return and those specified in provisions relating to components of invested capital and net income. The bill authorizes a regulatory authority instead to adopt such methodologies to allow for more timely and efficient cost recovery. The bill establishes that appropriate alternative ratemaking methodologies are the introduction of new customer classes, the cash needs method, and phased and multi-step rate changes and authorizes a regulatory authority to also adopt system improvement charges that may be periodically adjusted to ensure timely recovery of infrastructure investment. The bill requires the PUC by rule to establish a schedule that requires all utilities that have implemented a system improvement charge approved by the PUC to make periodic filings with the PUC to modify or review base rates charged by the utility.

S.B. 700 changes the number of gallons of water that are used as the basis for the billing comparison of a statement of intent to change rates for a Class A utility and a Class B utility. The bill changes the applicability of Class C utility rate adjustment provisions to apply instead only to a Class D utility and revises the provision requiring the PUC by rule to adopt procedures to allow a utility to receive without a hearing an annual rate adjustment by removing the specification that such adjustment be based on changes in the applicable price index. The bill prohibits a Class C utility from making changes in its rates except by complying with the procedures to change rates for a Class B utility. The bill authorizes a Class C utility, and a Class D utility that chooses to comply with the procedures to change rates for a Class B utility, to send by mail or email a required hearing notice to each ratepayer regarding a rate change and authorizes the Class C utility and Class D utility, in the alternative, to deliver a copy of the notice to the ratepayers.

S.B. 700 requires the PUC, in adopting rules relating to the information required in an application for a Class C utility or Class D utility to change rates, to ensure that a Class C utility or Class D utility can file a less burdensome and complex application than is required of a Class A utility or Class B utility.

S.B. 700 changes from TCEQ to the PUC the entity to whom a Class A utility may apply for an amendment of a certificate of convenience and necessity held by a municipal utility district to allow the utility to have the same rights and powers under the certificate as the municipal utility district.

S.B. 700 repeals Section 13.1872(b), Water Code.

EFFECTIVE DATE

September 1, 2019.