

By: Wray

H.B. No. 4241

A BILL TO BE ENTITLED

AN ACT

relating to providing services for or acquiring certain water utilities and establishing related rates.

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

SECTION 1. Section 13.043, Water Code, is amended by adding Subsection (b-4) to read as follows:

(b-4) Notwithstanding Subsection (b), ratepayers described by that subsection may not appeal to the utility commission the decision of the governing body of the entity affecting their water, drainage, or sewer rates if the decision relates to a rate charged to recover the costs associated with the acquisition of a nonfunctioning system, as defined by Section 13.4134.

SECTION 2. Section 13.046, Water Code, is transferred to Subchapter K, Chapter 13, Water Code, redesignated as Section 13.4134, and amended to read as follows:

Sec. 13.4134 [13.046]. ~~[TEMPORARY]~~ RATES FOR SERVICES PROVIDED FOR NONFUNCTIONING SYSTEM; SANCTIONS FOR NONCOMPLIANCE.

(a) In this section, "nonfunctioning system" means a system that is operating as a retail public utility and:

(1) does not have a required certificate of convenience and necessity;

(2) is under the supervision of the utility commission in the manner provided by Section 13.4131; or

(3) is under the supervision of a receiver or

1 temporary manager or has been referred for the appointment of a
2 temporary manager or receiver in the manner provided by Section
3 13.412 or 13.4132.

4 **(b)** The utility commission by rule shall establish a
5 procedure that allows a retail public utility that takes over the
6 provision of services for a nonfunctioning system or acquires a
7 nonfunctioning system [~~retail water or sewer utility service~~
8 ~~provider~~] to charge a reasonable rate for the services provided to
9 the customers of the nonfunctioning system and to bill the
10 customers for the services at that rate immediately to recover
11 [~~service~~] costs described by Subsection (c).

12 **(c)** [~~(b)~~] The rules must provide a streamlined process
13 that the retail public utility that takes over the provision of
14 services for or acquires the nonfunctioning system may use to apply
15 to the utility commission for a ruling on the reasonableness of the
16 rates the utility is charging under Subsection **(b)** [~~(a)~~]. The
17 process must allow for adequate consideration of costs for
18 interconnection or other costs incurred in making services
19 available or during the acquisition and of the costs that may
20 necessarily be incurred to bring the nonfunctioning system into
21 compliance with utility commission and commission rules.

22 **(d)** A rate process under this section is an uncontested
23 matter and is not a rate case. Sections 13.187, 13.1871, and 13.1872
24 do not apply to a rate process under this section. However, the
25 utility commission shall hold a public meeting to provide
26 information on the rate process:

27 **(1)** on the request of a member of the legislature who

1 represents the area formerly served by the nonfunctioning system;
2 or

3 (2) if the utility commission determines that there is
4 substantial public interest in the matter.

5 (e) [~~(c)~~] The utility commission and the commission shall
6 provide a reasonable period for the retail public utility that
7 takes over the nonfunctioning system to bring the nonfunctioning
8 system into compliance with utility commission and commission rules
9 during which the utility commission or the commission may not
10 impose a penalty for any deficiency in the system that is present at
11 the time the utility takes over the nonfunctioning system. The
12 utility commission and the commission must consult with the utility
13 before determining the period and may grant an extension of the
14 period for good cause.

15 (f) During the period described by Subsection (e), the
16 retail public utility that provides services for or acquires the
17 nonfunctioning system shall report to the utility commission, in
18 the manner and frequency specified by the utility commission, the
19 retail public utility's progress in bringing the nonfunctioning
20 system into compliance with the utility commission's financial,
21 managerial, and technical standards.

22 SECTION 3. Section 15.971, Water Code, is amended by adding
23 Subdivision (3-a) to read as follows:

24 (3-a) "Nonfunctioning system" has the meaning
25 assigned by Section 13.4134.

26 SECTION 4. Section 15.973(a), Water Code, is amended to
27 read as follows:

(a) The water infrastructure fund is a special fund in the state treasury to be administered by the board under this subchapter and rules adopted by the board under this subchapter. Money in the fund may be used to pay:

(1) for the implementation of water projects recommended through the state and regional water planning processes under Sections 16.051 and 16.053; and

(2) costs related to the acquisition of a nonfunctioning system by a retail public utility that will take over the provision of services for the system.

SECTION 5. The heading to Section 15.974, Water Code, is amended to read as follows:

Sec. 15.974. USE OF WATER INFRASTRUCTURE FUND FOR PROJECTS.

SECTION 6. Subchapter Q, Chapter 15, Water Code, is amended by adding Section 15.9741 to read as follows:

Sec. 15.9741. USE OF WATER INFRASTRUCTURE FUND FOR ACQUISITION OF NONFUNCTIONING SYSTEMS. The board may use the fund in accordance with board rules to provide a grant, low-interest loan, or zero-interest loan to a retail public utility to pay for:

(1) an interconnection between the retail public utility and a nonfunctioning system; and

(2) costs associated with bringing the nonfunctioning system into compliance with all applicable financial, managerial, and technical standards.

SECTION 7. Section 15.975(a), Water Code, is amended to read as follows:

(a) On review and recommendation by the executive

1 administrator, the board by resolution may approve an application
2 only if the board finds that[+]

3 [~~(1)~~] the application and the assistance applied for
4 meet the requirements of this subchapter and board rules. For an
5 application related to a project, the board must also find that:

6 (1)[+]

7 [~~(2)~~] the revenue or taxes, or both the revenue and
8 taxes, pledged by the applicant will be sufficient to meet all the
9 obligations assumed by the political subdivision for the project;
10 and

11 (2) [~~(3)~~] the project will meet water needs in a
12 manner consistent with the state and regional water plans as
13 required by Section 16.053(j), unless otherwise specified by an act
14 of the legislature.

15 SECTION 8. Section 15.976, Water Code, is amended to read as
16 follows:

17 Sec. 15.976. APPLICABLE LAW. Subchapter E, Chapter 17,
18 applies to financial assistance made available from the fund for a
19 project, except that the board may also execute contracts as
20 necessary to evidence grant agreements.

21 SECTION 9. This Act takes effect September 1, 2019.