

By: Zaffirini

S.B. No. 32

A BILL TO BE ENTITLED

AN ACT

relating to land development, waste management, and the creation of special districts in counties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Section 791.037, Government Code, is amended to read as follows:

Sec. 791.037. SOLID WASTE DISPOSAL SERVICES [~~IN CERTAIN COUNTIES~~].

SECTION 2. Subchapter C, Chapter 361, Health and Safety Code, is amended by adding Section 361.1121 to read as follows:

Sec. 361.1121. MARKING USED OR SCRAP TIRES IN CERTAIN COUNTIES. (a) In this section:

(1) "Generator" includes a fleet operator, a tire recapper or retreader, or a retailer, wholesaler, or manufacturer of whole new or used tires. The term does not include a scrap tire energy recovery facility or a scrap tire recycling facility.

(2) "Retailer" means a person who is engaged in the business of selling or otherwise placing tires in the stream of commerce for use on a vehicle, trailer, or piece of equipment.

(3) "Scrap tire" has the meaning assigned by Section 361.112. The term does not include a tire:

(A) in or on a vehicle that:

(i) has been crushed; or

(ii) is being transported to a registered

1 metal recycling entity or a licensed used automotive parts
2 recycler; or

3 (B) that is mounted on a metal wheel that is
4 intended to be recycled.

5 (4) "Used tire" means a tire that:

6 (A) has been used as a tire on a vehicle, trailer,
7 or piece of equipment;

8 (B) has tire tread at least one-sixteenth inch
9 deep;

10 (C) can still be used for its original intended
11 purpose; and

12 (D) meets the visual and tread depth requirements
13 for used tires established by the Department of Public Safety.

14 (b) This section applies only to a county with a population
15 of 150,000 or less.

16 (c) The commissioners court of a county to which this
17 section applies may establish and enforce a program requiring a
18 generator to mark used or scrap tires handled by the generator.

19 (d) A program established under this section must:

20 (1) assign to each generator a unique identifying mark
21 required to be affixed to or imprinted on each scrap or used tire
22 taken possession of or produced by the generator;

23 (2) allow a customer to retain a scrap or used tire
24 removed from the customer's vehicle during the purchase of a tire
25 from a retailer;

26 (3) require a retailer whose customer retains a scrap
27 or used tire to keep a record of the customer's retention; and

1 (4) include a system to inspect generators for
2 compliance.

3 SECTION 3. Section 364.011(a-2), Health and Safety Code, is
4 amended to read as follows:

5 (a-2) Notwithstanding Subsection (a), a commissioners court
6 may, through a competitive bidding process, contract for the
7 provision of solid waste collection, handling, storage, and
8 disposal in an area of the county located within the
9 extraterritorial jurisdiction of a municipality if[+]

10 [~~(1)~~] the municipality does not provide solid waste
11 disposal services in that area[~~, and~~

12 [~~(2) the county has a population of more than 1.5~~
13 ~~million and at least 70 percent of the population resides in a~~
14 ~~single municipality].~~

15 SECTION 4. Section 364.034(a), Health and Safety Code, is
16 amended to read as follows:

17 (a) A public agency or a county may:

18 (1) offer solid waste disposal service to persons in
19 its territory, including[~~, in the case of a county described by~~
20 ~~Section 364.011(a-2)(2),~~] an area of the county located within the
21 extraterritorial jurisdiction of a municipality if the
22 municipality does not provide solid waste disposal services in that
23 area;

24 (2) require the use of the service by those persons,
25 except as provided by Subsection (a-1);

26 (3) charge fees for the service; and

27 (4) establish the service as a utility separate from

1 other utilities in its territory.

2 SECTION 5. Section 364.0345, Health and Safety Code, is
3 amended to read as follows:

4 Sec. 364.0345. PENALTIES FOR FAILURE TO USE REQUIRED
5 SERVICE IN CERTAIN AREAS. The commissioners court of a county
6 described by Section 364.011(a-2) [~~364.011(a-2)(2)~~] that requires
7 the use of a county solid waste disposal service under Section
8 364.034 in the extraterritorial jurisdiction of a municipality may
9 adopt orders to enforce the requirement, including an order
10 establishing a civil or administrative penalty in an amount
11 reasonable and necessary to ensure compliance with the requirement.

