

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 387  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Residents in an extraterritorial jurisdiction (ETJ) may file an appeal with the Public Utility Commission of Texas (PUC) if water rates are increased under Section 13.043 of the Water Code. However, no such process exists for ETJ residents who are transferred from one service provider to another, even when rates increase. The city council members who determine provider transfers are not elected by residents in the ETJ, yet residents are still subjected to rate increases. This amounts to taxation without representation.

S.B. 387 outlines the process by which ratepayers in an ETJ may appeal a rate increase when there is a transfer to a new service provider.

- The ratepayer may appeal the increased rates by filing a petition for review with the PUC within 90 days.
  - The petition must be signed by the lesser of 10,000 or 10 percent of the impacted ratepayers.
  - The PUC shall hear the appeal and fix the rates to ensure they are fair. The rates will then be in effect for one year or until the provider changes the rates.
  - This is the same process currently used for consumers in an ETJ. This bill extends the process to include provider transfers.
- Until December 1, 2021, ratepayers may appeal transfer rate increases up to five years before the effective date (September 1, 2021).

As proposed, S.B. 387 amends current law relating to the appeal of rates for water or sewer service charged to certain customers in the extraterritorial jurisdiction of a municipality.

### **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 Subchapter C, Chapter 13, Water Code, by adding Section 13.0442, as follows:

Sec. 13.0442. RATES CHARGED IN EXTRATERRITORIAL JURISDICTION BY NEW PROVIDER. (a) Authorizes a ratepayer paying for water or sewer service in the extraterritorial jurisdiction of a municipality to appeal the rates for that service to the Public Utility Commission of Texas (PUC) in the manner provided by this section if the rates for the service increase when a new service provider takes over the provision of the service, and if the retail public utility that is the new service provider is subject to the appellate jurisdiction of the PUC under Section 13.043(b) (relating to ratepayers of certain entities who are authorized to appeal the decision of a municipality) for the service area, or is a utility permitted under Section 13.242(c) (relating to rendering retail water service without a certification in certain circumstances).

(b) Authorizes the ratepayer to appeal the increased rates by filing a petition for review with the PUC and the service provider not later than the 90th day after the effective date of the increased rates.

(c) Requires that the petition be signed by the lesser of 10,000 or 10 percent of the ratepayers whose rates have been increased due to the takeover by the new service provider. Provides that each person receiving a separate bill is considered a ratepayer, but prohibits one person from being considered more than one ratepayer regardless of the number of bills the person receives. Provides that the petition for review is considered properly signed if signed by a person, or the spouse of a person, in whose name utility service is carried.

(d) Requires the PUC to hear the appeal de novo and to fix in its final order the rates the governing body of the provider should have fixed. Authorizes the PUC to establish the effective date for the PUC's rates at the original effective date as proposed by the service provider, to order refunds or allow a surcharge to recover lost revenues, and to allow recovery of reasonable expenses incurred by the service provider in the appeal proceedings. Authorizes the PUC to consider only the information that was available to the governing body that approved the increased rates at the time the governing body approved the rates, and evidence of reasonable expenses incurred by the service provider in the appeal proceedings.

(e) Provides that the rates established by the PUC remain in effect until the first anniversary of the effective date proposed by the service provider for the rates being appealed or until changed by the service provider, whichever date is later, unless the PUC determines that a financial hardship exists.

(f) Authorizes the PUC, on a motion by the PUC or by the appellant, to establish interim rates to be in effect until a final decision is made under this section.

(g) Requires the PUC, in an appeal under this section, to ensure that every rate made, demanded, or received by the service provider is just and reasonable. Provides that rates are prohibited from being unreasonably preferential, prejudicial, or discriminatory but are required to be sufficient, equitable, and consistent in application to each class of customers. Requires the PUC to use a methodology that preserves the financial integrity of the service provider.

SECTION 2. Amends Section 13.1325, Water Code, to require the PUC, on request and at a reasonable cost, to provide electronic copies of or Internet access to all information provided to the PUC under certain sections, including under Section 13.0442, to the extent that the information is available and is not confidential.

SECTION 3. (a) Authorizes a ratepayer described by Section 13.0442(a), Water Code, as added by this Act, notwithstanding Section 13.0442(b), Water Code, as added by this Act, to use the appeal process in Section 13.0442, Water Code, as added by this Act, to appeal increased rates charged to the ratepayer by a new service provider by filing a petition for review with the PUC and the service provider not later than December 1, 2021, if the new service provider began providing service to the ratepayer on or after September 1, 2016.

(b) Provides that Subsection (a) of this section applies only to rates that the service provider has not changed since the service provider began providing service to the ratepayer.

SECTION 4. Effective date: September 1, 2021.