

By: Darby

H.B. No. 1598

A BILL TO BE ENTITLED

AN ACT

relating to local government and other political subdivision regulation of certain solid waste facilities.

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

SECTION 1. Section 361.095, Health and Safety Code, is amended to read as follows:

Sec. 361.095. LOCAL PERMITS FOR [APPLICANT FOR] HAZARDOUS WASTE MANAGEMENT AND MUNICIPAL SOLID WASTE FACILITIES [FACILITY PERMIT EXEMPT FROM LOCAL PERMIT]. (a) An applicant for a permit under this subchapter is not:

(1) required to obtain a permit for the siting, construction, or operation of a hazardous waste management facility from a local government or other political subdivision of the state; or

(2) required to obtain a permit for the siting, construction, or operation of a municipal solid waste facility from a local government or other political subdivision of the state as a prerequisite to a permit being issued by the commission.

(b) A local government or other political subdivision of the state may not adopt a rule, order, or ordinance that conflicts with or is inconsistent with:

(1) the requirements for hazardous waste management or municipal solid waste facilities as specified by:

(A) the rules of the commission; or

1 (B) [~~by~~] a permit issued by the commission; or
2 (2) the requirements for municipal solid waste
3 facilities under Section 361.011.

4 (c) In an action to enforce a rule, order, or ordinance of a
5 local government or other political subdivision, the burden is on
6 the facility owner or operator or on the applicant to demonstrate
7 conflict or inconsistency with state requirements.

8 (d) The validity or applicability of a rule, order, or
9 ordinance of a local government or other political subdivision may
10 be determined in an action for declaratory judgment under Chapter
11 37, Civil Practice and Remedies Code, if it is alleged that the
12 rule, order, or ordinance, or its threatened application,
13 interferes with, [~~or~~] impairs, or threatens to interfere with or
14 impair, the legal rights or privileges of the plaintiff concerning
15 an issued permit, an application for a permit, or the issuance of a
16 permit for the siting, construction, or operation of a hazardous
17 waste management or municipal solid waste facility.

18 (e) The local government or other political subdivision
19 whose rule, order, or ordinance is being questioned shall be made a
20 party to the action. The commission shall be given written notice
21 by certified mail of the pendency of the action, and the commission
22 may become a party to the action.

23 (f) A declaratory judgment may be rendered even if the
24 plaintiff has requested the commission, the local government or
25 political subdivision, or another court to determine the validity
26 or applicability of the rule, order, or ordinance in question.

27 (g) This section may not be construed to prevent or limit

1 the right of:

2 (1) a county or municipality to exercise the authority
3 granted under Section 363.112 to prohibit the processing or
4 disposal of municipal solid waste;

5 (2) a county to exercise the authority granted under
6 Section 364.012 to prohibit the disposal of municipal solid waste;
7 or

8 (3) a local government or other political subdivision
9 to adopt or enforce a rule, order, or ordinance under the authority
10 of the National Flood Insurance Program governing permits or other
11 approvals for the development of land in areas prone to floods or
12 mudslides.

13 SECTION 2. Section 361.095, Health and Safety Code, as
14 amended by this Act, applies only to an order, ordinance, or other
15 regulation related to the siting or location of a solid waste
16 disposal facility adopted by a local government or other political
17 subdivision after the effective date of this Act. An order,
18 ordinance, or other regulation related to the siting or location of
19 a solid waste disposal facility adopted before the effective date
20 of this Act is governed by the law in effect on the date it was
21 adopted, and the former law is continued in effect for that purpose.

22 SECTION 3. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2023.