

1-1 By: Nichols, Watson S.B. No. 700
 1-2 (In the Senate - Filed February 7, 2019; March 1, 2019, read
 1-3 first time and referred to Committee on Water & Rural Affairs;
 1-4 March 27, 2019, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 6, Nays 0; March 27, 2019,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13			X	
1-14	X			
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 700 By: Johnson

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to retail public utilities that provide water or sewer
 1-20 service.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 13.002, Water Code, is amended by
 1-23 amending Subdivisions (4-b) and (4-c) and adding Subdivision (4-d)
 1-24 to read as follows:

1-25 (4-b) "Class B utility" means a public utility that
 1-26 provides retail water or sewer utility service through 2,300 ~~[500]~~
 1-27 or more taps or connections but fewer than 10,000 taps or
 1-28 connections.

1-29 (4-c) "Class C utility" means a public utility that
 1-30 provides retail water or sewer utility service through 500 or more
 1-31 taps or connections but fewer than 2,300 [500] taps or connections.

1-32 (4-d) "Class D utility" means a public utility that
 1-33 provides retail water or sewer utility service through fewer than
 1-34 500 taps or connections.

1-35 SECTION 2. Section 13.041, Water Code, is amended by
 1-36 amending Subsection (d) and adding Subsections (h), (i), and (j) to
 1-37 read as follows:

1-38 (d) In accordance with Subchapter K-1, the utility
 1-39 commission may issue emergency orders, with or without a hearing:

1-40 (1) to compel a retail public utility ~~[water or sewer~~
 1-41 ~~service provider]~~ that has obtained or is required to obtain a
 1-42 certificate of public convenience and necessity to provide
 1-43 continuous and adequate water service, sewer service, or both, if
 1-44 the discontinuance of the service is imminent or has occurred
 1-45 because of the retail public utility's ~~[service provider's]~~ actions
 1-46 or failure to act; and

1-47 (2) to compel a retail public utility to provide an
 1-48 emergency interconnection with a neighboring retail public utility
 1-49 for the provision of temporary water or sewer service, or both, for
 1-50 not more than 90 days if service discontinuance or serious
 1-51 impairment in service is imminent or has occurred.

1-52 (h) In accordance with Subchapter L, Chapter 5, the
 1-53 commission may issue emergency orders, with or without a hearing:

1-54 (1) to compel a retail public utility that has
 1-55 obtained a certificate of public convenience and necessity to
 1-56 provide water or sewer service, or both, that complies with all
 1-57 statutory and regulatory requirements of the commission if
 1-58 necessary to ensure safe drinking water or environmental
 1-59 protection; and

1-60 (2) to compel a retail public utility to provide an

2-1 emergency interconnection with a neighboring retail public utility
 2-2 for the provision of temporary water or sewer service, or both, for
 2-3 not more than 90 days if necessary to ensure safe drinking water or
 2-4 environmental protection.

2-5 (i) On request by the commission, the utility commission
 2-6 may, on an expedited basis, establish reasonable compensation for
 2-7 the temporary service required under Subsection (h)(2) and may
 2-8 allow the retail public utility receiving the service to make a
 2-9 temporary adjustment to its rate structure to ensure proper
 2-10 payment.

2-11 (j) If an order is issued under Subsection (h) without a
 2-12 hearing, notice of a hearing under Section 5.504 to affirm, modify,
 2-13 or set aside the order is adequate if the notice is mailed or hand
 2-14 delivered to the last known address of the retail public utility's
 2-15 headquarters.

2-16 SECTION 3. Section 13.046, Water Code, is amended by adding
 2-17 Subsection (d) to read as follows:

2-18 (d) At the time the utility commission approves the
 2-19 acquisition of a nonfunctioning retail water or sewer utility
 2-20 service provider under Section 13.301, the utility commission
 2-21 shall:

2-22 (1) determine the duration of the temporary rates for
 2-23 the retail public utility, which must be for a reasonable period;
 2-24 and

2-25 (2) rule on the reasonableness of the temporary rates
 2-26 under Subsection (b) if the utility commission did not make a ruling
 2-27 before the application was filed under Section 13.301.