12 SECTION 6. The heading to Chapter 231, Local Government
13 Code, is amended to read as follows:

14 CHAPTER 231. COUNTY ZONING AUTHORITY AND BUFFER REGULATIONS

15 SECTION 7. Chapter 231, Local Government Code, is amended
16 by adding Subchapter N to read as follows:

17 SUBCHAPTER N. BUFFER REGULATIONS

18 Sec. 231.291. DEFINITION. In this subchapter,
19 "agricultural operation" has the meaning assigned by Section
20 251.002, Agriculture Code.

21 Sec. 231.292. BUFFER AREAS. (a) The commissioners court of
22 a county may regulate, by order, land development in the
23 unincorporated area of the county by requiring a buffer area
24 between the land used for a purpose specified by this subsection and
25 residential areas as follows:

26 (1) at least 1,000 feet for heavy industrial or quarry
27 use;

- 1 (2) at least 750 feet for light industrial use; and
2 (3) at least 500 feet for commercial or other business
3 use.

4 (b) This section does not authorize a county to adopt zoning
5 regulations.

6 (c) A buffer area established under this section does not
7 apply to land used for an activity described by Section 81.051,
8 Natural Resources Code, or to an interstate gas pipeline facility
9 as defined by 49 U.S.C. Section 60101.

10 (d) A county regulation under this section does not apply
11 to:

12 (1) a platted residential subdivision in existence on
13 the date the regulation takes effect;

14 (2) an agricultural operation; or

15 (3) an activity or a structure or appurtenance on a
16 tract of land devoted to an agricultural operation.

17 SECTION 8. Subchapter [Z](#), Chapter [232](#), Local Government
18 Code, is amended by adding Section 232.902 to read as follows:

19 Sec. 232.902. MODEL RULES FOR WATER SUPPLY AND SEWER
20 SERVICES IN CERTAIN COUNTIES. (a) This section applies only to a
21 county that contains a groundwater conservation district governed
22 by Chapter [36](#), Water Code.

23 (b) The commissioners court of a county subject to this
24 section may adopt model rules for the subdivision of land in the
25 unincorporated area of the county.

26 (c) Model rules adopted under this section may only regulate
27 standards for the safe and sanitary supply of water and sewer

1 services.

2 (d) Model rules adopted under this section must be in
3 compliance with the model rules adopted under Section 16.343, Water
4 Code.

5 SECTION 9. Sections 352.082(a) and (c), Local Government
6 Code, are amended to read as follows:

7 (a) This section applies only to:

8 (1) the unincorporated area of a county:

9 (A) [~~(1)~~] that is adjacent to a county with a
10 population of 3.3 million or more; and

11 (B) [~~(2)~~] in which a planned community is located
12 that has 20,000 or more acres of land, that was originally
13 established under the Urban Growth and New Community Development
14 Act of 1970 (42 U.S.C. Section 4501 et seq.), and that is subject to
15 restrictive covenants containing ad valorem or annual variable
16 budget based assessments on real property; or

17 (2) the unincorporated area of a county that offers
18 solid waste disposal services to persons in its territory.

19 (c) A person commits an offense if the person intentionally
20 or knowingly burns household refuse outdoors on a lot that is
21 either:

22 (1) located in the unincorporated area of a county
23 described by Subsection (a)(1) and:

24 (A) located in a neighborhood; or

25 (B) [~~(2)~~] smaller than five acres; or

26 (2) located in the unincorporated area of a county
27 described by Subsection (a)(2), if the commissioners court of the

1 county has established a mandatory program under Section 364.034,
2 Health and Safety Code, that benefits the lot.

3 SECTION 10. The Local Government Code is amended by adding
4 Title 15 to read as follows:

5 TITLE 15. REQUIREMENTS FOR CREATION OF CERTAIN LOCAL GOVERNMENTAL
6 ENTITIES

7 SUBTITLE A. MUNICIPAL REQUIREMENTS

8 SUBTITLE B. COUNTY REQUIREMENTS

9 CHAPTER 661. SPECIAL DISTRICTS

10 Sec. 661.001. DEFINITION. In this chapter, "special
11 district" means a political subdivision with a limited geographic
12 area created by local law or under general law for a special
13 purpose.

14 Sec. 661.002. REQUIREMENTS FOR PROPOSED LOCAL LAW
15 DISTRICTS. (a) This section applies only to a special district
16 created by local law.

17 (b) Except as provided by Subsection (c), the commissioners
18 court of a county in which a special district is proposed to be
19 located may by order adopt requirements for the district to ensure
20 that all county territory included in the district will benefit
21 from the creation of the district.

