

- SUBJECT:** Prohibiting disclosure of water utility customer information
- COMMITTEE:** State Affairs — committee substitute recommended
- VOTE:** 12 ayes — Paddie, Hernandez, Deshotel, Harless, Howard, P. King, Lucio, Metcalf, Raymond, Shaheen, Slawson, Smithee
- 0 nays
- 1 present not voting — Hunter
- WITNESSES:** For — Donovan Burton, San Antonio Water System; (*Registered, but did not testify*: Brie Franco, City of Austin; Tammy Embrey, City of Corpus Christi; Kate Goodrich, City of Denton; TJ Patterson, City of Fort Worth; Christine Wright, City of San Antonio; Kari Meyer, CPS Energy; Bill Kelly, City of Houston Mayor's Office; Randy Lee, San Antonio Water System; Monty Wynn, Texas Municipal League; Russell T. “Russ” Keene, Texas Public Power Association; Thomas Parkinson)
- Against — None
- DIGEST:** CSHB 872 would except from public information disclosure requirements certain customer information maintained by a government-operated utility that provides water, wastewater, sewer, gas, garbage, electricity, or drainage services. The bill would change the nature of confidentiality provisions under current law for customers of a government-operated utility from a system under which the customer must request confidentiality to a system under which the assumption would be confidentiality unless the customer requests disclosure.
- Information that would be excepted from disclosure would include:
- information that was collected as part of an advanced metering system for usage, services, and billing, including amounts billed or collected for utility usage; or
 - information that revealed whether an account was delinquent or

eligible for disconnection or that services had been disconnected by the government-operated utility.

A government-operated utility would be required to disclose information collected as part of an advanced metering system to a customer of the utility or a designated representative of the customer on written request if the information directly related to utility services provided to the customer and was not confidential under law. An "advanced metering system" would be defined as a utility metering system that collected data at regular intervals through the use of an automated wireless or radio network.

CSHB 872 would amend disclosure requirements under Utilities Code sec. 182.052 to prevent a government-operated utility from disclosing personal information in a customer's account record unless the customer requested it be disclosed. A government-operated utility could disclose information related to the customer's volume or units of utility usage per billing cycle if the primary source of water for the utility was a sole-source designated aquifer.

A government-operated utility would have to include with a customer's bill or post on its website a notice of the customer's right to request disclosure and a disclosure form. A customer could rescind a request for disclosure by providing a written request to withhold the customer's personal information beginning on the date the utility received the request.

A municipally owned water utility could not disclose the address of the ratepayer unless the ratepayer had requested disclosure.

The bill would repeal a section of the Utilities Code authorizing a government-operated utility to charge a fee to a customer who requests confidentiality.

The bill would apply only to a request for public information received by a governmental body or officer for public information on or after the effective date of the bill.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

**SUPPORTERS
SAY:**

CSHB 872 would strengthen privacy for customers of government-owned water utilities by exempting from open records requests personal information about whether a customer's account was delinquent or eligible for disconnection. This information has been increasingly sought by entities that use it to market predatory loans or contact a homeowner with offers to buy their property.

Certain municipal water utilities have seen a significant increase in requests for personal information about customers who are behind on their water bills and slated for having their water shut off. Many of these customers are experiencing financial difficulties, including job losses related to the pandemic. Their inability to pay their water bills should not make them the target of someone trying to buy their home at an under-market price.

CSHB 872 would put municipal water utilities in line with municipal electric utilities in their ability to withhold customer information. Government Code currently allows electric utilities to withhold information about customer billing, contract, and usage as a "competitive matter."

Advanced metering that delivers a customer's water usage on an hourly basis can help utilities manage their resources more efficiently. But that information, if publicly disclosed, could be used by a nefarious actor to track a person's water use to find out when they might be away from their home. The bill would protect this detailed data from being disclosed through an open records request while ensuring that a customer still could obtain the data related to their account.

A water customer who believed they had been overcharged could opt to publicly disclose their account information to assist with a news media report.

CRITICS
SAY:

CSHB 872 could interfere with journalists working to spotlight customers who were using excessive amounts of water, particularly during a drought. Keeping water use information confidential also could hamper the ability of news reporters to investigate a complaint by a customer of being overcharged for their water use.

While the bill is targeted at keeping investors who buy distressed properties from using water shutoff information as a source for leads, these investors can be an important resource for homeowners experiencing financial difficulties who need to quickly sell their home or delay a foreclosure.