2-28 SECTION 4. Section 13.183(c), Water Code, is amended to
 2-29 read as follows:

2-30 (c) To ensure that retail customers receive a higher
 2-31 quality, more affordable, or more reliable water or sewer service,
 2-32 to encourage regionalization, or to maintain financially stable and
 2-33 technically sound utilities, the regulatory authority, by rule or
 2-34 ordinance, as appropriate, may adopt specific alternative
 2-35 ratemaking methodologies for water or sewer rates to allow for more
 2-36 timely and efficient cost recovery. Appropriate alternative
 2-37 ratemaking methodologies are the introduction of new customer
 2-38 classes, the cash needs method, and phased and multi-step rate
 2-39 changes. The regulatory authority may also adopt system
 2-40 improvement charges that may be periodically adjusted to ensure
 2-41 timely recovery of infrastructure investment. The utility
 2-42 commission by rule shall establish a schedule that requires all
 2-43 utilities that have implemented a system improvement charge
 2-44 approved by the utility commission to make periodic filings with
 2-45 the utility commission to modify or review base rates charged by the
 2-46 utility [~~based on factors other than rate of return and those~~
 2-47 ~~specified in Section 13.185]. Overall revenues determined~~
 2-48 according to an alternative ratemaking methodology adopted under
 2-49 this section must provide revenues to the utility that satisfy the
 2-50 requirements of Subsection (a). The regulatory authority may not
 2-51 approve rates under an alternative ratemaking methodology unless
 2-52 the regulatory authority adopts the methodology before the date the
 2-53 rate application was administratively complete.

2-54 SECTION 5. Section 13.187(a-1), Water Code, is amended to
 2-55 read as follows:

2-56 (a-1) A utility may not make changes in its rates except by
 2-57 sending by mail or e-mail a statement of intent to each ratepayer
 2-58 and to the regulatory authority having original jurisdiction at
 2-59 least 35 days before the effective date of the proposed change. The
 2-60 utility may send the statement of intent to a ratepayer by e-mail
 2-61 only if the ratepayer has agreed to receive communications
 2-62 electronically. The effective date of the new rates must be the
 2-63 first day of a billing period, and the new rates may not apply to
 2-64 service received before the effective date of the new rates. The
 2-65 statement of intent must include:

2-66 (1) the information required by the regulatory
 2-67 authority's rules;

2-68 (2) a billing comparison regarding the existing water
 2-69 rate and the new water rate computed for the use of:

- 3-1 (A) 5,000 [~~10,000~~] gallons of water; and
- 3-2 (B) 10,000 [~~30,000~~] gallons of water;
- 3-3 (3) a billing comparison regarding the existing sewer
- 3-4 rate and the new sewer rate computed for the use of 5,000 [~~10,000~~]
- 3-5 gallons, unless the utility proposes a flat rate for sewer
- 3-6 services; and
- 3-7 (4) a description of the process by which a ratepayer
- 3-8 may intervene in the ratemaking proceeding.

3-9 SECTION 6. Sections 13.1871(a), (b), and (d), Water Code,
 3-10 are amended to read as follows:

3-11 (a) Except as provided by Sections 13.18715 and [~~Section~~]
 3-12 13.1872, this section applies only to a Class B utility.

3-13 (b) A utility may not make changes in its rates except by
 3-14 sending by mail or e-mail a statement of intent to each ratepayer
 3-15 and to the regulatory authority having original jurisdiction at
 3-16 least 35 days before the effective date of the proposed change. The
 3-17 utility may send the statement of intent to a ratepayer by e-mail
 3-18 only if the ratepayer has agreed to receive communications
 3-19 electronically. The effective date of the new rates must be the
 3-20 first day of a billing period, and the new rates may not apply to
 3-21 service received before the effective date of the new rates. The
 3-22 statement of intent must include:

3-23 (1) the information required by the regulatory
 3-24 authority's rules;

3-25 (2) a billing comparison regarding the existing water
 3-26 rate and the new water rate computed for the use of:

- 3-27 (A) 5,000 [~~10,000~~] gallons of water; and
- 3-28 (B) 10,000 [~~30,000~~] gallons of water;

3-29 (3) a billing comparison regarding the existing sewer
 3-30 rate and the new sewer rate computed for the use of 5,000 [~~10,000~~]
 3-31 gallons, unless the utility proposes a flat rate for sewer
 3-32 services; and

3-33 (4) a description of the process by which a ratepayer
 3-34 may file a complaint under Subsection (i).

