

## **BILL ANALYSIS**

C.S.S.B. 1148  
By: Watson  
Natural Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties note that the economic regulation of water and sewer rates was recently transferred from the Texas Commission on Environmental Quality to the Public Utility Commission of Texas (PUC), but that some statutory cleanup is necessary to conform water rate setting to the PUC's current processes and that clarification is needed regarding the PUC's authority to issue an emergency order. The parties also suggest that additional time should be granted for processing certain rate cases. C.S.S.B. 1148 seeks to address these issues.

### **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 9 of this bill.

### **ANALYSIS**

C.S.S.B. 1148 repeals a Water Code provision relating to authorizing the Public Utility Commission of Texas (PUC) to authorize an emergency rate increase in certain situations and amends the Water Code to authorize the PUC to issue an emergency order authorized under provisions relating to water rates and services after providing the notice and opportunity for a hearing that the PUC considers practicable under the circumstances or without notice or opportunity for a hearing. The bill requires the PUC, if it considers the provision of notice and opportunity for a hearing practicable, to provide the notice not later than the 10th day before the date set for the hearing. The bill authorizes the PUC by order or rule to delegate to the PUC's executive director the authority to receive applications and issue emergency orders and authorize, in writing, a representative or representatives to act on the executive director's behalf. The bill exempts the issuance of an emergency order without a hearing from the Administrative Procedure Act. The bill exempts a hearing on an emergency order from a law under which the PUC acts that requires notice of hearing or that prescribes procedures for the issuance of emergency orders unless the law specifically requires notice for an emergency order. The bill requires the PUC to give notice of the hearing as it determines is practicable under the circumstances. The bill establishes that an emergency order does not vest any rights in a person affected by the order and that the order expires according to its terms. The bill authorizes the PUC to adopt rules necessary to administer the bill's provisions relating to emergency orders. The bill requires a person other than the PUC or the PUC's staff who desires the issuance of an emergency order to submit a sworn written application to the PUC and sets out application requirements. The bill requires notice of the issuance of an emergency order to be provided as required by PUC rule.

C.S.S.B. 1148, if the PUC or the executive director issues an emergency order without a hearing, requires a hearing to be held to affirm, modify, or set aside the emergency order unless the person affected by the order waives the right to a hearing. The bill requires the PUC or the executive director, if the person does not waive the right to a hearing, to set a time and place for a hearing to be held before the PUC or the State Office of Administrative Hearings (SOAH), which must be as soon as practicable after the order is issued. The bill requires the PUC to affirm, modify, or set aside the emergency order at the hearing or within a reasonable time after the hearing. The bill requires a hearing regarding an emergency order to be conducted in accordance with the Administrative Procedure Act and PUC rules. The bill requires PUC rules relating to such a hearing to provide for presentation of evidence by the applicant, if any, under oath, presentation of rebuttal evidence under oath, and cross-examination of witnesses under oath. The bill requires an emergency order to be limited to a reasonable time as specified in the order. The bill caps the term of an emergency order at 180 days except as otherwise provided by provisions relating to water rates and services. The bill authorizes an emergency order to be renewed once for a period not to exceed 180 days.

C.S.S.B. 1148 removes the exception for water and sewer ratemaking proceedings from the requirement that all discovery be completed before the deadline for the submission of prefiled written testimony in a contested case hearing delegated by the Texas Commission on Environmental Quality to SOAH that uses such testimony. The bill requires a municipally owned utility to disclose to any person, on request, the number of ratepayers who reside outside the corporate limits of the municipality and to provide to any person, on request, a list of the names and addresses of such ratepayers but prohibits the utility from disclosing the address of a ratepayer who has requested that the utility keep the ratepayer's personal information confidential. The bill prohibits a utility from charging a fee for disclosing the number of ratepayers who reside outside the corporate limits of the municipality but authorizes a utility to charge a reasonable fee for providing the list of the names and addresses of such ratepayers. The bill requires a utility to provide such number of ratepayers by telephone or in writing as preferred by the person making the request.