22 (c) The commissioners court of a county may not adopt an
23 order described by Subsection (b) for a special district after the
24 effective date of the Act that creates the district.

25 (d) A special district shall comply with each order adopted
26 under Subsection (b) that applies to the district.

27 Sec. 661.003. APPROVAL BEFORE CREATION OF GENERAL LAW

1 DISTRICTS. (a) This section applies only to a special district
2 created under general law.

3 (b) A special district may not be created unless the
4 commissioners court of each county in which the district is
5 proposed to be located approves the creation of the district after
6 each court holds a hearing described by Subsection (c).

7 (c) On the request of a person proposing to create a special
8 district in a county, the commissioners court of the county shall
9 hold a hearing in which the court accepts evidence on the creation
10 of the district and whether:

11 (1) the creation of the district is feasible,
12 practicable, and necessary; and

13 (2) the district would wholly or partly benefit the
14 county.

15 Sec. 661.004. EXCEPTIONS. This chapter does not apply to a
16 special district if:

17 (1) the creation of the district is initiated by the
18 commissioners court of a county; or

19 (2) other law requires the approval of the
20 commissioners court of a county before the district may be created.

21 SECTION 11. Section 7.107, Water Code, is amended to read as
22 follows:

23 Sec. 7.107. DIVISION OF CIVIL PENALTY; DISPOSITION OF
24 STATE'S PORTION OF CIVIL PENALTY. (a) Except in a suit brought for
25 a violation of Chapter 28 of this code or of Chapter 401, Health and
26 Safety Code, a civil penalty recovered in a suit brought under this
27 subchapter by a local government shall be divided as follows:

1 (1) the first \$4.3 million of the amount recovered
2 shall be divided equally between:

3 (A) the state; and

4 (B) the local government that brought the suit;
5 and

6 (2) any amount recovered in excess of \$4.3 million
7 shall be awarded to the state.

8 (b) One-half of the state's portion of a civil penalty under
9 Subsection (a) shall be deposited to the credit of the special
10 environmental remediation fund created under Section 7.1075.

11 SECTION 12. Subchapter D, Chapter 7, Water Code, is amended
12 by adding Section 7.1075 to read as follows:

13 Sec. 7.1075. SPECIAL ENVIRONMENTAL REMEDIATION FUND; GRANT
14 PROGRAM. (a) The environmental remediation fund is created as a
15 special fund in the state treasury outside the general revenue
16 fund. The fund consists of money deposited to the credit of the
17 fund under Section 7.107. Money in the fund may be appropriated
18 only to the commission for purposes of the grant program
19 established under Subsection (b).

20 (b) From money appropriated from the special environmental
21 remediation fund for that purpose, the commission shall establish
22 and administer a grant program to provide financial assistance to
23 counties and municipalities for environmental remediation
24 projects.

25 (c) The commission shall adopt rules to implement the
26 program established under Subsection (b), including rules
27 establishing:

1 (1) eligibility criteria for grant applicants and
2 environmental remediation projects;

3 (2) grant application procedures;

4 (3) criteria for evaluating grant applications and
5 awarding grants;

6 (4) guidelines related to grant amounts; and

7 (5) procedures for monitoring the use of a grant
8 awarded under Subsection (b) and ensuring compliance with any
9 conditions of the grant.

10 SECTION 13. Section 791.037(b), Government Code, is
11 repealed.

12 SECTION 14. Section 352.082, Local Government Code, as
13 amended by this Act, applies only to an offense committed on or
14 after the effective date of this Act. An offense committed before
15 the effective date of this Act is governed by the law in effect when
16 the offense was committed, and the former law is continued in effect
17 for that purpose. For purposes of this section, an offense was
18 committed before the effective date of this Act if any element of
19 the offense occurred before that date.

20 SECTION 15. Section 661.003, Local Government Code, as
21 added by this Act, applies only to a special district, as defined by
22 Section 661.001, Local Government Code, as added by this Act,
23 created on or after the effective date of this Act.

24 SECTION 16. Section 7.107, Water Code, as amended by this
25 Act, applies only to a violation that occurs on or after the
26 effective date of this Act. A violation that occurs before the
27 effective date of this Act is governed by the law in effect on the

1 date the violation occurred, and the former law is continued in
2 effect for that purpose.

3 SECTION 17. This Act takes effect on the 91st day after the
4 last day of the legislative session.