

- SUBJECT:** Increasing population threshold for counties to do private road work
- COMMITTEE:** County Affairs — favorable, without amendment
- VOTE:** 7 ayes — Coleman, Farias, Romero, Schubert, Spitzer, Stickland, Wu
0 nays
2 absent — Burrows, Tinderholt
- SENATE VOTE:** On final passage, April 16 — 31-0
- WITNESSES:** (*On House companion bill, HJR 41*)
For — Jim Allison, County Judges and Commissioners Association of Texas; (*Registered, but did not testify:* Don Allred, Oldham County and the Texas Association of Counties; Robert Bass, County Judges and Commissioners Association of Texas; Kaleb McLaurin, Texas and Southwestern Cattle Raisers Association; Rick Thompson, Texas Association of Counties)

Against — (*Registered, but did not testify:* Clarence Clark)
- BACKGROUND:** Texas Constitution, Art. 3, sec. 52f allows a county with a population of 5,000 or less, according to the most recent federal census, to construct and maintain private roads if it imposes a reasonable charge for the work. The Legislature by general law is authorized to limit this authority. Revenue received from private road work may be used only for the construction, including right-of-way acquisition, or maintenance of public roads.
- DIGEST:** SJR 17 would amend Texas Constitution, Art. 3, sec. 52f to increase from 5,000 to 7,500 the maximum population limit for a county to be able to construct and maintain private roads if it imposes a reasonable charge for the work.

The proposal would be presented to the voters at an election on Tuesday, November 3, 2015. The ballot proposal would read: “The constitutional

amendment to authorize counties with a population of 7,500 or less to perform private road construction and maintenance.”

**SUPPORTERS
SAY:**

SJR 17 would update a provision of the Texas Constitution set in 1980 governing the maximum population of a county allowed to construct and maintain private roads. Small counties in Texas have grown since that time, and the Constitution should be updated to reflect population growth over the past 25 years.

This bill would give counties and private landowners more flexibility to update roads that are poorly maintained because many small counties rarely have private contractors available to do the work. Poorly maintained roads create public safety hazards for citizens and emergency services. Private landowners still would have the flexibility to hire a private company instead of the county if they chose to do so.

The bill would include an additional 21 counties that have a population under 7,500. Most of these counties were under the 5,000-person threshold at the time the constitutional provision was passed in 1980. Some of these counties have passed the 5,000-person threshold only because a prison was added that increased the county’s population.

The population cap placed on the counties is necessary to prevent all counties in the state from competing with private industry. However, in the small counties that would be covered by SJR 17, there are no private industries to compete with, and counties should be allowed to deal with minor projects to maintain road safety. It would not be profitable for private companies to travel to small counties for minor projects.

**OPPONENTS
SAY:**

Instead of increasing the maximum population allowed under this article, the population limit should be eliminated. All counties in the state should have the option to construct and maintain their roads as long as private landowners agree and pay the county for the cost of the work.

NOTES:

According to the Legislative Budget Board’s fiscal note, the cost to the state of publishing the resolution would be \$118,681.