

SUBJECT: Definitions affecting municipal drainage utility system fees

COMMITTEE: Urban Affairs — favorable, with amendment

VOTE: 7 ayes — Hill, Bailey, Davila, Ehrhardt, Staples, Tillery, Woolley
0 nays
2 absent — Conley, Thompson

SENATE VOTE: On final passage, February 14 — 29-0

WITNESSES: None

BACKGROUND: Since 1991 the state has allowed municipalities to establish stormwater utilities that may charge a utility fee to "benefitted properties." A benefitted property is defined as a lot or tract with drainage service that receives water, wastewater or electric utility service from the city.

DIGEST: SB 260, as amended, would redefine "benefitted property" to mean *improved* lots or tracts with storm drainage service. The bill would eliminate restrictions that limit the term to property that receives city water, wastewater or electric utility service.

In a city with a population of more than 1 million that operates a storm drainage utility system (Dallas) "benefitted property" would apply to a lot or tract to which storm drainage service was made available and which discharged its drainage into a part of the municipality's drainage utility system. Benefitted property in Dallas would not be eligible for existing exemptions given to property held and maintained in its natural state and subdivided lots with no structures on them.

"Benefitted property" outside the corporate limits of Austin would mean only property that was a lot or tract to which drainage service was made available under the stormwater utility subchapter and which receives water, wastewater or electric utility services from the city having jurisdiction to adopt the subchapter and declare the drainage to be a public utility.

The bill would define "improved lot or tract" as having a structure or other improvement on it that causes an impervious coverage of the soil under the structure or improvement. "Wholly sufficient and privately owned drainage system" would be defined as land owned and operated by a person other than a municipal drainage utility system, whose drainage does not discharge into a creek, river, slough, culvert or other channel that is part of a municipal drainage utility system.

The act would take effect September 1, 1995

**SUPPORTERS
SAY:**

SB 260 would correct a loophole in the law on stormwater utility districts. The City of Dallas is currently prevented from collecting storm drainage fees from privately owned parking lots in the city. Parking lots are exempted from having to pay the fees established by the stormwater utility, due to the current definition of "benefitted property," even though they contribute to runoff through drains on the property. Such lots do not typically receive city water or wastewater services, and in Dallas electrical service is not provided by a city-owned utility, so they do not fall under the current definition. Cities such as Austin and San Antonio do not have this problem because they own their own electric utilities and provide municipal electric utility service to "benefitted properties."

The Legislature never intended to prohibit Dallas from being able to collect storm drainage fees from parking lots, only to prevent municipalities from charging fees to vacant or undeveloped property. SB 260 would merely clarify the Legislature's original intent.

**OPPONENTS
SAY:**

No apparent opposition

NOTES:

A committee amendment would add a special definition of benefitted property in Dallas. A second committee amendment would apply the stormwater district law to territory outside of the corporate limits of Austin only in specified circumstances.