

Draft Research Plan: House Bill 600 Water and Sewer Rates for Non-residents of Cities

Research Manager: Catherine Corley

Lead Research Associate: Ben Smith

Support: Michael Mount and Nathan Shaver

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Purpose:

The House Local Government Committee sent House Bill 600 to the Commission for study.

House Bill 600 by Hill, T. [Senate Bill 735 by Green] would limit the water rates of customers of the Johnson City Water and Sewer Department who live outside Johnson City and in Sullivan County to no more than 150%* of the water rates of customers who live in Johnson City.

Step 1. Define the Problem

Cities often provide water and sewer services to residents outside their city limits at higher rates than they charge residents inside the city limits. Some residents outside cities believe the differential rate is excessive. Cities believe higher rates are justified by the higher cost of providing water and sewer to unincorporated areas and because they might have to raise property taxes to offset lost revenue if rates are insufficient to pay off capital improvement bonds issued for water and sewer systems. How should a city go about determining equitable rates to charge water and sewer customers outside its corporate limits?

Step 2. Assemble Some Evidence

Review referred legislation

- Review committee hearing on the bill and record comments and concerns of committee members, the bill sponsor, and others speaking for or against the bill.

*The bill says “shall not prescribe water rates in excess of *fifty percent (50%)* of the rate charged located within the corporate limits of such municipality.” The probable intent is 150%.

- Interview the sponsor, bill proponents, opponents and other stakeholders to determine what is driving this issue.
- Review fiscal note.
- Review the constitutional requirements as they relate to setting water rates and as they relate to bills affecting only a particular area of a particular county.

Review other similar legislation

- Review any legislation similar to HB600.
- Check if legislation has been used to regulate the rates of water utilities.

How water and sewer rates are set in Tennessee

- Generally, how are water and sewer rates set?
- What standards and methods exist for setting water and sewer rates?
- What are the water and sewer rate differentials across Tennessee
- What are the current recommendations for establishing outside water rates?
 - Interview MTAS Municipal Management and Utility Management Consultants
 - Interview Tennessee Municipal League
 - Contact the Tennessee Tech and UT Water Centers
 - Contact the Tennessee Association of Utility Districts
 - Contact the Water and Wastewater Financing Board
 - Contact the Utility Management Review Board
- How are the rates of water utilities regulated?
 - Tennessee Regulatory Authority
 - What water utilities are subject to TRA?
 - Tennessee Comptroller of the Treasury

Laws and Regulations on Water Rates

- Review Tennessee Code for relevant provisions on utilities
 - What are the current laws directing how outside rates are set?
 - What are the current laws directing the formation of customer classes?
 - What are the statutory restrictions on boundary expansions of utilities?
- What does Tennessee case law say on the characteristics of a defensible water rate?
- Review Attorney General Opinions
 - Defensible water rates
 - Price caps on water rates
- What are current legal or regulatory remedies available for customers, both inside and outside city limits, if they feel rates are unreasonable?

Rate-setting by the other types of public utilities

- How do public gas and electric utilities set rates for service?
- What is the obligation to serve of water and sewer utilities?
- What is the obligation to serve of other other types of public utilities?

How other states regulate water rates

- What is the statutory and regulatory framework in other states for setting water and sewer rates for non-residents?
- What is the statutory and regulatory framework in other states for review of rates set by water and sewer utilities?
- How do other states establish rate setting principles?
 - Interview the Environmental Finance Center Network—Design a survey letter and send it to all EFCs.

Literature review

- Research the general principles of ratemaking, for example, those established by the American Water Works Association and the National Rural Water Association.
- Research the general principles of ratemaking for drinking water services as established by the USEPA.
- Research any models that suggest improved methods for establishing differential rates for residents and non-residents of cities.

Step 3. Construct Alternatives

Describe alternatives in sufficient detail to project outcomes in Step 5

- Current law (status quo)
- Proposed changes
- Any additional alternatives drawn from research and analysis identified in Step 2

Step 4. Select Criteria

- Cost
- Constitutionality
- Fairness and Equity
- Political feasibility—acceptability to legislators, administrators, and public

Additional criteria may be identified in Step 2

Step 5. Project Outcomes

For each alternative constructed in Step 3

- Estimate the cost
 - To city water utilities
 - To outside city customers
 - To city residents
- Estimate the risks
 - To city water utilities
 - To outside city customers
 - To city residents
- Identify any potential constitutional issues that may exist with any of the alternatives
- Consider if it is equitable to city residents
- Consider if it is equitable to residents outside city limits
- Estimate the receptiveness of
 - Legislators
 - State and local officials
 - City residents
 - Residents served outside the city limits

Step 6. Confront Trade-offs

- What are the pros and cons of the potential solutions?
- What are the "best bets" for this particular situation?

Step 7. Decide which alternatives to present to the Commission

Based on the results of Step 6, choose the alternatives that most practically and realistically resolve the problem

Step 8. Produce the Draft Report

- Develop and present a draft for review and comment to the Commission

Revisit Steps 5-8.

- Revise and edit the draft to reflect comments of the Commission
- Submit final report to the Commission for approval

