

By: Watson, et al.  
(Geren)

S.B. No. 1148

Substitute the following for S.B. No. 1148:

By: Nevárez

C.S.S.B. No. 1148

A BILL TO BE ENTITLED

AN ACT

relating to the functions of the Public Utility Commission of Texas  
in relation to the economic regulation of water and sewer service.

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

SECTION 1. Section 5.315, Water Code, is amended to read as  
follows:

Sec. 5.315. DISCOVERY IN CASES USING PREFILED WRITTEN  
TESTIMONY. In a contested case hearing delegated by the commission  
to the State Office of Administrative Hearings that uses prefiled  
written testimony, all discovery must be completed before the  
deadline for the submission of that testimony[, ~~except for water  
and sewer ratemaking proceedings~~].

SECTION 2. Section 5.507, Water Code, is amended to read as  
follows:

Sec. 5.507. EMERGENCY ORDER FOR OPERATION OF UTILITY THAT  
DISCONTINUES OPERATION OR IS REFERRED FOR APPOINTMENT OF  
RECEIVER. The commission [~~or the Public Utility Commission of  
Texas~~] may issue an emergency order appointing a willing person to  
temporarily manage and operate a utility under Section  
13.4132. Notice of the action is adequate if the notice is mailed  
or hand delivered to the last known address of the utility's  
headquarters.

SECTION 3. Section 13.041(d), Water Code, is amended to  
read as follows:

1       (d) In accordance with Subchapter K-1, the ~~[The]~~ utility  
2 commission may issue emergency orders, with or without a hearing:

3           (1) to compel a water or sewer service provider that  
4 has obtained or is required to obtain a certificate of public  
5 convenience and necessity to provide continuous and adequate water  
6 service, sewer service, or both, if the discontinuance of the  
7 service is imminent or has occurred because of the service  
8 provider's actions or failure to act; and

9           (2) to compel a retail public utility to provide an  
10 emergency interconnection with a neighboring retail public utility  
11 for the provision of temporary water or sewer service, or both, for  
12 not more than 90 days if service discontinuance or serious  
13 impairment in service is imminent or has occurred.

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

16       (b-1) A municipally owned utility shall:

17           (1) disclose to any person, on request, the number of  
18 ratepayers who reside outside the corporate limits of the  
19 municipality; and

20           (2) provide to any person, on request, a list of the  
21 names and addresses of the ratepayers who reside outside the  
22 corporate limits of the municipality.

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

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

8        SECTION 5. Section 13.187(g-1), Water Code, is amended to  
9 read as follows:

10        (g-1) If the regulatory authority is the utility  
11 commission, the utility commission shall give reasonable notice of  
12 the hearing, including notice to the governing body of each  
13 affected municipality and county. The utility commission may  
14 delegate to an administrative law judge of the State Office of  
15 Administrative Hearings the responsibility and authority to give  
16 reasonable notice of the hearing, including notice to the governing  
17 body of each affected municipality and county. The utility is not  
18 required to provide a formal answer or file any other formal  
19 pleading in response to the notice, and the absence of an answer  
20 does not affect an order for a hearing.

21        SECTION 6. Sections 13.1871(g), (h), (j), (m), and (p),  
22 Water Code, are amended to read as follows:

23        (g) After written notice to the utility, the utility  
24 commission may suspend the effective date of a rate change for not  
25 more than 265 ~~[205]~~ days from the proposed effective date. If the  
26 utility commission does not make a final determination on the  
27 proposed rate before the expiration of the suspension period, the

1 proposed rate shall be considered approved. This approval is  
2 subject to the authority of the utility commission thereafter to  
3 continue a hearing in progress.

4 (h) The 265-day [~~205-day~~] period described by Subsection  
5 (g) shall be extended by two days for each day a hearing exceeds 15  
6 days.

7 (j) If the regulatory authority receives at least the number  
8 of complaints from ratepayers required for the regulatory authority  
9 to set a hearing under Subsection (i), the regulatory authority  
10 may, pending the hearing and a decision, suspend the date the rate  
11 change would otherwise be effective. Except as provided by  
12 Subsection (h), the proposed rate may not be suspended for longer  
13 than:

14 (1) 90 days by a local regulatory authority; or

15 (2) 265 [~~205~~] days by the utility commission.

16 (m) The regulatory authority shall give reasonable notice  
17 of the hearing, including notice to the governing body of each  
18 affected municipality and county. The utility commission may  
19 delegate to an administrative law judge of the State Office of  
20 Administrative Hearings the responsibility and authority to give  
21 reasonable notice for the hearing, including notice to the  
22 governing body of each affected municipality and county. The  
23 utility is not required to provide a formal answer or file any other  
24 formal pleading in response to the notice, and the absence of an  
25 answer does not affect an order for a hearing.

26 (p) A utility may put a changed rate into effect throughout  
27 the area in which the utility sought to change its rates, including

1 an area over which the utility commission is exercising appellate  
2 or original jurisdiction, by filing a bond with the utility  
3 commission if the suspension period has been extended under  
4 Subsection (h) and the utility commission fails to make a final  
5 determination before the 266th [~~206th~~] day after the date the rate  
6 change would otherwise be effective.

7 SECTION 7. Sections 13.301(a) and (h), Water Code, are  
8 amended to read as follows:

9 (a) A utility or a water supply or sewer service  
10 corporation, on or before the 120th day before the effective date of  
11 a sale, acquisition, lease, or rental of a water or sewer system  
12 owned by an entity that is required by law to possess a certificate  
13 of public convenience and necessity or the effective date of a sale  
14 or acquisition of or merger or consolidation with such an entity [~~a~~  
15 ~~utility or water supply or sewer service corporation~~], shall:

16 (1) file a written application with the utility  
17 commission; and

18 (2) unless public notice is waived by the utility  
19 commission for good cause shown, give public notice of the action.

