

Legislation Text

File #: 130251-A, **Version:** 2

Amending Chapter 13-100 of The Philadelphia Code, entitled "Water Rates," and amending Chapter 13-200 of The Philadelphia Code, entitled "Sewer Rates," by providing for an independent rate-making body and processes and procedures for fixing and regulating rates and charges, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 13-100 of The Philadelphia Code, entitled "Water Rates," is hereby amended to read as follows:

CHAPTER 13-100. WATER, *SEWER AND STORM WATER* RATES

§13-101. [Standards]. *Fixing and Regulating Rates and Charges.*

(1) Councilmanic Examination. At least once in every four years Council shall make or cause to be made an independent examination of the current operations and Capital Programming and Budgeting of the Water Department, and in connection therewith employ qualified consultants to advise the Council directly with respect to:

- (a) The formulated policy as prescribed by the Water Department for its capital program and capital budget and sinking fund requirements.
- (b) The economic soundness of operational methods, universal meter operations, bill collecting and accounts receivable procedures, inventory control and similar factors.

(2) *Water Department Financial Stability Plan. The Water Department shall develop a comprehensive plan ("Financial Stability Plan") which shall forecast capital and operating costs and expenses and corresponding revenue requirements. It shall identify the strengths and challenges to the Water Department's overall financial status including the Water Fund's credit ratings, planned and actual debt service coverage, capital and operating reserves and utility service benchmarks. It shall compare the Water Department to similar agencies in peer cities in the United States. A Financial Stability Plan shall be submitted to Council every four (4) years, and updated prior to proposing revisions in rates and charge.*

[(2)](3) [Standards for Rates and Charges] *Independent Rate-making Body.* Pursuant to Section 5-801 of the Charter, [the Water Department] *an independent rate-making body* shall fix and regulate rates and charges for supplying water, *sewer and storm water service for accounts and properties located in the City of Philadelphia, in accordance with the standards established in this Section 13-100* without further authorization of Council. [, in accordance with the following standards]:

(a) *The independent rate-making body shall be known as the Philadelphia Water, Sewer and Storm Water Rate Board (the "Board").*

(b) *The Board shall consist of five (5) members appointed by the Mayor who shall serve upon confirmation by Council. In order that members with experience shall serve on a continuous basis, there shall be five (5) classes of members. The first members shall serve from their date of confirmation to a date of termination set forth below. Future appointments to the Board shall be made by class for a term of five (5) years:*

<i>Members</i>	<i>Class</i>	<i>Date of Termination</i>
<i>1</i>	<i>A</i>	<i>July 1, 2014</i>
<i>1</i>	<i>B</i>	<i>July 1, 2015</i>
<i>1</i>	<i>C</i>	<i>July 1, 2016</i>
<i>1</i>	<i>D</i>	<i>July 1, 2017</i>
<i>1</i>	<i>E</i>	<i>July 1, 2018</i>

The Mayor may remove any Board member for cause, including conflicts of interest and neglect of duty. Board members removed for any reason shall be replaced with a new member appointed by the Mayor and confirmed by Council to serve for the remaining term of the member who was replaced.

(c) *The Board members shall be residents of the City and shall have a minimum of five (5) years professional experience in one or more of the following fields: public or business administration, finance, utilities, engineering and water resources management. At least one member shall have experience as a consumer advocate in utility rate cases and one member shall be a commercial and/or industrial ratepayer with knowledge and experience related to stormwater management and rates.*

(d) *The Board members shall not be compensated for their services, but shall be entitled to reasonable expenses consistent with their duties. In addition, the Board shall receive an appropriation sufficient to allow it to carry out its responsibilities.*

(e) *The Board shall establish open and transparent processes and procedures for public input and comment on proposed water rates and charges. The Water Department shall promulgate regulations incorporating the Board’s processes and procedures. The Board shall adopt regulations for rate hearings and determining rates and charges consistent with Section 13-101. Until such regulations are adopted, the Board shall act in accordance with the Philadelphia Water Department Regulations at Section 300 and Section 301.0-301.11 in effect as of April 4, 2013, with such modifications as necessary to be consistent with the powers and duties of the Board under Section 13-101.*

(f) *Prior to fixing and regulating rates, the Board shall hold public hearings.*

[(2)](4) Standards for Rates and Charges.

(a) *Financial Standards.* The rates and charges shall yield to the City at least an amount equal to operating expenses and debt service, [including interest and sinking fund charges] on all obligations of the City in respect of the water, sewer, storm water systems and, in respect of water, [and] sewer and storm water revenue obligations of the City, such additional amounts as shall be required to comply with any rate covenant and sinking fund reserve requirements approved by ordinance of Council in connection with the

authorization or issuance of water [and], sewer *and storm water* revenue bonds, and proportionate charges for all services performed for the Water Department by all officers, departments, boards or commissions of the City.

