

**PROJECT NO. 47305**

<b>PROJECT TO IMPLEMENT HOUSE</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>BILL 2369 WITH PROPOSED</b>	<b>§</b>	
<b>AMENDMENT TO 16 TAC § 24.45 AND</b>	<b>§</b>	<b>OF TEXAS</b>
<b>NEW 16 TAC § 24.46 RELATING TO</b>	<b>§</b>	
<b>FEES CHARGED BY A</b>	<b>§</b>	
<b>MUNICIPALITY TO PUBLIC SCHOOL</b>	<b>§</b>	
<b>DISTRICTS – PURSUANT TO TWC</b>	<b>§</b>	
<b>SECTIONS 13.044, 13.0441, AND 13.088</b>	<b>§</b>	

**PROPOSAL FOR PUBLICATION OF AMENDMENT TO §24.45 AND NEW §24.46 AS APPROVED AT THE APRIL 27, 2018 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes an amendment to §24.45 relating to rates charged by a municipality to a district, and new §24.46 relating to fees charged by a municipality to a public school district. House Bill 2369 (HB 2369) enacted by the 85th Texas Legislature, Regular Session, amended the title of Texas Water Code (TWC) §13.044 and added new TWC §13.0441 to grant the right of appeal to a public school district (district) receiving water service from a municipality when the district is charged a fee that violates TWC §13.088. The bill also added new TWC §13.088, which prohibits a municipally owned utility that provides retail water or sewer utility service to a district from charging the district a fee based on the number of district students or employees in addition to the rates the municipally owned utility charges the district for the service. Project Number 47305 is assigned to this proceeding.

Ms. Tammy Benter, Director, Water Utility Regulation Division, has determined that for each year of the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Ms. Benter has determined that for each year of the first five years the proposed sections are in effect the public benefit anticipated as a result of enforcing the sections will be to implement HB 2369 and to enable public school districts to appeal charges by municipalities for water or sewer service that are based on the number of district students or employees. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing these sections. Therefore, no regulatory flexibility analysis is required.

There is no anticipated economic cost to persons who are required to comply with these sections as proposed. Ms. Benter has also determined that for each year of the first five years the proposed sections are in effect there should be no effect on a local economy, and therefore no local employment impact statement is required under the Administrative Procedure Act, Texas Government Code §2001.022.

Ms. Benter has determined that for each year of the first five years that the proposed sections are in effect, the following statements will apply: (1) the proposed rules will not create or eliminate a government program; (2) implementation of the proposed rules will not require the creation of new employee positions or the elimination of existing employee positions; (3) implementation of the proposed rules will not require an increase or decrease in future legislative appropriations to the agency; (4) the proposed rules will not require an increase or decrease in fees paid to the agency; (5) the proposed rules will create a new regulation; (6) the proposed rules will not expand, limit, or repeal an existing regulation; (7) the proposed rules will increase the number of individuals subject to the proposed rule's applicability; and (8) the proposed rules will not positively or adversely affect this state's economy.

The commission staff will conduct a public hearing on this rulemaking, if requested pursuant to the APA, Tex. Gov't Code Ann. §2001.029, at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701 on Wednesday, June 13, 2018. The request for public hearing must be received by Monday, June 11, 2018.

Comments on the proposed amendment and new section may be filed with the Commission's filing clerk at 1701 North Congress Avenue, Austin, Texas or mailed to P.O. Box 13326, Austin, TX 78711-3326, within 30 days after publication. Sixteen copies of comments to the proposed amendment and new section are required to be filed by §22.71(c) of this title. Comments should be organized in a manner consistent with the organization of the proposed rule. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed amendments. The commission will consider the costs and benefits in deciding whether to adopt the identified sections. All comments should refer to Project Number 47305.

The amendment and new section are proposed under TWC §13.0441(b), which provides the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction.

Cross reference to statutes: TWC §13.0441(b).

**§24.45. Rates Charged by a Municipality to Certain Special Districts~~a-District~~.**

(a)-(c) (No change.)

**§24.46. Fees Charged by a Municipality to a Public School District.**

- (a) This section applies only to fees charged by a municipality for water or sewer service to a public school district.
- (b) A municipally owned utility that provides retail water or sewer utility service to a public school district may not charge the district, in addition to the rates the utility charges for service, a fee based on the number of district students or employees.
- (c) Notwithstanding the provisions of a resolution, ordinance, or agreement, a public school district charged a fee that violates subsection (b) of this section may appeal the charge by filing a petition with the commission. The commission shall hear the appeal de novo, and the municipality charging the fee has the burden of proof to establish that the fee complies with subsection (b) of this section. The commission shall fix the fees to be charged by the municipality in accordance with this chapter, including subsection (b) of this section.

This agency certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

**ISSUED IN AUSTIN, TEXAS ON THE 27th DAY OF APRIL 2018 BY THE  
PUBLIC UTILITY COMMISSION OF TEXAS  
ADRIANA A. GONZALES**

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