

## **BILL ANALYSIS**

Senate Research Center  
87R7742 JXC-F

S.B. 997  
By: Nichols  
Water, Agriculture & Rural Affairs  
4/8/2021  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Under current law, the Public Utility Commission of Texas (PUC) maintains jurisdiction over both retail and wholesale water rates. The PUC's jurisdiction over wholesale water and sewer rates requires that such rates/contracts be found by the PUC to violate the public interest in order to trigger the agency's jurisdiction to set reasonable rates. There is some ambiguity in statute regarding the procedure for applying this standard, and S.B. 997 seeks to provide clarity. Specifically, S.B. 997 amends Texas Water Code Chapter 13 to specify that a finding by the PUC that a water rate is in violation of the public interest is a final ruling for purposes of appeal, and that judicial review of a public interest finding will be de novo.

As proposed, S.B. 997 amends current law relating to procedural requirements for the review of a contractual rate charged for the furnishing of raw or treated water or water or sewer service.

### **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 Section 12.013, Water Code, by adding Subsections (g), (h), (i), (j), (k), and (l), as follows:

(g) Prohibits the Public Utility Commission of Texas (PUC), in a proceeding under Section 12.013 (Rate-Fixing Power) or Chapter 11 (Water Rights) to review a rate charged under a written contract, from holding a hearing on or otherwise prescribing just and reasonable amounts to be charged under the contract in the future unless the PUC determines that the amount charged under the contract harms the public interest. Provides that a determination under this subsection becomes final for purposes of appeal in the manner provided by Section 2001.144 (Decisions or Orders; When Final), Government Code.

(h) Authorizes a party adversely affected by a determination under Subsection (g) to seek judicial review of the determination. Requires that judicial review of a determination under Subsection (g) be by trial de novo.

(i) Requires the PUC to abate proceedings on the contract in the event of an appeal under Subsection (h) until the entry of a final judicial determination that a rate charged under the contract harms the public interest.

(j) Provides that Chapter 2001 (Administrative Procedure), Government Code, applies to an appeal under Subsection (h).

(k) Requires the PUC, before holding a hearing on or otherwise prescribing a just and reasonable rate to be charged under the contract in the future, to allow the contracting parties to amend the amount charged under the contract until at least 60 days after the date of a final judicial determination in an appeal under Subsection (h) that a rate charged

under the contract harms the public interest, or the date the determination made under Subsection (g) became final if a motion for rehearing was not filed on time.

(l) Provides that, if the parties amend their contract under Subsection (k), none of the parties are authorized to challenge before the PUC the rate paid under the amended contract before the fifth anniversary of the date of the contract amendment, or before a date agreed to by the parties that is after the fifth anniversary of the date of the contract amendment.

SECTION 2. Amends Subchapter C, Chapter 13, Water Code, by adding Section 13.0431, as follows:

Sec. 13.0431. APPEALS BY RETAIL PUBLIC UTILITIES. (a) Prohibits the PUC, in an appeal under Section 13.043(f) (relating to an appeal of a decision of a provider of water or sewer service affecting the amount paid for water or sewer service) on the amount paid for water or sewer service under a written contract, from holding a hearing on or otherwise prescribing just and reasonable amounts to be charged under the contract in the future unless the PUC determines that the amount charged under the contract harms the public interest. Provides that a determination under this subsection becomes final for purposes of appeal in the manner provided by Section 2001.144, Government Code.

(b) Authorizes a party adversely affected by a determination under Subsection (a) to seek judicial review of the determination. Requires that judicial review of a determination under Subsection (a) be by trial de novo.

(c) Requires the PUC to abate proceedings on the contract in the event of an appeal under Subsection (b) until the entry of a final judicial determination that a rate charged under the contract harms the public interest.

(d) Provides that Chapter 2001, Government Code, applies to an appeal under Subsection (b).

(e) Requires the PUC, before holding a hearing on or otherwise prescribing a just and reasonable rate to be charged under the contract in the future, to allow the contracting parties to amend the amount charged under the contract until at least 60 days after the date of a final judicial determination in an appeal under Subsection (b) that a rate charged under the contract harms the public interest, or the date the determination made under Subsection (a) became final if a motion for rehearing was not filed on time.

(f) Provides that if the parties amend their contract under Subsection (e), none of the parties are authorized to challenge before the PUC the rate paid under the amended contract before the fifth anniversary of the date of the contract amendment, or before a date agreed to by the parties that is after the fifth anniversary of the date of the contract amendment.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2021.