C.S.S.B. 1148 authorizes the PUC to delegate to an administrative law judge of SOAH the responsibility and authority to give reasonable notice of a hearing regarding a rate change of a Class A utility or Class B utility. The bill increases from 205 days to 265 days the maximum number of days the PUC may suspend the effective date of a rate change of a Class B utility. The bill, in a provision requiring a utility or a water supply or sewer service corporation by a certain deadline before the effective date of a sale, acquisition, lease, or rental of a water or sewer system or the effective date of a merger or consolidation with such a utility or water supply or sewer service corporation to file a written application with the PUC and give applicable public notice of the action, removes the specification that the water or sewer system be required by law to possess a certificate of public convenience and necessity and instead specifies that the water or sewer system be owned by an entity required by law to possess such a certificate, specifies that the merger or consolidation be with such an entity, and extends the requirement to file an application and give applicable public notice to the sale or acquisition of such an entity. The bill voids a sale or acquisition of or merger or consolidation with an entity required by law to possess a certificate of public convenience and necessity that is not completed in accordance with applicable provisions.

C.S.S.B. 1148 repeals Section 5.508, Water Code.

#### **EFFECTIVE DATE**

September 1, 2015.

#### **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 1148 may differ from the engrossed in minor or nonsubstantive ways, the

following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

SECTION 1. Section 5.315, Water Code, is amended.

SECTION 2. Section 13.041(d), Water Code, is amended.

SECTION 3. Section 13.043, Water Code, is amended by adding Subsections (b-1) and (b-2) to read as follows:

(b-1) A municipally owned utility shall:

- (1) disclose to any person, on request, the number of ratepayers who reside outside the corporate limits of the municipality; and
- (2) provide to any person, on request, a list of the names and addresses of the ratepayers who reside outside the corporate limits of the municipality.

(b-2) The municipally owned utility may not charge a fee for disclosing the information under Subsection (b-1)(1). The municipally owned utility may charge a reasonable fee for providing information under Subsection (b-1)(2). The municipally owned utility shall provide information requested under Subsection (b-1)(1) by telephone or in writing as preferred by the person making the request.

SECTION 4. Section 13.187(g-1), Water Code, is amended.

SECTION 5. Sections 13.1871(g), (h), (j), (m), and (p), Water Code, are amended.

SECTION 6. Sections 13.301(a) and (h), Water Code, are amended.

SECTION 7. Sections 13.4133(a) and (c), Water Code, are amended.

SECTION 8. Chapter 13, Water Code, is amended.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as engrossed version.

SECTION 3. Same as engrossed version.

SECTION 4. Section 13.043, Water Code, is amended by adding Subsections (b-1), (b-2), and (b-3) to read as follows:

(b-1) A municipally owned utility shall:

- (1) disclose to any person, on request, the number of ratepayers who reside outside the corporate limits of the municipality; and
- (2) provide to any person, on request, a list of the names and addresses of the ratepayers who reside outside the corporate limits of the municipality.

(b-2) If a ratepayer has requested that a municipally owned utility keep the ratepayer's personal information confidential under Section 182.052, Utilities Code, the municipally owned utility may not disclose the address of the ratepayer under Subsection (b-1)(2).

(b-3) The municipally owned utility may not charge a fee for disclosing the information under Subsection (b-1)(1). The municipally owned utility may charge a reasonable fee for providing information under Subsection (b-1)(2). The municipally owned utility shall provide information requested under Subsection (b-1)(1) by telephone or in writing as preferred by the person making the request.

SECTION 5. Same as engrossed version.

SECTION 6. Same as engrossed version.

SECTION 7. Substantially the same as engrossed version.

SECTION 8. Same as engrossed version.

SECTION 9. Same as engrossed version.

SECTION 9. Section 5.507, Water Code, is amended.

SECTION 10. Section 5.508, Water Code, is repealed.

SECTION 11. This Act takes effect September 1, 2015.

SECTION 2. Same as engrossed version.

SECTION 10. Same as engrossed version.

SECTION 11. Same as engrossed version.