

1-1 By: Darby (Senate Sponsor - Perry) H.B. No. 2712  
1-2 (In the Senate - Received from the House May 6, 2025;  
1-3 May 7, 2025, read first time and referred to Committee on Water,  
1-4 Agriculture and Rural Affairs; May 13, 2025, reported favorably by  
1-5 the following vote: Yeas 8, Nays 0; May 13, 2025, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Perry	X		
1-9	Hancock	X		
1-10	Birdwell	X		
1-11	Blanco	X		
1-12	Gutierrez		X	
1-13	Hinojosa of Nueces	X		
1-14	Johnson	X		
1-15	Kolkhorst	X		
1-16	Sparks	X		

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

1-19 relating to test years used for ratemaking purposes by certain  
1-20 water and sewer utilities.

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

1-22 SECTION 1. Subchapter F, Chapter 13, Water Code, is amended  
1-23 by adding Section 13.1831 to read as follows:

1-24 Sec. 13.1831. TEST YEAR. A regulatory authority shall fix  
1-25 rates for water and sewer services for a Class A, B, C, or D utility  
1-26 based on a test year the utility selects that:

1-27 (1) includes historic, future, or combined historic  
1-28 and future data;

1-29 (2) begins on the first day of a calendar or fiscal  
1-30 year quarter; and

1-31 (3) is a consecutive 12-month period that:

1-32 (A) begins not later than 18 months after the  
1-33 date the utility files the statement of intent to change rates; and

1-34 (B) ends not earlier than 18 months before the  
1-35 date the utility files the statement of intent to change rates.

1-36 SECTION 2. Section 13.183(a), Water Code, is amended to  
1-37 read as follows:

1-38 (a) In fixing the rates for water and sewer services, the  
1-39 regulatory authority shall fix its overall revenues at a level that  
1-40 will:

1-41 (1) permit the utility a reasonable opportunity to  
1-42 earn a reasonable return on its invested capital used and useful in  
1-43 rendering service to the public, based on test year information,  
1-44 over and above its reasonable and necessary operating expenses; and

1-45 (2) preserve the financial integrity of the utility.

1-46 SECTION 3. Section 13.184(a), Water Code, is amended to  
1-47 read as follows:

1-48 (a) Unless the utility commission establishes alternate  
1-49 rate methodologies in accordance with Section 13.183(c), the  
1-50 utility commission may not prescribe any rate that will yield more  
1-51 than a fair return on the invested capital used and useful in  
1-52 rendering service to the public based on test year information. The  
1-53 governing body of a municipality exercising its original  
1-54 jurisdiction over rates and services may use alternate ratemaking  
1-55 methodologies established by ordinance or by utility commission  
1-56 rule in accordance with Section 13.183(c). Unless the municipal  
1-57 regulatory authority uses alternate ratemaking methodologies  
1-58 established by ordinance or by utility commission rule in  
1-59 accordance with Section 13.183(c), it may not prescribe any rate  
1-60 that will yield more than a fair return on the invested capital used  
1-61 and useful in rendering service to the public based on test year

2-1 information.

2-2 SECTION 4. Section 13.185, Water Code, is amended by  
2-3 amending Subsections (b), (d), and (j) and adding Subsections (k),  
2-4 (l), and (m) to read as follows:

2-5 (b) Utility rates shall be based on the original cost of  
2-6 property used by and useful to the utility during the test year in  
2-7 providing service, including, if necessary to the financial  
2-8 integrity of the utility, construction work in progress at cost as  
2-9 recorded on the books of the utility. The inclusion of construction  
2-10 work in progress is an exceptional form of rate relief to be granted  
2-11 only on the demonstration by the utility by clear and convincing  
2-12 evidence that the inclusion is in the ratepayers' best interest and  
2-13 is necessary to the financial integrity of the utility.  
2-14 Construction work in progress may not be included in the rate base  
2-15 for major projects under construction to the extent that those  
2-16 projects have been inefficiently or imprudently planned or managed.  
2-17 Original cost is the actual money cost or the actual money value of  
2-18 any consideration paid, other than money, of the property at the  
2-19 time it shall have been dedicated to public use, whether by the  
2-20 utility that is the present owner or by a predecessor, less  
2-21 depreciation. Utility property funded by explicit customer  
2-22 agreements or customer contributions in aid of construction such as  
2-23 surcharges may not be included in invested capital.

2-24 (d) Net income is the total revenues of the utility less all  
2-25 reasonable and necessary expenses as determined by the regulatory  
2-26 authority. The regulatory authority shall:

2-27 (1) base a utility's expenses on ~~[historic]~~ test year  
2-28 information ~~[adjusted for known and measurable changes]~~, as  
2-29 determined by utility commission rules; and

2-30 (2) determine expenses and revenues in a manner  
2-31 consistent with Subsections (e) through (h) of this section.

2-32 (j) Depreciation expense included in the cost of service  
2-33 includes depreciation on all ~~[currently used]~~ depreciable utility  
2-34 property owned by the utility except for property provided by  
2-35 explicit customer agreements or funded by customer contributions in  
2-36 aid of construction. Depreciation on all ~~[currently used and~~  
2-37 ~~useful]~~ developer or governmental entity contributed property  
2-38 shall be allowed in the cost of service.

2-39 (k) Notwithstanding Subsection (b), the regulatory  
2-40 authority shall allow inclusion in the rate base of facilities  
2-41 projected to be in service through the end of the test year.

2-42 (l) A utility that selects a fully projected future test  
2-43 year that meets the requirements of Section 13.1831(3)(A) shall:

2-44 (1) not later than the 30th day after the last day of  
2-45 the last quarter of the test year, file with the regulatory  
2-46 authority a statement that:

2-47 (A) describes the utility's actual results  
2-48 experienced in the test year; and

2-49 (B) provides appropriate data to demonstrate the  
2-50 accuracy of the estimates used for the test year; and

2-51 (2) serve a copy of the filing made under Subdivision  
2-52 (1) on the parties of record in the rate proceeding in which the  
2-53 final rate determination using the test year was entered.

2-54 (m) A utility that does not have the results or data  
2-55 required to be filed under Subsection (1) before the required  
2-56 filing date shall:

2-57 (1) file a written notice with the regulatory  
2-58 authority stating the date on which the results or data will be  
2-59 available;

2-60 (2) serve a copy of the filing made under Subdivision  
2-61 (1) on the parties described by Subsection (1)(2); and

2-62 (3) make the filing required under Subsection (1) as  
2-63 soon as possible after the results or data are available.

2-64 SECTION 5. Section 13.002(22), Water Code, is repealed.

2-65 SECTION 6. (a) Not later than September 1, 2026, the Public  
2-66 Utility Commission of Texas shall adopt rules necessary to  
2-67 implement the changes in law made by this Act.

2-68 (b) The changes in law made by this Act apply only to a rate  
2-69 proceeding that commences on or after the effective date of the

3-1 rules described by Subsection (a) of this section. A rate  
3-2 proceeding that commences before the effective date of the rules  
3-3 described by Subsection (a) of this section is governed by the law  
3-4 in effect on the date the proceeding commenced, and that law is  
3-5 continued in effect for that purpose.

3-6 SECTION 7. This Act takes effect September 1, 2025.

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