

SUBJECT: Fees for building inspections in unincorporated areas of border counties

COMMITTEE: County Affairs — committee substitute recommended

VOTE: 8 ayes — Coleman, Marquez, L. Gonzales, Gooden, Hamilton, Paxton, W. Smith, White

0 nays

1 absent — Jackson

WITNESSES: For — Steve Bresnen, El Paso County; Raul Sesin, Hidalgo County; (*Registered, but did not testify*: Jim Allison, County Judges and Commissioners Association of Texas; Tomas J. Arredondo, Hidalgo County; Edward Dion, El Paso County; Deece Eckstein, Travis County Commissioners Court; Roger Harmon, Johnson County; Lonnie Hunt, Houston County; Donald Lee, Texas Conference of Urban Counties; Rick Thompson, Texas Association of Counties (TAC); Monty Wynn, Texas Municipal League)

Against — Ned Muñoz, Texas Association of Builders; (*Registered, but did not testify*: Brooke Bulow, Home Builders Association of Greater Austin; Jimmy Gaines, Texas Landowners Association; Seth Terry, Texas Farm Bureau)

BACKGROUND: Colonias are low-income communities in unincorporated subdivisions along the Texas-Mexico border that lack paved roads and basic services such as water, wastewater treatment, and electricity. The Office of the Attorney General identifies more than 1,800 colonias in 29 border-area counties, and state and federal entities estimate their population to range from 400,000 to 500,000.

In 2009, the Legislature enacted HB 2833 by Marquez to add Local Government Code, subchap. F to allow counties along the Texas-Mexico border to enforce building code standards for new residential construction in unincorporated areas. The bill also authorized inspections, notice requirements, and penalties to enforce the standards.

Local Government Code, sec. 233.153(f) prohibits these counties from charging a fee for the building inspections.

DIGEST: CSHB 1649 would repeal Local Government Code, sec. 233.153(f), and would allow counties to charge a fee of up to \$25 for residential building inspections.

The bill also would allow border counties to require a certificate of compliance with building standards as a precondition of hooking up utility service to the new residence. The county would have five business days to issue the certificate of compliance once the builder or resident or utility provider made a request and showed that the residence met the building codes.

CSHB 1649 would prohibit a utility provider from connecting electricity, gas, water, or sewer services permanently without the certificate of compliance, but it would allow temporary utility connections needed to pass a building inspection.

The bill would apply only to new residential construction begun on or after the bill took effect on September 1, 2011.

**SUPPORTERS
SAY:**

CSHB 1649 would continue the ongoing effort to stop the uncontrolled growth of colonias along the Texas-Mexico border and would give counties additional tools to enforce building code requirements. The bill would grant clear authority to ensure that new residential construction meets building codes before utilities were connected permanently. However, it would allow temporary utility connections to complete construction or to inspect the residence for compliance with the building code.

CSHB 1649 would apply only to the counties that opted into the regulation authorized by HB 2833 last session. It would grant border counties no more authority to require building inspections than they already have.

The fee of no more than \$25 would not be too burdensome and would be a fair charge for filing reports made by third-party building inspectors. The bill would permit flexibility in setting fees so that counties could recover the actual costs from those using the service rather than having the process subsidized by other taxpayers.

Proposed amendments to the bill to clarify the standards required to pass the building inspections and to exempt homeowners in agricultural or open-space land would address property rights-related concerns without creating loopholes that would permit the development of new colonias.

**OPPONENTS
SAY:**

The Legislature should not set restrictions on county fees that could result in unfunded mandates. CSHB 1649 would provide relief from last session's prohibition against charging for these services. However, a larger fee could be necessary to avoid having building inspections subsidized by other county revenues.

**OTHER
OPPONENTS
SAY:**

As written, CSHB 1649 would infringe on the property rights of people building or remodeling their own homes on farms and other open-space property that would be isolated from other residences.

NOTES:

The author is expected to offer two floor amendments. The first would remove the requirement that compliance with the building standards would be "as determined by the county." The second amendment would exempt those building or remodeling their own homes from the inspections process if they built only one home that was at least 1,000 feet from a subdivision.

The substitute differs from the original in provisions that would set the fee at no more than \$25 for the inspection fee, rather than not more than \$125.