

SUBJECT: Authorizing counties to remove natural disaster flood water from colonias

COMMITTEE: Border and Intergovernmental Affairs — favorable, without amendment

VOTE: 5 ayes — Gonzales, Flynn, Guillen, Moody, Shelton

0 nays

4 absent — Flores, Leibowitz, Olivo, Raymond

WITNESSES: For — Terri Drefke, Food Bank RGV; AA Tony Peña Jr., Office of Hidalgo County Judge J.D. Salinas; Saul Villarreal, Proyecto Azteca

Against — None

On — Paula Anderson, Texas Department of State Health Services Division for Regulatory Services

BACKGROUND: Local Government Code, ch. 561 governs counties' ability to control flooding and take other actions related to water management.

DIGEST: HB 1579 would add Local Government Code, sec. 561.010, authorizing counties to provide assistance to colonias in removing flood water from private properties, including roads, if the water threatened the colonia's health and safety. The bill would define a colonia as a geographic area consisting of 11 or more dwellings in an identifiable community that:

- had a majority of population earning less than 80 percent of the area median income and that qualified as impoverished in federal indices;
- where water and sewer services were inadequate to meet minimal needs as defined by the Texas Water Development Board; and
- met physical and economic standards determined by the Texas Department of Housing and Community Affairs.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.

**SUPPORTERS  
SAY:**

HB 1579 would authorize counties to provide much-needed flood relief to colonias that are unable to provide such services without assistance. The remnants of Hurricane Dolly, which came through the Rio Grande Valley in summer of 2008, delivered massive amounts of rain in border regions. The hurricane, together with an unusually wet season, caused prolonged flooding in some colonias without public services capable of removing the flood water. While the flood waters stagnated in many of these areas, some counties such as Hidalgo County were capable of removing the flood waters but were not able to do so under current law, which does not provide specific statutory authority for counties to exercise water removal measures on private property.

Colonias are not incorporated and often lack adequate public infrastructure. Roads in these communities often are not maintained or owned by counties. No statutory provision explicitly authorizes counties to remove water from this property, which in the wake of Hurricane Dolly resulted in stagnant water remaining on roads and other property for several months. Stagnant water presents health and safety hazards and acts as a breeding ground for mosquitoes that may carry diseases.

HB 1579 would provide a simple addition to state law to clearly allow counties the option to assist residents in colonias by removing flood water that poses a threat to health and safety. The bill would be permissive, placing no obligations on counties to assist in flood response, but would allow counties to act in a time when their services were needed.

Other private communities in non-incorporated areas possess the resources to remove flood waters without external assistance. HB 1579 would be limited to providing assistance for private property owners in colonias because they often lack the resources necessary to respond to emergencies.

**OPPONENTS  
SAY:**

HB 1579 should extend the power to remove flood waters on private property from a natural disaster to all areas in the jurisdiction of a county, not just colonias. Following a natural disaster, private property owners may not have the resources to remove flooding on their properties. Flood waters can create a health and safety risk that could affect surrounding communities. Because the bill would be permissive, it would not obligate counties to act, but would give them the clear authorization to do so following a flooding emergency.