(b) The rates and charges shall yield not more than the total appropriation from the Water Fund to the Water Department and to all other departments, boards or commissions, plus a reasonable sum to cover unforeseeable or unusual expenses, reasonably anticipated cost increases or diminutions in expected revenue, less the cost of supplying water to City facilities and fire systems and, in addition, such amounts as, together with additional amounts charged in respect of the City's sewer system, shall be required to comply with any rate covenant and sinking fund reserve requirements approved by ordinance of Council in connection with the authorization or issuance of water and sewer revenue bonds. Such rates and charges may provide for sufficient revenue to stabilize them over a reasonable number of years.

(i) In fixing rates and charges the Board shall recognize the importance of financial stability to customers and fully consider the Water Department's Financial Stability Plan. In addition, the Board shall determine the extent to which current revenues should fund capital expenditures and minimum levels of reserves to be maintained during the rate period. When determining such levels of current funding of capital expenditures and minimum levels of reserves, the Board shall consider all relevant information presented including, but not limited to, peer utility practices, best management practices and projected impacts on customer rates. The Board shall set forth any such determinations in the Board's written report pursuant to this chapter.

(ii) Rates and charges shall be developed in accordance with sound utility rate making practices and consistent with the current industry standards for water, wastewater and storm water rates. Industry standards include the current versions of: American Waterworks Association (AWWA) Principles of Rates, Fees and Charges Manual (M-1) and Water Environment Federation's Wastewater Financing & Charges for Wastewater Systems.)

(iii) Whenever the Water Department has proposed changes to the rates and charges, the Board, having acted in accordance with this Section 13-101, shall issue a written report incorporating the information used by the Board in reaching a decision to approve, modify or reject the proposed rates and charges.

(iv) The decision to approve, modify or reject the proposed rates shall be made in a timely manner, but no later than 120 days from the filing of notice of any proposed change in rates and charges as established in this Section.

(c) The rates and charges shall be equitably apportioned among the various classes of consumers.

(d) The rates and charges shall be just, reasonable and nondiscriminatory as to the same class of consumers.

(e) Special rates and charges, to be designated as "charity rates and charges", shall be

established for public and private schools, institutions of purely public charity, and places used for actual religious worship.

(f) Special rates and charges, to be designated as “public housing rates and charges” shall be established for property of the Philadelphia Housing Authority and shall be set so that the Philadelphia Housing Authority receives a five percent (5%) reduction off of the Water Department's service and quantity charges.

(5) Sewer Charge Where City Water Not Used. For properties which use other than City supplied water, the charge for sewage disposal service shall be based upon the quantity of water discharged into the sewer system. A meter or other measuring device satisfactory to the Water Department shall be installed by the consumer and the charge for such service shall be comparable to that charged for sewage disposal service for City water having a meter of equal size.

(6) Sewer Charge Where City Water Not Discharged Into Sewage Disposal System. Where commercial and industrial properties which use City water do not discharge all or part of such water into the sewage disposal system of the City, the quantity of such water may be excluded in determining the proper sewage service charge, provided, the minimum sewage service charge, as set forth in regulations of the Water Department, is not reduced thereby. To determine the amount of such exclusion, the consumer shall install a meter or measuring device satisfactory to the Water Department; provided, that if, in the opinion of the Water Department, it is not feasible to install a meter or measuring device, some other satisfactory method of measuring may be designated by the Water Department.

[(3)](7) Notice of Proposed Changes. The Water Department shall give written notice to Council *and the Board* at least 30 days in advance of the filing of notice of any proposed change in rates or charges or of any proposed revision in service rates, and shall submit therewith financial, engineering and other data upon which the proposed water, sewer and storm water rates and charges are based. Proposed revisions of rates to be made within 90 days prior to the enactment of the next annual operating budget shall be submitted to Council forthwith.

(8) Report of the Board on Proposed Changes. The decision by the Board to approve, modify or reject proposed rates and charges shall be made in a timely manner, but no later than 120 days from the filing of notice of any proposed change in rates and charges as established in this Section. The Board's Rate Report shall be filed with the Department of Records. If the Board is unable to act on proposed rates and charges in the time required herein, the Water Department may establish emergency rates and charges on a temporary basis pending a final determination by the Board.

(9) Appeals of Board's Rate Report. Any part to the proceedings of the Board affected by the Rate Report may appeal to the Court of Common Pleas in Philadelphia. Appeals shall be made within thirty (30) days of the filing of the Board's Rate Report with the Department of Records.

[(4)](10) Annual Report. Water rates and charges shall be reviewed by the Water Department at least once a year, and a report thereof shall be submitted to Council *and the Board*.

SECTION 2. Chapter 13-200 of The Philadelphia Code, entitled “Sewer Rates,” is hereby deleted in its entirety and will be marked as *Reserved*.

SECTION 3. Effective Date. This Ordinance shall take effect immediately upon final passage.

Explanation:

[Brackets] indicate matter deleted.

Italics indicate new matter added.