

- SUBJECT:** Authorizing counties to operate and fund water and sewer utilities
- COMMITTEE:** County Affairs — favorable, with amendment
- VOTE:** 6 ayes — Ramsay, G. Lewis, B. Brown, Chisum, Salinas, Swinford
0 nays
3 absent — Farabee, Hilderbran, Krusee
- WITNESSES:** For — Robert Eckels, Harris County Judge; Rodrigo Carreon, Fort Bend Interfaith Council; Maria Roberta Garcia, Cummings Road Water District; Hortensia Hernandez, Cummings Road Water Supply Corporation; Grady Prestage
Against — None
On — Jonathan Steinberg, Texas Water Development Board
- DIGEST:** HB 2214, as amended, would allow a county to acquire, own, or operate a water or sewer utility system in an unincorporated area in the same manner and under the same regulations as a municipality under Local Government Code, chapter 402. Counties operating these utilities would be subject to regulation under Water Code, chapter 13, governing water rates and services.
- The bill would allow counties to issue revenue bonds to finance water and sewer utility systems in unincorporated areas. Such a bond would not be considered a debt of the county but only a charge on the revenue pledged, and it could not be considered in determining the county's ability to issue bonds for other purposes.
- The bill would not authorize counties to issue general-obligation bonds payable from property taxes for this purpose, except that a county with a population of 2.8 million or more (i.e., Harris County) and any adjoining county could issue general-obligation bonds with voter approval.
- A county could acquire any interest in property necessary to operate a water or sewer utility through any means available to the county, including eminent

domain. A county could not use eminent domain to acquire property in a city, except that Harris County and adjoining counties could use eminent domain for that purpose with the city's approval.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house.

**SUPPORTERS
SAY:**

HB 2214, as amended, would give counties the authority they need to improve the quality of life, health, and safety of residents living in unincorporated areas that are not served by water and sewer utilities. Some residents do not have adequate access to sewer and water utilities. In some instances, their drinking water comes from substandard wells near inadequate septic systems, and raw sewage runs in ditches and down streets. These types of conditions are a serious threat to public health.

The Texas Water Development Board (TWDB) is overburdened with current projects and cannot be expected to finance small sewer and water utilities across the state. Some residents live in pockets of poverty served neither by municipal utility districts (MUDs) nor by cities, and these areas have no way to finance a water and sewer utility.

HB 2214 would allow counties to solve their own problems locally. Revenue bonds used to build the necessary infrastructure would be repaid by revenues received by the water and sewer utilities. Only viable projects would be funded, as they would undergo review from both the Attorney General's Office and the Bond Review Board. The county also could apply for grants and other aid from state and federal agencies to implement a water supply or sewage system.

Many unincorporated areas do not have the resources to support the formation of MUDs and other kinds of water districts that could supply them with water, and cities may not be interested in annexing these areas.

Providing water and sewer service to these areas would promote needed economic development. With no water or sewer services, even businesses like laundromats and supermarkets cannot operate.

Currently, counties that qualify as economically distressed areas do have the authority to own or operate water and sewer systems and may obtain

financing through the Texas Water Development Board to finance them. HB 2214 would give all counties the specific statutory authority they need to own or operate water or sewer utilities and to issue revenue bonds to finance them. Without the statutory authority to issue bonds for these types of projects, counties would have no way to finance them.

Harris and adjoining counties, which face special problems in their unincorporated areas, would like to use general-obligation bonds to lower the cost of borrowing for these systems, while still using revenue bonds to pay for them. The bill would allow these counties to issue general-obligation bonds for this purpose only if voters agreed. This would lower financing costs of financing the system substantially.

OPPONENTS
SAY:

Traditionally, counties have not been in the business of financing or operating water and sewer utilities, and they do not have expertise in this area. It would be far better for TWDB or some kind of water district to take on the task of providing needed services to unincorporated areas.

The Legislature should not allow Harris and adjoining counties to authorize general-obligation bonds for these kinds of systems, essentially using the taxing authority of the county to benefit very few residents. Water and sewer utilities should be financed only with revenue bonds, repaid by those who would benefit from the services provided.

NOTES:

The committee amendments would exempt Harris County and adjoining counties from the prohibitions against issuing general-obligation bonds for water and sewer utility systems and using eminent domain to acquire property in a city.

The companion bill, SB 821 by Armbrister, passed the Senate on April 14 and was reported favorably, with the same committee amendments, by the House County Affairs Committee on April 28, making it eligible to be considered in lieu of HB 2214.