3-35 (d) When the statement of intent is delivered, the utility
 3-36 shall file with the regulatory authority an application to change
 3-37 rates. The application must include information the regulatory
 3-38 authority requires by rule and any appropriate cost and rate
 3-39 schedules supporting the requested rate increase. [~~In adopting~~
 3-40 ~~rules relating to the information required in the application, the~~
 3-41 ~~utility commission shall ensure that a utility can file a less~~
 3-42 ~~burdensome and complex application than is required of a Class A~~
 3-43 ~~utility.] If the utility fails to provide within a reasonable time
 3-44 after the application is filed the necessary documentation or other
 3-45 evidence that supports the costs and expenses that are shown in the
 3-46 application, the regulatory authority may disallow the
 3-47 nonsupported costs or expenses.~~

3-48 SECTION 7. Subchapter F, Chapter 13, Water Code, is amended
 3-49 by adding Section 13.18715 to read as follows:

3-50 Sec. 13.18715. CLASS C UTILITIES: STATEMENT OF INTENT TO
 3-51 CHANGE RATES; HEARING; DETERMINATION OF RATE LEVEL. (a) This
 3-52 section applies only to a Class C utility.

3-53 (b) A utility may not make changes in its rates except by
 3-54 complying with the procedures to change rates described by Section
 3-55 13.1871.

3-56 (c) Notwithstanding Section 13.1871(n), the utility may
 3-57 send the notice required by that subsection by mail or e-mail or may
 3-58 deliver a copy of the notice to the ratepayers.

3-59 SECTION 8. The heading to Section 13.1872, Water Code, is
 3-60 amended to read as follows:

3-61 Sec. 13.1872. CLASS D [C] UTILITIES: RATE ADJUSTMENT.

3-62 SECTION 9. Section 13.1872, Water Code, is amended by
 3-63 amending Subsections (a) and (e) and adding Subsection (c-1) to
 3-64 read as follows:

3-65 (a) This section applies only to a Class D [C] utility.

3-66 (c-1) A utility that chooses to comply with Section 13.1871
 3-67 as authorized under Subsection (c)(2) of this section may send the
 3-68 notice required by Section 13.1871(n) by mail or e-mail or may
 3-69 deliver a copy of the notice to the ratepayers.

4-1 (e) The utility commission by rule shall adopt procedures to
4-2 allow a utility to receive without a hearing an annual rate
4-3 adjustment [~~based on changes in the price index~~]. The rules must:

4-4 (1) include standard language to be included in the
4-5 notice described by Subsection (c)(1) describing the rate
4-6 adjustment process; and

4-7 (2) provide that an annual rate adjustment described
4-8 by this section may not result in a rate increase to any class or
4-9 category of ratepayer of more than [~~the lesser of:~~

4-10 [~~(A) five percent, or~~
4-11 [~~(B) the percentage increase in the price index~~
4-12 ~~between the year preceding the year in which the utility requests~~
4-13 ~~the adjustment and the year in which the utility requests the~~
4-14 ~~adjustment]~~.

4-15 SECTION 10. Subchapter F, Chapter 13, Water Code, is
4-16 amended by adding Section 13.1873 to read as follows:

4-17 Sec. 13.1873. APPLICATION RULES. In adopting rules
4-18 relating to the information required in an application for a Class
4-19 B, Class C, or Class D utility to change rates, the utility
4-20 commission shall ensure that a:

4-21 (1) Class B utility can file a less burdensome and
4-22 complex application than is required of a Class A utility; and

4-23 (2) Class C or Class D utility can file a less
4-24 burdensome and complex application than is required of a Class A or
4-25 Class B utility.

4-26 SECTION 11. Section 13.258(a), Water Code, is amended to
4-27 read as follows:

4-28 (a) Notwithstanding any other provision of this chapter, a
4-29 Class A utility may apply to the utility commission for an amendment
4-30 of a certificate of convenience and necessity held by a municipal
4-31 utility district to allow the utility to have the same rights and
4-32 powers under the certificate as the municipal utility district.

4-33 SECTION 12. The change in law made by this Act applies only
4-34 to an application for an amendment of a certificate of public
4-35 convenience and necessity or an application for a rate change or
4-36 adjustment filed on or after the effective date of this Act. An
4-37 application filed before the effective date of this Act is governed
4-38 by the law in effect on the date the application is filed, and the
4-39 former law is continued in effect for that purpose.

4-40 SECTION 13. Section 13.1872(b), Water Code, is repealed.

4-41 SECTION 14. This Act takes effect September 1, 2019.

4-42 * * * * *