

SUBJECT: Excluding unserved property from taxes by water and reclamation districts

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 6 ayes — Counts, Yost, King, R. Lewis, Stiles, Walker
0 nays
3 absent — Combs, Corte, Puente

WITNESSES: For — Patricia Hergenbahn; Robert C. Sneed, Texas Land Title Association
Against — None
On — Leroy Goodson, Texas Water Conservation Association

BACKGROUND: Water districts are local political subdivisions of the state governed by a board of directors. These districts are regulated by the Texas Natural Resource Conservation Commission (TNRCC). The purpose of a water district is to ensure that the district it serves has potable drinking water and wastewater service. To this end, water districts have the power to incur debt, levy taxes, charge for services and expend public funds.

DIGEST: CSHB 546 would allow property unserved by a water district to be excluded from the tax imposed on the property by the district. The bill would only apply to a district that provides potable or treated water supply services or wastewater services and imposes a property tax.

A property owner would be required to file a petition for exclusion with the water district. In order for a property to be excluded, the owner or the owner's predecessor had to have requested that the district provide services to the property and the district have declined to provide services. Additionally, all the taxes the district has levied and assessed must be fully paid.

Once a petition was received the water district would have to decide within 35 days whether to exclude the property from the district or provide services. Within 35 days after its decision to provide services, the district

would have to prepare a plan to carry out the installation of service and would have to begin to carry out that plan no later than 90 days after the plan was presented to the owner.

The owner could appeal to TNRCC the district's decision to provide services. The owner could also apply to TNRCC to exclude the property from the district if the district failed to meet any of the deadlines imposed or the plan for providing services was unreasonable. The TNRCC could exclude the property from taxation if it found that the district's decision to extend services to the property was not reasonable, the plan to do so was not practicable or the district failed to meet its deadlines. The owner could appeal the TNRCC's decision to district court.

For excluded property the owner would still be required to pay a pro rata share of taxes on debt incurred by the district before the date of the exclusion. The taxes paid would be applied exclusively to debt repayment, and the property owner could at any time pay the debt in full without penalty.

This bill would take effect on September 1, 1995.

**SUPPORTERS
SAY:**

CSHB 546 would allow those who are not being served by a water district, but are being taxed by that district, to either receive service or be excluded from having to pay taxes on any further debt incurred by that district. The property owners in water districts who are not being benefitted by water and wastewater services are required to pay taxes to offset the debt that is incurred by the district to finance its projects. Not all of the property owners in a water district want to be connected to water or wastewater service. Many of these property owners have wells for water and septic tanks for wastewater and have no need for the services provided by the district. Even if they will never need these services, they are still required to pay for establishing those services to others in the district.

While it is generally true that taxes are something that everyone must pay, no matter whether they receive the services that the taxes pay for, the taxes imposed by a water district are different. In many areas the services that a water district provides often could be provided by a private company. The

water district is simply taking the place of a private company as a service provider.

Most of those property owners who would petition for an exclusion are already connected their own facilities. It is simply not fair for those owners to have to pay special taxes for services they do not need.

This legislation is not a way to allow people to get out of paying back taxes or avoid paying for debt already incurred by the district while the owner was still subject to that district. Owners would still have to pay their share of any debt the district has already incurred, but would be spared from having to pay for any future debt.

**OPPONENTS
SAY:**

CSHB 546 would create a way for property owners to force a water district into providing service faster than it could prudently do. If everyone in the district were to petition the water district as soon as this legislation becomes effective, the district would either have to begin work on everyone's property simultaneously or have to exclude everyone from the district tax rolls. If the district were to lose any substantial percentage of taxable property from its rolls, those people who are still left receiving service or requesting service would be required to pay a substantially higher price for that service.

There is no comparable exception for other taxes. A property owner cannot request an exemption from taxes simply because that owner will never use the school system. The principle behind public taxes is that they create a public good. In the case of school district property taxes, the greater good is a better educated community. In the case of water district property taxes, the public good is the overall condition of water service in the community. The example of the colonias along the border demonstrates that if there are inadequate water or wastewater services to a community, the whole community can suffer from disease and other problems. If those who do not wish to be served by the district stop paying their taxes for future debt, the district may be unable to provide services to others.

NOTES: The committee substitute would require the water district to *begin* operations to provide service within 90 days rather than to provide service, as in the original version. The committee substitute also added the provisions for appeal to TNRCC.