

BILL ANALYSIS

Senate Research Center
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S.B. 1074
By: Jackson
Natural Resources
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1074 is intended to clarify Section 49.2122 (Establishment of Customer Classes), Water Code, which was enacted by the 80th Legislature, Regular Session, 2007, to clarify rate-setting authority for water districts acting under Chapter 49 (Provisions Applicable to All Districts), Water Code.

In 2009, the proper interpretation of Section 49.2212 was at issue in three matters before the Texas Commission on Environmental Quality (TCEQ). TCEQ determined that the section did not create a presumption that rates set by a district are properly established absent a showing that the district action setting the rates was arbitrary and capricious. Instead, TCEQ decided that the section only created a presumption that customer classes established by a district are properly established absent such a showing. TCEQ's interpretation removes the mechanism a district can use to ensure that its operations are funded on an equitable basis.

S.B. 1074 amends Section 49.2122 to make clear the legislature's original intent that a district is presumed to have weighed and considered appropriate factors in establishing customer classes and rates and to have properly established customer classes, rates, charges, fees, rentals, and deposits absent a showing that the district had no reasonable basis for its action. S.B. 1074 clarifies that a district's rates are presumed just and reasonable and not unreasonably preferential, prejudicial, or discriminatory absent a showing that the district had no reasonable basis for its actions. It addresses the issues raised by TCEQ's interpretation and clarifies the legislature's intent in enacting Section 49.2212.

As proposed, S.B. 1074 amends current law relating to water districts' authority to set rates and a presumption of validity.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Section 49.2122, Water Code, to read as follows:

Sec. 49.2122. AUTHORITY TO SET RATES; PRESUMPTION OF VALIDITY.

SECTION 2. Amends Section 49.2122(b), Water Code, as follows:

(b) Provides that a district is presumed to have weighed and considered appropriate factors in establishing customer classes and rates and to have properly established customer classes, rates, charges, fees, rentals, and deposits absent a showing by a ratepayer at a hearing on an appeal filed under Section 13.043(b) (relating to authorization of ratepayers' appeal to governing body) that the district had no reasonable basis for its action. Provides that a district's rates are presumed just and reasonable and not unreasonably preferential, prejudicial, or discriminatory absent a showing by a ratepayer at a hearing on an appeal filed under Section 13.043(b) that the district had to reasonable basis for its action. Deletes existing text providing that a district is presumed

to have weighed and considered appropriate factors and to have properly established charges, fees, rentals, and deposits absent a showing that the district acted arbitrarily and capriciously.

SECTION 3. Makes application of Section 49.2122, Water Code, as amended by this Act, prospective.

SECTION 4. Effective date: September 1, 2011.