

**HOUSE OF REPRESENTATIVES  
COMPILATION OF PUBLIC COMMENTS**

Submitted to the Committee on Natural Resources  
For HB 3232

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Hearing Date: April 11, 2023 8:00 AM

Steven Walden  
Steven Walden Consulting  
AUSTIN, TX

Mr. Chairman and members of the Committee- Thank you for this opportunity to offer comments and recommendations in support of HB 3232.

My name is Steven Walden, and I am representing a group of volunteer water professionals dedicated to assisting small, struggling water utilities gain compliance and funding. I have been assisting utilities in TX come into compliance for 47 years (28 years as a regulator and 19 years as a private consultant). I am writing in support of this Bill.

As introduced, HB 3232 expands Texas' existing safe harbor protection provisions to apply to all retail public water and wastewater utilities. These changes remove an existing regulatory disincentive for the regionalization of water and wastewater service. Please pass this Bill!

The current state of affairs- Currently, if a water or wastewater utility (other than a city or a county) absorbs another system noncompliant with health, safety, or environmental protection requirements, then those regulatory liabilities transfer to the absorbing utility. This serves as a regulatory disincentive for larger, or well-run utilities to absorb (regionalize) other utilities that have noncompliance challenges.

Compliance data clearly shows that larger utilities almost always have more robust operations and accordingly, should be granted "safe harbor" protection where they are not penalized by the state for absorbing other utilities with noncompliance issues provided the absorbing utility has a plan in place to fix the problems within the noncompliant system. Expanding "safe harbor" protection to all utilities removes a regulatory disincentive for the regionalization of water or wastewater service. Greater regionalization, in turn, contributes to better economies of scale relating to water, workforce, and rate base utilization. More importantly, removing this disincentive would assist in bringing noncompliant systems into compliance with state and federal health, safety, and environmental protection requirements.

Carlos Rubinstein, Principal

RSAH2O LLC

Austin, TX

Honorable Chairman and Members of the Committee.

For the record my name is Carlos Rubinstein. I previously served as Chairman of the Texas Water Development Board and Commissioner of the Texas Commission on Environmental Quality. I am testifying FOR HB 3232 by Representative Rogers.

The Texas Legislature, via various sections and chapters in the Texas Water Code promotes regionalization of water and wastewater services, where appropriate. Among the recognized benefits of regionalization are reduced operating and maintenance costs via economies of scale, greater cost/benefit investment in upgrade and development of new treatment works as compared to multiple yet nearby stand alone or discrete units, and enhanced ability to identify, document and compete for available funding to undertake these works.

Although regionalization remains a strong preference of the Legislature, impediments towards cooperation between nearby entities prevent greater achievement of these associated benefits. These impediments disproportionately impact small, rural and disadvantaged communities, and residents being served by dilapidated and in some instances abandoned treatment works or utilities.

HB 3232 furthers regional solutions by removing a significant barrier that today prevents entities to come to the aid of nearby noncompliant utilities to seek regional solutions and compliant operations.

HB 3232 creates a “safe harbor” for entities that absorb noncompliant ones. As a former Commissioner of the TCEQ I understand how having a compliant entity having their existing environmental compliance history negatively impacted by assisting and absorbing a noncompliant utility is a strong disincentive towards regional cooperation and solutions.

Put another way, without HB 3232 the state via the TCEQ could be in a position to unintentionally punish the good actor in such a transaction for doing the right thing.

Better-run utilities should be granted “safe harbor” protection where they are not penalized by the state for absorbing other utilities with noncompliance issues provided the absorbing utility has a plan in place to fix the problems within the noncompliant system. Expanding “safe harbor” protection to all utilities removes a regulatory disincentive for the regionalization of water or wastewater service. Greater regionalization, in turn, contributes to better economies of scale relating to water, workforce, and rate base utilization.

HB 3232 does not perpetuate noncompliant operations. It does the opposite. It promotes cooperation leading to compliant operations.

The Texas Legislature should advance its strong preference of regional water and wastewater solutions by adopting the safe harbor provisions as called for HB 3232. These changes are an excellent way to remove an otherwise existing disincentive for regional utility cooperation.

I am FOR HB 3232 for the above stated reasons.

Thank you.

Carlos Rubinstein

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Hank Habicht  
Water Finance Exchange  
San Antonio, TX

Honorable Chairman and Members of the Committee,

My name is Hank Habicht. I am the cofounder of the Water Finance Exchange. Water Finance Exchange (WFX), a 501(c)(3), is a trusted intermediary that works closely with Texas communities to address the water infrastructure funding shortage. Our Texas dedicated resources include Rogelio Rodriguez, a previous public finance professional with 25 years of experience working with communities to fund needed infrastructure, Walter “Buzz” Pishkur, retired Director of the Arlington Utility System and a 40 plus year career as a utility operator and Carlos Rubinstein, former TCEQ Commissioner and Chairman of the Water Development Board. I am submitting our comments FOR HB 3232 by Representative Rogers. We appreciate the importance this Committee has placed on promoting the efforts for regionalization by the creation of a “safe harbor” for those water and wastewater utilities which can best serve their residents through their incorporation with other utilities.

Over 10,000 water and waste water utilities exist in Texas. Although regionalization remains a strong preference of the Legislature, impediments towards cooperation between nearby entities prevent greater achievement of these associated benefits. These impediments disproportionately impact small, rural and disadvantaged communities, and residents being served by dilapidated and in some instances abandoned treatment systems or utilities. By providing a “safe harbor” under HB 3232, well run utilities will not be penalized by the state for incorporating other utilities that are in noncompliance. This provides a significant incentive for utilities to work together. The “safe harbor” additionally, requires a compliance agreement which will detail a path to compliance which otherwise may not have happened. This cooperation promotes compliance and results in economies of scale that can provide more affordable and reliable utility services for our Texas residents.

The Texas Legislature should advance its strong preference of regional water and wastewater solutions by adopting the safe harbor provisions as called for HB 3232. These changes are an excellent way to remove an otherwise existing disincentive for regional utility cooperation.

Water Finance Exchange is for HB 3232 for the reasons stated above.