

## **BILL ANALYSIS**

Senate Research Center

H.B. 2712  
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Water, Agriculture and Rural Affairs  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Under existing law, the Public Utility Commission (PUC) grants applications for rate increases to investor-owned utilities (IOUs) in part based on past expenses incurred in replacing, repairing, adding to, and upgrading infrastructure. Existing law provides no opportunity for the PUC to consider projected infrastructure needs in setting rates for IOUs. As a result, IOUs must bear the cost of infrastructure repairs, replacements, upgrades, and additions first and then seek to recover those costs through a rate application that may not be approved, discouraging IOUs from proactively addressing their infrastructure needs and, ultimately, limiting their ability to do so. H.B. 2712 addresses this problem by authorizing IOUs to seek rate increases—and authorizing the PUC to grant them—based on either historic infrastructure expenses, projected infrastructure expenses, or a combination thereof.

H.B. 2712 amends current law relating to test years used for ratemaking purposes by certain water and sewer utilities.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Public Utility Commission in SECTION 6 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter F, Chapter 13, Water Code, by adding Section 13.1831, as follows:

Sec. 13.1831. TEST YEAR. Requires a regulatory authority to fix rates for water and sewer services for a Class A, B, C, or D utility based on a test year the utility selects that:

- (1) includes historic, future, or combined historic and future data;
- (2) begins on the first day of a calendar or fiscal year quarter; and
- (3) is a consecutive 12-month period that:
  - (A) begins not later than 18 months after the date the utility files the statement of intent to change rates; and
  - (B) ends not earlier than 18 months before the date the utility files the statement of intent to change rates.

SECTION 2. Amends Section 13.183(a), Water Code, to require the regulatory authority, in fixing the rates for water and sewer services, to fix its overall revenues at a level that will fulfill certain requirements, including permitting the utility a reasonable opportunity to earn a reasonable return on its invested capital used and useful in rendering service to the public, based on test year information, over and above its reasonable and necessary operating expenses.

SECTION 3. Amends Section 13.184(a), Water Code, to prohibit the Public Utility Commission (PUC), unless the PUC establishes alternate rate methodologies in accordance with Section

13.183(c) (relating to authorizing a certain regulatory authority to adopt specific alternative ratemaking methodologies for water or sewer rates to allow for efficient cost recovery), from prescribing any rate that will yield more than a fair return on the invested capital used and useful in rendering service to the public based on test year information, and to make a conforming change.

SECTION 4. Amends Section 13.185, Water Code, by amending Subsections (b), (d), and (j) and adding Subsections (k), (l), and (m), as follows:

(b) Requires that utility rates be based on the original cost of property used by and useful to the utility during the test year in providing service, including, if necessary to the financial integrity of the utility, construction work in progress at cost as recorded on the books of the utility.

(d) Requires the regulatory authority to perform certain actions in determining a utility's net income, including basing a utility's expenses on test year information, rather than on historic test year information adjusted for known and measurable changes, as determined by PUC rules.

(j) Provides that depreciation expense included in the cost of service includes depreciation on all, rather than all currently used, depreciable utility property owned by the utility except for property provided by explicit customer agreements or funded by customer contributions in aid of construction. Requires that depreciation on all developer or governmental entity contributed property, rather than all currently used and useful developer or governmental entity contributed property, be allowed in the cost of service.

(k) Requires the regulatory authority, notwithstanding Subsection (b), to allow inclusion in the rate base of facilities projected to be in service through the end of the test year.

(l) Requires a utility that selects a fully projected future test year that meets the requirements of Section 13.1831(3)(A) to:

(1) not later than the 30th day after the last day of the last quarter of the test year, file with the regulatory authority a statement that describes the utility's actual results experienced in the test year and provides appropriate data to demonstrate the accuracy of the estimates used for the test year; and

(2) serve a copy of the filing made under Subdivision (1) on the parties of record in the rate proceeding in which the final rate determination using the test year was entered.

(m) Requires a utility that does not have the results or data required to be filed under Subsection (l) before the required filing date file a written notice with the regulatory authority stating the date on which the results or data will be available, to serve a copy of the filing made under Subdivision (1) on the parties described by Subsection (l)(2), and make the filing required under Subsection (l) as soon as possible after the results or data are available.

SECTION 5. Repealer: Section 13.002(22) (relating to the definition of "test year"), Water Code.

SECTION 6. (a) Requires the PUC, not later than September 1, 2026, to adopt rules necessary to implement the changes in law made by this Act.

(b) Makes application of this Act prospective to the effective date of the rules described by Subsection (a) of this section.

SECTION 7. Effective date: September 1, 2025.