

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. This Act takes effect September 1, 2023.