

**SENATE AMENDMENTS**  
**2<sup>nd</sup> Printing**

By: Darby

H.B. No. 2712

A BILL TO BE ENTITLED

AN ACT

relating to test years used for ratemaking purposes by certain water and sewer utilities.

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

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

Sec. 13.1831. TEST YEAR. A regulatory authority shall 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. Section 13.183(a), Water Code, is amended to read as follows:

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

(1) permit the utility a reasonable opportunity to

1 earn a reasonable return on its invested capital used and useful in  
2 rendering service to the public, based on test year information,  
3 over and above its reasonable and necessary operating expenses; and

4 (2) preserve the financial integrity of the utility.

5 SECTION 3. Section 13.184(a), Water Code, is amended to  
6 read as follows:

7 (a) Unless the utility commission establishes alternate  
8 rate methodologies in accordance with Section 13.183(c), the  
9 utility commission may not prescribe any rate that will yield more  
10 than a fair return on the invested capital used and useful in  
11 rendering service to the public based on test year information. The  
12 governing body of a municipality exercising its original  
13 jurisdiction over rates and services may use alternate ratemaking  
14 methodologies established by ordinance or by utility commission  
15 rule in accordance with Section 13.183(c). Unless the municipal  
16 regulatory authority uses alternate ratemaking methodologies  
17 established by ordinance or by utility commission rule in  
18 accordance with Section 13.183(c), it may not prescribe any rate  
19 that will yield more than a fair return on the invested capital used  
20 and useful in rendering service to the public based on test year  
21 information.

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

25 (b) Utility rates shall be based on the original cost of  
26 property used by and useful to the utility during the test year in  
27 providing service, including, if necessary to the financial

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

17 (d) Net income is the total revenues of the utility less all  
18 reasonable and necessary expenses as determined by the regulatory  
19 authority. The regulatory authority shall:

20 (1) base a utility's expenses on [~~historic~~] test year  
21 information [~~adjusted for known and measurable changes~~], as  
22 determined by utility commission rules; and

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

25 (j) Depreciation expense included in the cost of service  
26 includes depreciation on all [~~currently used~~] depreciable utility  
27 property owned by the utility except for property provided by

1 explicit customer agreements or funded by customer contributions in  
2 aid of construction. Depreciation on all [~~currently used and~~  
3 ~~useful~~] developer or governmental entity contributed property  
4 shall be allowed in the cost of service.

5 (k) Notwithstanding Subsection (b), the regulatory  
6 authority shall allow inclusion in the rate base of facilities  
7 projected to be in service through the end of the test year.

8 (1) A utility that selects a fully projected future test  
9 year that meets the requirements of Section 13.1831(3)(A) shall:

10 (1) not later than the 30th day after the last day of  
11 the last quarter of the test year, file with the regulatory  
12 authority a statement that:

13 (A) describes the utility's actual results  
14 experienced in the test year; and

15 (B) provides appropriate data to demonstrate the  
16 accuracy of the estimates used for the test year; and

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

20 (m) A utility that does not have the results or data  
21 required to be filed under Subsection (1) before the required  
22 filing date shall:

23 (1) file a written notice with the regulatory  
24 authority stating the date on which the results or data will be  
25 available;

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

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

3           SECTION 5. Section 13.002(22), Water Code, is repealed.

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

7           (b) The changes in law made by this Act apply only to a rate  
8 proceeding that commences on or after the effective date of the  
9 rules described by Subsection (a) of this section. A rate  
10 proceeding that commences before the effective date of the rules  
11 described by Subsection (a) of this section is governed by the law  
12 in effect on the date the proceeding commenced, and that law is  
13 continued in effect for that purpose.

14          SECTION 7. This Act takes effect September 1, 2025.

ADOPTED

MAY 23 2025

*Latey Law*  
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *B. W. Kell*

1 Amend H.B. No. 2712 (senate committee report) as follows:

2 (1) In the recital to SECTION 3 of the bill (page 1, line  
3 46), strike "13.184(a), Water Code, is amended" and substitute  
4 "13.184, Water Code, is amended by amending Subsection (a) and  
5 adding Subsection (d)".

6 (2) In SECTION 3 of the bill, following amended Section  
7 13.184(a), Water Code (page 2, between lines 1 and 2), insert the  
8 following:

9 (d) For a utility that uses a future or combined historic  
10 and future test year in a rate proceeding, if the regulatory  
11 authority determines in the next rate proceeding for that utility  
12 that the test year information used for the utility resulted in the  
13 utility's rates yielding more than a fair return on the utility's  
14 invested capital used and useful in rendering service to the  
15 public, the regulatory authority shall require the utility to  
16 refund to customers money collected in excess of a rate that would  
17 have yielded a fair return during the period in which the excessive  
18 rate was collected.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION**

**May 24, 2025**

**TO:** Honorable Dustin Burrows, Speaker of the House, House of Representatives

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB2712** by Darby (Relating to test years used for ratemaking purposes by certain water and sewer utilities.), **As Passed 2nd House**

<b>No significant fiscal implication to the State is anticipated.</b>
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It is assumed that any costs associated with the bill could be absorbed using existing resources.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 473 Public Utility Commission of Texas

**LBB Staff:** JMc, FV, JBel, Tuf, GDZ

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION**

**May 9, 2025**

**TO:** Honorable Charles Perry, Chair, Senate Committee on Water, Agriculture and Rural Affairs

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB2712** by Darby (Relating to test years used for ratemaking purposes by certain water and sewer utilities.), **As Engrossed**

<b>No significant fiscal implication to the State is anticipated.</b>
---

It is assumed that any costs associated with the bill could be absorbed using existing resources.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 473 Public Utility Commission of Texas

**LBB Staff:** JMc, FV, JBel, TUf, GDZ



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION**

**March 31, 2025**

**TO:** Honorable Cody Harris, Chair, House Committee on Natural Resources

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB2712** by Darby (Relating to test years used for ratemaking purposes by certain water and sewer utilities.), **As Introduced**

<b>No significant fiscal implication to the State is anticipated.</b>
---

It is assumed that any costs associated with the bill could be absorbed using existing resources.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 473 Public Utility Commission of Texas

**LBB Staff:** JMc, TUf, GDZ, JBel

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**WATER DEVELOPMENT POLICY IMPACT STATEMENT**

**89TH LEGISLATIVE REGULAR SESSION**

**April 1, 2025**

**TO:** Honorable Cody Harris, Chair, House Committee on Natural Resources

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB2712** by Darby (Relating to test years used for ratemaking purposes by certain water and sewer utilities.), **As Introduced**

The Legislative Budget Board, in cooperation with the Texas Water Development Board and the Texas Commission on Environmental Quality, has determined that:

No Water Development Policy Impact Statement is required for this bill under the provisions of Texas Constitution, Article 16, Section 59(d) as this bill does not create a conservation and reclamation district.

**Source**

**Agencies:** 580 Water Development Board, 582 Commission on Environmental Quality

**LBB Staff:** JMc, Tuf, CMA, SZ