

## **BILL ANALYSIS**

S.B. 2662  
By: Perry  
Natural Resources  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The bill sponsor has informed the committee that as high economic and population growth rates and persistent drought in Texas have put increasing pressure on groundwater and surface water resources, the ability of public water suppliers to meet customer demand without overpumping their lawful annual water supply authorizations by the Texas Commission on Environmental Quality (TCEQ) or a groundwater conservation district, or under a wholesale water supply contract, has become more challenging. The bill sponsor has also informed the committee that to address this challenge, the 75th Texas Legislature in 1997, through S.B. 1, provided for a requirement that public water suppliers develop drought contingency plans to be able to more effectively reduce customer water use during times of drought. The bill sponsor has further informed the committee that, unlike public water suppliers, which are governmental entities like municipalities and special districts that can enforce ordinances or rules, investor-owned utilities are private entities with fewer tools to ensure that customers comply with required reductions in water use under their TCEQ-approved drought contingency plans and that, consequently, a number of utilities have failed to limit their overall water production in times of drought to the amount of water they are legally authorized to use, leading to costly litigation and additional strains and impacts on groundwater and surface water resources. The bill sponsor has further informed the committee that judges are understandably hesitant to order these utilities to shut down water production even after they have reached their authorized annual water production limits because of public health and safety concerns for residential and commercial customers. S.B. 2662 seeks to address this issue by revising provisions relating to the enforcement of drought contingency plans by water and sewer utilities and the Public Utility Commission of Texas (PUC) in order to clarify the statutory authority of utilities to implement and enforce their drought contingency plans as part of their approved tariffs to reduce customer water use before they reach the point of overpumping their water use authorizations and to codify certain provisions in the current rules of the TCEQ and the PUC.

### **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 the Public Utility Commission of Texas in SECTION 5 of this bill.

### **ANALYSIS**

S.B. 2662 amends the Water Code to authorize the Public Utility Commission of Texas (PUC) to regulate and supervise the tariffs of each water and sewer utility within its jurisdiction, including ratemaking and other economic regulation. The bill expands the exclusive original jurisdiction of a municipality's governing body over water and sewer utility matters to include

exclusive original jurisdiction over all tariffs of a utility within the municipality's corporate limits. The bill specifies that, with respect to the requirement for a utility to file applicable rules and regulations with and as part of the tariffs filed with each regulatory authority, such rules and regulations include the utility's drought contingency plan required by the Texas Commission on Environmental Quality (TCEQ) and establishes that a provision of such a plan does not constitute a rate as defined for applicable water rates and services provisions. The bill includes noncompliance with a drought contingency plan as a condition under which:

- the holder of a certificate of public convenience and necessity or a person who possesses facilities used to provide utility service may discontinue, reduce, or impair service to a certified service area or part of a certified service area; and
- a retail public utility that has not been granted a certificate of public convenience and necessity or an applicable utility or water supply corporation that is allowed to operate without a certificate of public convenience and necessity may discontinue, reduce, or impair retail water or sewer service.

S.B. 2662 removes the deadline of May 1, 2005, by which a drought contingency plan required by TCEQ rule of wholesale and retail public water suppliers and irrigation districts must include specific, quantified targets for water use reductions to be achieved during periods of water shortages and drought. The bill requires such a plan also to include reasonable procedures for the enforcement of mandatory water use restrictions, including fines, water rate surcharges, restriction of service, discontinuation of service, or any other penalty and requires the entity preparing a plan to establish the enforcement procedures. The bill includes the PUC among the entities, which are the TCEQ and the Texas Water Development Board (TWDB), that are required to do the following:

- identify by joint rule quantified target goals for drought contingency plans that wholesale and retail public water suppliers, irrigation districts, and other entities may use as guidelines in preparing drought contingency plans; and
- jointly develop model drought contingency programs for different types of water suppliers that suggest best management practices for accomplishing the highest practicable levels of water use reductions achievable during periods of water shortages and drought for each specific type of water supplier.

The bill requires the TCEQ, the PUC, and the TWDB jointly to update such programs at least once every five years.

#### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2025.