

SENATE AMENDMENTS

2nd Printing

By: Bailey, Harless

H.B. No. 1314

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of water and sewer utility systems in certain counties; providing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

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

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

(2) an area listed on:

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

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

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

(1) prohibit a person from installing an on-site sewage disposal system, as defined by Section 366.002, Health and

1 Safety Code, or installing a water well, if the lot or parcel of
2 land on which the on-site sewage disposal system or water well is to
3 be installed has access to service from a water or sewer system; and

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

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

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

13 (2) was developed before September 1, 1987.

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

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

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

ADOPTED

MAY 22 2007

By: Jackson, M.

Lataj Spaw
Secretary of the Senate
H.B. No. 1314

Substitute the following for H.B. No. 1314:

By: Pat Nelson

C.S. H.B. No. 1314

A BILL TO BE ENTITLED

AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

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

(b) To finance the water or sewer utility system, a county may issue bonds payable solely from the revenue generated by the water or sewer utility system. A bond issued under this section is not a debt of the county but is only a charge on the revenues pledged and is not considered in determining the ability of the county to issue bonds for any other purpose authorized by law. This subsection does not authorize the issuance of general obligation bonds payable from ad valorem taxes to finance a water or sewer utility system. However, a county with a population of two [~~2.8~~]

1 million or more and any adjoining county may issue general
2 obligation bonds with the approval of qualified voters.

3 (c) A county may acquire any interest in property necessary
4 to operate a system authorized by this section through any means
5 available to the county, including eminent domain. A county may not
6 use eminent domain under this subsection to acquire property in a
7 municipality. Provided, however, a county with a population of two
8 ~~[2.8]~~ million or more and any adjoining county may, with the
9 municipality's approval, use the power of eminent domain under this
10 subsection to acquire property within a municipality.

11 SECTION 2. Subchapter B, Chapter 412, Local Government
12 Code, is amended by adding Section 412.017 to read as follows:

13 Sec. 412.017. REGULATION OF WATER AND SEWER UTILITY IN
14 POPULOUS COUNTIES. (a) In this section, "water or sewer utility
15 system" means a water or sewer utility system that serves:

16 (1) an economically distressed area as defined by
17 Section 15.001, Water Code; or

18 (2) an area listed on:

19 (A) the state registry by the Texas Commission on
20 Environmental Quality under Subchapter F, Chapter 361, Health and
21 Safety Code; or

22 (B) the National Priorities List by the federal
23 Environmental Protection Agency under the federal Comprehensive
24 Environmental Response, Compensation, and Liability Act of 1980, 42
25 U.S.C. Sections 9601-9675, as amended by the Superfund Amendments
26 and Reauthorization Act of 1986.

27 (b) A county with a population of 3.3 million or more may by

1 order:

2 (1) prohibit a person from installing an on-site
3 sewage disposal system, as defined by Section 366.002, Health and
4 Safety Code, or installing a water well, if the lot or parcel of
5 land on which the on-site sewage disposal system or water well is to
6 be installed has access to service from a water or sewer system; and

7 (2) prohibit a person from installing another water or
8 sewer utility system to serve a lot or parcel of land within the
9 area if the lot or parcel of land has access to service from a water
10 or sewer utility system.

11 (c) A county that adopts an order under Subsection (b) may
12 adopt the order only if the area that has access to service from a
13 water or sewer utility system:

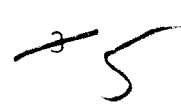
14 (1) is not served by another legally operating water
15 or sewer utility system at the time the order is adopted; and

16 (2) was developed before September 1, 1987.

17 (d) A person who violates an order adopted under this
18 section is liable to the county for a civil penalty of not more than
19 \$1,000 for each violation. Each day a violation continues is a
20 separate violation for purposes of assessing the civil penalty.

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

25 (f) Except as provided in Subsection (g), a county that is
26 involved in selecting a water or sewer utility system and that
27 adopts an order under Subsection (b) may adopt the order only if the



1 county complies with Chapter 262 in selecting the water or sewer
2 utility system.

3 (g) Section 262.024 does not apply to this section.

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 16, 2007

TO: Honorable Royce West, Chair, Senate Committee on Intergovernmental Relations

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1314 by Bailey (Relating to the regulation and financing of water and sewer utility systems in certain counties; providing a civil penalty.), **Committee Report 2nd House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend Section 412.016 of the Local Government Code to lower from 2.8 million or more to 2.0 million or more the population bracket for determining which counties would be authorized to provide a water or sewer utility system to an area within a municipality, with the municipality's approval. The population bracket would also affect which counties may issue general obligation bonds with the approval of qualified voters to finance a water or sewer utility system. Under current statute, the provisions of the bill apply only to Harris County and the counties that adjoin Harris County. The change in population brackets would add Dallas County and the counties that adjoin Dallas County.

The bill would add Section 412.017 to the Local Government Code to authorize a county with a population of 3.3 million or more to regulate certain water and sewer utility systems. Based on the 2000 U.S. Census, the section would apply only to Harris County.

Local Government Impact

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies:

LBB Staff: JOB, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 10, 2007

TO: Honorable Royce West, Chair, Senate Committee on Intergovernmental Relations

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1314 by Bailey (Relating to the regulation of water and sewer utility systems in certain counties; providing a civil penalty.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code by authorizing a county with a population of 3.3 million or more to regulate certain water and sewer utility systems. Based on the 2000 U.S. Census, the bill would apply only to Harris County.

Local Government Impact

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies:

LBB Staff: JOB, DB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 25, 2007

TO: Honorable Wayne Smith, Chair, House Committee on County Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1314 by Bailey (Relating to the regulation of water and sewer utility systems in certain counties; providing a civil penalty.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code by authorizing a county with a population of 3.3 million or more to regulate certain water and sewer utility systems. Based on the 2000 U.S. Census, the bill would apply only to Harris County.

Local Government Impact

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies:

LBB Staff: JOB, DB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

February 20, 2007

TO: Honorable Wayne Smith, Chair, House Committee on County Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1314 by Bailey (Relating to the regulation of water and sewer utility systems in certain counties; providing a civil penalty.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code by authorizing a county with a population of 3.3 million or more to regulate certain water and sewer utility systems. Based on the 2000 U.S. Census, the bill would apply only to Harris County.

Local Government Impact

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies:

LBB Staff: JOB, DB

