

SUBJECT: Authorizing higher rates by El Paso Public Service in some colonias

COMMITTEE: Natural Resources — favorable, with amendment

VOTE: 8 ayes — Counts, Yost, Combs, Corte, King, R. Lewis, Puente, Walker

0 nays

1 absent — Stiles

WITNESSES: For — Ed Archuleta, El Paso Public Service Board; Herbert L. Prouty;
Jessica Wales, El Paso Interreligious Sponsoring Organization

Against — None

On — Samuel W. Jones, Texas Natural Resource Conservation
Commission; Tom Brown, Texas Water Development Board

BACKGROUND: Colonias are residential subdivisions usually found in unincorporated areas of counties along the Texas-Mexico border. They often lack sewers, water, electric or gas services and paved roads, even though such services may have been promised to homeowners by a land developer. As many as 340,000 people live in Texas colonias, by some estimates.

The Texas Water Development Board (TWDB) is authorized to issue up to \$250 million in general obligation bonds to help colonias, under the Economically Distressed Areas Program (EDAP), created in 1989. The original program authorized \$100 million in bonds and in 1991 voters approved an additional \$150 million. The federal government has also earmarked \$150 million for infrastructure projects in the border area.

Counties eligible for the program include those bordering Mexico and those with a per capita income averaging 25 percent below, and an unemployment rate averaging 25 percent above, the state average for the prior three years.

An economically distressed area is defined as an area where water supply or sewer services are inadequate to meet minimal needs of residential users, financial resources are inadequate to meet those needs and 80 percent of the dwellings to be served by financial assistance were occupied on June 1, 1989. Alternatively, this definition would also include any area that meets federal criteria for such funds, for purposes of any federal colonia funds deposited in the Water Assistance Fund.

By February 1995 the water board had committed \$205 million for construction projects in the colonia areas. About \$425 million will be needed to meet the needs of the colonia areas, by some estimates.

The Texas Water Code stipulates that political subdivisions that receive EDAP assistance may not charge colonia ratepayers more than customers within the political subdivision pay.

The TWDB uses a grant-to-loan ratio when awarding funds to a political subdivision. The ratio is based on an analysis of the political subdivision's financial condition, impact of the project on operation and maintenance costs and how its rates compare with similar communities' rates. Service to a colonia is not supposed to economically burden the service provider or result in charges to colonia residents that are higher than those of other system ratepayers.

The greater Canutillo service area in Northwest El Paso encompasses approximately 14,207 acres in the upper valley area of El Paso County. The area includes the unincorporated community of Canutillo, the La Tuna Correctional Facility, the village of Vinton and the town of Anthony. This service area excludes the Westway area (the El Paso County Water Control and Improvement District-Westway).

DIGEST:

HB 1824 would authorize the El Paso Water Utilities Public Service Board (PSB) to charge residents in the greater Canutillo service area water and sewer rates higher than those paid by residents of the City of El Paso. The committee amendment would set a ceiling of 115 percent of in-city rates for the first five years of water and sewer service.

HB 1824 would take effect immediately if approved by two-thirds of the membership of each house.

**SUPPORTERS
SAY:**

Local utilities have voiced concern that the rate limitation in current law is deterring the provision of water and wastewater service to a needy area under the EDAP program. Service providers like the El Paso PSB may want to extend service to colonias outside their own political subdivisions, but are prevented from fully recovering their costs. This limits a service provider's incentive to provide service and seek EDAP funds.

The TWDB, in its February 1995 Colonia Report, suggests that the Legislature consider allowing political subdivisions to recover the true cost of providing service to colonia residents.

The City of El Paso, with EDAP help, plans to extend water and wastewater services to the greater Canutillo service area. It costs more to serve areas outside of the city limits, and PSB policy has been to charge rates equal to the cost of service. PSB policy prohibits setting in-city rates so that they subsidize out-of-city rates, and Water Code sec. 16.349 prohibits a rate differentiation for in-city and out-of-city rates. If the City of El Paso cannot charge a rate differential, it will not be able to afford to provide water and sewage service to the colonia area.

Cost-of-service rates for the Canutillo area would be 115 percent of in-city rates, which average about \$10.70 per month for water and wastewater service. At a 115 percent ceiling, out-of-city rates would be approximately \$12.31 per month.

If the colonia area has to rely on private service, rather than the PSB, customer bills in five years, when the rate cap included in the committee amendment would end, would be much higher than the rates that might be set by the PSB. Currently, private service to these areas can charge as much as \$50 per month.

**OPPONENTS
SAY:**

Water Code sec. 16.349, which this legislation would override, was enacted to prevent water and wastewater service providers from charging unreasonably higher rates to areas located outside their political subdivision.

Under this bill the PSB could, after five years, substantially increase the rates for colonia residents, most of whom can barely afford in-city rates.

OTHER
OPPONENTS
SAY:

The limitation of 115 percent of in-city rates might be what it currently costs now to provide service to out-of-city areas, but the limited rate will not cover the cost of debt service should the PSB have to borrow money to fund extension of service to the area. HB 1001 by H. Cuellar, scheduled for second reading on tomorrow's calendar, would allow a political subdivision to charge the higher of the cost of service to an area or 15 percent higher than in-city rates. Unless the El Paso PSB can recover its costs in providing service, colonias still may not be able to get water or sewer service.

NOTES:

The committee amendment would set a maximum rate of 115 percent of in-city rates for the first five years of water or sewer service to the areas served.