20 (h) A sale, acquisition, lease, or rental of any water or  
21 sewer system owned by an entity required by law to possess a  
22 certificate of public convenience and necessity, or a sale or  
23 acquisition of or merger or consolidation with such an entity, that  
24 is not completed in accordance with the provisions of this section  
25 is void.

26 SECTION 8. Sections 13.4133(a) and (c), Water Code, are  
27 amended to read as follows:

1 (a) Notwithstanding the requirements of Subchapter F, the  
2 utility commission may authorize an emergency rate increase for a  
3 utility for which a person has been appointed under Section 13.4132  
4 or for which a receiver has been appointed under Section 13.412 if  
5 the increase is necessary to ensure the provision of continuous and  
6 adequate services to the utility's customers. The commission and  
7 utility commission shall coordinate as needed to carry out this  
8 section.

9 (c) An emergency order may be issued under this section for  
10 a term not to exceed 15 months. The utility commission shall  
11 schedule a hearing to establish a final rate within 15 months after  
12 the date on which an emergency rate increase takes effect. The  
13 utility commission shall require the utility to provide notice of  
14 the hearing to each customer. The additional revenues collected  
15 under an emergency rate increase are subject to refund if the  
16 utility commission finds that the rate increase was larger than  
17 necessary to ensure continuous and adequate service.

18 SECTION 9. Chapter 13, Water Code, is amended by adding  
19 Subchapter K-1 to read as follows:

20 SUBCHAPTER K-1. EMERGENCY ORDERS

21 Sec. 13.451. ISSUANCE OF EMERGENCY ORDER. (a) The utility  
22 commission may issue an emergency order authorized under this  
23 chapter after providing the notice and opportunity for a hearing  
24 that the utility commission considers practicable under the  
25 circumstances or without notice or opportunity for a hearing. If  
26 the utility commission considers the provision of notice and  
27 opportunity for a hearing practicable, the utility commission

1 shall provide the notice not later than the 10th day before the date  
2 set for the hearing.

3 (b) The utility commission by order or rule may delegate to  
4 the utility commission's executive director the authority to:

5 (1) receive applications and issue emergency orders  
6 under this subchapter; and

7 (2) authorize, in writing, a representative or  
8 representatives to act on the utility commission's executive  
9 director's behalf under this subchapter.

10 (c) Chapter 2001, Government Code, does not apply to the  
11 issuance of an emergency order under this subchapter without a  
12 hearing.

13 (d) A law under which the utility commission acts that  
14 requires notice of hearing or that prescribes procedures for the  
15 issuance of emergency orders does not apply to a hearing on an  
16 emergency order issued under this subchapter unless the law  
17 specifically requires notice for an emergency order. The utility  
18 commission shall give notice of the hearing as it determines is  
19 practicable under the circumstances.

20 (e) An emergency order issued under this subchapter does not  
21 vest any rights in a person affected by the order and the order  
22 expires according to its terms.

23 (f) The utility commission may adopt rules necessary to  
24 administer this subchapter.

25 Sec. 13.452. APPLICATION FOR EMERGENCY ORDER. A person  
26 other than the utility commission or the staff of the utility  
27 commission who desires the issuance of an emergency order under

1 this subchapter must submit a sworn written application to the  
2 utility commission. The application must:

3 (1) describe the emergency condition or other  
4 condition justifying the issuance of the order;

5 (2) allege facts to support the findings required  
6 under this subchapter;

7 (3) estimate the dates on which the proposed order  
8 should begin and end;

9 (4) describe the action sought and the activity  
10 proposed to be allowed, mandated, or prohibited; and

11 (5) include any other statement, including who must  
12 sign the application for the order, and any information required by  
13 the utility commission.

14 Sec. 13.453. NOTICE OF ISSUANCE. Notice of the issuance of  
15 an emergency order must be provided as required by utility  
16 commission rule.

17 Sec. 13.454. HEARING TO AFFIRM, MODIFY, OR SET ASIDE ORDER.

18 (a) If the utility commission or the utility commission's  
19 executive director issues an emergency order under this subchapter  
20 without a hearing, a hearing must be held to affirm, modify, or set  
21 aside the emergency order unless the person affected by the order  
22 waives the right to a hearing. If the person does not waive the  
23 right to a hearing, the utility commission or the utility  
24 commission's executive director shall set a time and place for a  
25 hearing to be held before the utility commission or the State Office  
26 of Administrative Hearings, which must be as soon as practicable  
27 after the order is issued.



1        (b) At a hearing required under Subsection (a), or within a  
2 reasonable time after the hearing, the utility commission shall  
3 affirm, modify, or set aside the emergency order.

4        (c) A hearing to affirm, modify, or set aside an emergency  
5 order must be conducted in accordance with Chapter 2001, Government  
6 Code, and utility commission rules. Utility commission rules  
7 relating to a hearing to affirm, modify, or set aside an emergency  
8 order must provide for presentation of evidence by the applicant,  
9 if any, under oath, presentation of rebuttal evidence under oath,  
10 and cross-examination of witnesses under oath.

11        Sec. 13.455. TERM OF ORDER. An emergency order issued under  
12 this subchapter must be limited to a reasonable time as specified in  
13 the order. Except as otherwise provided by this chapter, the term  
14 of an emergency order may not exceed 180 days. An emergency order  
15 may be renewed once for a period not to exceed 180 days.

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

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