

1-1 By: Bailey, Harless (Senate Sponsor - Jackson) H.B. No. 1314
1-2 (In the Senate - Received from the House May 7, 2007;
1-3 May 8, 2007, read first time and referred to Committee on
1-4 Intergovernmental Relations; May 17, 2007, reported adversely,
1-5 with favorable Committee Substitute by the following vote: Yeas 3,
1-6 Nays 0; May 17, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 1314 By: Nichols

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the regulation and financing of water and sewer utility
1-11 systems in certain counties; providing a civil penalty.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 412.016, Local Government Code, is
1-14 amended to read as follows:

1-15 Sec. 412.016. COUNTY WATER AND SEWER SYSTEM. (a) A county
1-16 may acquire, own, finance, operate, or contract for the operation
1-17 of, a water or sewer utility system to serve an unincorporated area
1-18 of the county in the same manner and under the same regulations as a
1-19 municipality under Chapter 402. The county must comply with all
1-20 provisions of Chapter 13, Water Code, that apply to a municipality.
1-21 However, a county with a population of two [~~2.8~~] million or more and
1-22 any adjoining county may, with the municipality's approval, serve
1-23 an area within a municipality.

1-24 (b) To finance the water or sewer utility system, a county
1-25 may issue bonds payable solely from the revenue generated by the
1-26 water or sewer utility system. A bond issued under this section is
1-27 not a debt of the county but is only a charge on the revenues pledged
1-28 and is not considered in determining the ability of the county to
1-29 issue bonds for any other purpose authorized by law. This
1-30 subsection does not authorize the issuance of general obligation
1-31 bonds payable from ad valorem taxes to finance a water or sewer
1-32 utility system. However, a county with a population of two [~~2.8~~]
1-33 million or more and any adjoining county may issue general
1-34 obligation bonds with the approval of qualified voters.

1-35 (c) A county may acquire any interest in property necessary
1-36 to operate a system authorized by this section through any means
1-37 available to the county, including eminent domain. A county may not
1-38 use eminent domain under this subsection to acquire property in a
1-39 municipality. Provided, however, a county with a population of two
1-40 [~~2.8~~] million or more and any adjoining county may, with the
1-41 municipality's approval, use the power of eminent domain under this
1-42 subsection to acquire property within a municipality.

1-43 SECTION 2. Subchapter B, Chapter 412, Local Government
1-44 Code, is amended by adding Section 412.017 to read as follows:

1-45 Sec. 412.017. REGULATION OF WATER AND SEWER UTILITY IN
1-46 POPULOUS COUNTIES. (a) In this section, "water or sewer utility
1-47 system" means a water or sewer utility system that serves:

1-48 (1) an economically distressed area as defined by
1-49 Section 15.001, Water Code; or

1-50 (2) an area listed on:

1-51 (A) the state registry by the Texas Commission on
1-52 Environmental Quality under Subchapter F, Chapter 361, Health and
1-53 Safety Code; or

1-54 (B) the National Priorities List by the federal
1-55 Environmental Protection Agency under the federal Comprehensive
1-56 Environmental Response, Compensation, and Liability Act of 1980, 42
1-57 U.S.C. Sections 9601-9675, as amended by the Superfund Amendments
1-58 and Reauthorization Act of 1986.

1-59 (b) A county with a population of 3.3 million or more may by
1-60 order:

1-61 (1) prohibit a person from installing an on-site
1-62 sewage disposal system, as defined by Section 366.002, Health and
1-63 Safety Code, or installing a water well, if the lot or parcel of

2-1 land on which the on-site sewage disposal system or water well is to
2-2 be installed has access to service from a water or sewer system; and

2-3 (2) prohibit a person from installing another water or
2-4 sewer utility system to serve a lot or parcel of land within the
2-5 area if the lot or parcel of land has access to service from a water
2-6 or sewer utility system.

2-7 (c) A county that adopts an order under Subsection (b) may
2-8 adopt the order only if the area that has access to service from a
2-9 water or sewer utility system:

2-10 (1) is not served by another legally operating water
2-11 or sewer utility system at the time the order is adopted; and

2-12 (2) was developed before September 1, 1987.

2-13 (d) A person who violates an order adopted under this
2-14 section is liable to the county for a civil penalty of not more than
2-15 \$1,000 for each violation. Each day a violation continues is a
2-16 separate violation for purposes of assessing the civil penalty.

2-17 (e) A county may bring suit in a district court to restrain a
2-18 violation or threatened violation of an order adopted under this
2-19 section, recover a civil penalty, or both. The county is not
2-20 required to give bond as a condition to issuing injunctive relief.

2-21 (f) Except as provided in Subsection (g), a county that is
2-22 involved in selecting a water or sewer utility system and that
2-23 adopts an order under Subsection (b) may adopt the order only if the
2-24 county complies with Chapter 262 in selecting the water or sewer
2-25 utility system.

2-26 (g) Section 262.024 does not apply to this section.

2-27 SECTION 3. This Act takes effect immediately if it receives
2-28 a vote of two-thirds of all the members elected to each house, as
2-29 provided by Section 39, Article III, Texas Constitution. If this
2-30 Act does not receive the vote necessary for immediate effect, this
2-31 Act takes effect September 1, 2007.

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