

SUBJECT: Allowing home-rule cities to appoint environmental health officers

COMMITTEE: Urban Affairs — favorable, without amendment

VOTE: 6 ayes — Hill, Burnam, Clark, Ehrhardt, Shields, Wohlegemuth

0 nays

2 present, not voting — Bailey, Hodge

1 absent — Garcia

WITNESSES: None

BACKGROUND : Health and Safety Code Chapter 341 sets out minimum sanitation and health standards in such areas as garbage, septic tanks, toilets, swimming pools, and drinking water. Public health nuisances, including restaurants and food establishments that are not maintained in a sanitary condition, must be cleaned up within a reasonable time or legal proceedings can be instituted against the violator. The code allows home-rule cities with populations of at least one million residents to appoint environmental health officers to enforce state sanitation and health provisions.

Home-rule cities are municipalities with populations of over 5,000 that operate under a municipal charter adopted or amended as authorized by Art. 11, sec. 5 of the Texas Constitution.

DIGEST: HB 1012 would delete the population brackets restricting the home-rule cities that may appoint environmental health officers under the Health and Safety Code.

HB 1012 would take immediate effect if finally approved by a two-thirds record vote of the membership in each house.

**SUPPORTERS  
SAY:**

HB 1012 would allow smaller cities as Big Spring to ensure the safety of their food service establishments by allowing them to appoint environmental health officers to perform food service inspections in their areas. Currently, the Texas Department of Health only makes infrequent visits — often no more than once a year — to small cities in rural areas to perform food service inspections and other services. Health Department inspectors who come to Big Spring, for example, must travel 350 miles from El Paso.

Cities with a million or more inhabitants are allowed to appoint an environmental health officer to do health and other inspections and there is no reason why smaller home-rule cities should not also have this same authority. The city of Big Spring, for example, has a registered professional engineer on staff who is well qualified to perform health inspections; under HB 1012 this engineer could perform food service inspections at no additional cost to the city.

Home-rule cities by definition have populations of more than 5,000 and could easily find someone with the appropriate qualifications to perform food service inspections for their areas. Although there are no statutory educational requirements for health inspectors in the Health and Safety Code, there is also no reason to think a smaller city any more than a larger one would pick someone unqualified for the job. As a matter of fact, a small town would probably be more careful in making appointments than a big one. After all, true accountability comes when city officials know that an outbreak of food poisoning could affect their family and neighbors.

Many small cities simply cannot afford to appoint a local health authority and actually wait years for the Health Department to show up and perform food service inspections. Food service inspections done by an engineer are better than none at all, and a filthy kitchen can be recognized by just about anyone.

**OPPONENTS  
SAY:**

It would be unwise to allow small home-rule cities to appoint engineers to perform food service inspections. An engineer may know very little about food inspection. A food inspector should have expertise in bacteria and food-borne disease outbreaks. Granted, certain small towns may have someone uniquely qualified to perform this job on staff, but others may not, and the effect of this bill would be statewide.

Small home-rule cities already can perform food service inspections under their own jurisdiction if they appoint a local health authority for this purpose. Such an authority would generally be more qualified than a city engineer who may devote little time to learning about sanitation and health issues. Under HB 1012, even cities that have the money to appoint a qualified local health authority may be tempted to save money by allowing the job to be done by an engineer already on staff. Furthermore, the bill would not pertain only to the sanitary conditions of food service establishments — Chapter 341 covers a lot of ground and encompasses not only the sanitary conditions of restaurants but also sanitary conditions and standards concerning garbage, toilets, swimming pools, airlines, boats, drinking water and septic tanks.

**OTHER  
OPPONENTS  
SAY:**

Chapter 437 in the Health and Safety Code directly addresses the regulation of food service establishments. If small cities want special authority to appoint their own health inspectors, they should enforce the provisions of Chapter 437 rather than Chapter 341.1.