

House Bill 2712
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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 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; and
(2) preserve the financial integrity of the utility.

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

SENATE VERSION (IE)

SECTION 1. Same as House version.

SECTION 2. Same as House version.

SECTION 3. Section 13.184, Water Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows: [FA1(1)]

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(a) Unless the utility commission establishes alternate rate methodologies in accordance with Section 13.183(c), the utility commission may not prescribe 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. The governing body of a municipality exercising its original jurisdiction over rates and services may use alternate ratemaking methodologies established by ordinance or by utility commission rule in accordance with Section 13.183(c). Unless the municipal regulatory authority uses alternate ratemaking methodologies established by ordinance or by utility commission rule in accordance with Section 13.183(c), it may not prescribe 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.

SECTION 4. Section 13.185, Water Code, is amended by amending Subsections (b), (d), and (j) and adding Subsections (k), (l), and (m) to read as follows:
(b) Utility rates shall be based on the original cost of property used by and useful to the utility during the test year in

SENATE VERSION (IE)

(a) Unless the utility commission establishes alternate rate methodologies in accordance with Section 13.183(c), the utility commission may not prescribe 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. The governing body of a municipality exercising its original jurisdiction over rates and services may use alternate ratemaking methodologies established by ordinance or by utility commission rule in accordance with Section 13.183(c). Unless the municipal regulatory authority uses alternate ratemaking methodologies established by ordinance or by utility commission rule in accordance with Section 13.183(c), it may not prescribe 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.
(d) For a utility that uses a future or combined historic and future test year in a rate proceeding, if the regulatory authority determines in the next rate proceeding for that utility that the test year information used for the utility resulted in the utility's rates yielding more than a fair return on the utility's invested capital used and useful in rendering service to the public, the regulatory authority shall require the utility to refund to customers money collected in excess of a rate that would have yielded a fair return during the period in which the excessive rate was collected. [FA1(2)]

SECTION 4. Same as House version.

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

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

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

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

(j) Depreciation expense included in the cost of service includes depreciation on 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. Depreciation on all ~~[currently used and useful]~~ developer or governmental

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entity contributed property shall be allowed in the cost of service.

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

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

(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:

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

(B) 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) A utility that does not have the results or data required to be filed under Subsection (l) before the required filing date shall:

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

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

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

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

SECTION 5. Same as House version.

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<p>SECTION 6. (a) Not later than September 1, 2026, the Public Utility Commission of Texas shall adopt rules necessary to implement the changes in law made by this Act.</p> <p>(b) The changes in law made by this Act apply only to a rate proceeding that commences on or after the effective date of the rules described by Subsection (a) of this section. A rate proceeding that commences before the effective date of the rules described by Subsection (a) of this section is governed by the law in effect on the date the proceeding commenced, and that law is continued in effect for that purpose.</p>	<p>SECTION 6. Same as House version.</p>	
<p>SECTION 7. This Act takes effect September 1, 2025.</p>	<p>SECTION 7. Same as House version.</p>	