

1-1 By: Darby (Senate Sponsor - Perry) H.B. No. 1598  
 1-2 (In the Senate - Received from the House April 26, 2023;  
 1-3 May 18, 2023, read first time and referred to Committee on Water,  
 1-4 Agriculture & Rural Affairs; May 19, 2023, reported favorably by  
 1-5 the following vote: Yeas 8, Nays 0; May 19, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13			X	
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to local government and other political subdivision  
 1-20 regulation of certain solid waste facilities.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 361.095, Health and Safety Code, is  
 1-23 amended to read as follows:

1-24 Sec. 361.095. LOCAL PERMITS FOR [APPLICANT FOR] HAZARDOUS  
 1-25 WASTE MANAGEMENT AND MUNICIPAL SOLID WASTE FACILITIES [FACILITY  
 1-26 PERMIT EXEMPT FROM LOCAL PERMIT]. (a) An applicant for a permit  
 1-27 under this subchapter is not:

1-28 (1) required to obtain a permit for the siting,  
 1-29 construction, or operation of a hazardous waste management facility  
 1-30 from a local government or other political subdivision of the  
 1-31 state; or

1-32 (2) required to obtain a permit for the siting,  
 1-33 construction, or operation of a municipal solid waste facility from  
 1-34 a local government or other political subdivision of the state as a  
 1-35 prerequisite to a permit being issued by the commission.

1-36 (b) A local government or other political subdivision of the  
 1-37 state may not adopt a rule, order, or ordinance that conflicts with  
 1-38 or is inconsistent with:

1-39 (1) the requirements for hazardous waste management or  
 1-40 municipal solid waste facilities as specified by:

1-41 (A) the rules of the commission; or

1-42 (B) [by] a permit issued by the commission; or

1-43 (2) the requirements for municipal solid waste  
 1-44 facilities under Section 361.011.

1-45 (c) In an action to enforce a rule, order, or ordinance of a  
 1-46 local government or other political subdivision, the burden is on  
 1-47 the facility owner or operator or on the applicant to demonstrate  
 1-48 conflict or inconsistency with state requirements.

1-49 (d) The validity or applicability of a rule, order, or  
 1-50 ordinance of a local government or other political subdivision may  
 1-51 be determined in an action for declaratory judgment under Chapter  
 1-52 37, Civil Practice and Remedies Code, if it is alleged that the  
 1-53 rule, order, or ordinance, or its threatened application,  
 1-54 interferes with, [or] impairs, or threatens to interfere with or  
 1-55 impair, the legal rights or privileges of the plaintiff concerning  
 1-56 an issued permit, an application for a permit, or the issuance of a  
 1-57 permit for the siting, construction, or operation of a hazardous  
 1-58 waste management or municipal solid waste facility.

1-59 (e) The local government or other political subdivision  
 1-60 whose rule, order, or ordinance is being questioned shall be made a  
 1-61 party to the action. The commission shall be given written notice

2-1 by certified mail of the pendency of the action, and the commission  
2-2 may become a party to the action.

2-3 (f) A declaratory judgment may be rendered even if the  
2-4 plaintiff has requested the commission, the local government or  
2-5 political subdivision, or another court to determine the validity  
2-6 or applicability of the rule, order, or ordinance in question.

2-7 (g) This section may not be construed to prevent or limit  
2-8 the right of:

2-9 (1) a county or municipality to exercise the authority  
2-10 granted under Section 363.112 to prohibit the processing or  
2-11 disposal of municipal solid waste;

2-12 (2) a county to exercise the authority granted under  
2-13 Section 364.012 to prohibit the disposal of municipal solid waste;  
2-14 or

2-15 (3) a local government or other political subdivision  
2-16 to adopt or enforce a rule, order, or ordinance under the authority  
2-17 of the National Flood Insurance Program governing permits or other  
2-18 approvals for the development of land in areas prone to floods or  
2-19 mudslides.

2-20 SECTION 2. Section 361.095, Health and Safety Code, as  
2-21 amended by this Act, applies only to an order, ordinance, or other  
2-22 regulation related to the siting or location of a solid waste  
2-23 disposal facility adopted by a local government or other political  
2-24 subdivision after the effective date of this Act. An order,  
2-25 ordinance, or other regulation related to the siting or location of  
2-26 a solid waste disposal facility adopted before the effective date  
2-27 of this Act is governed by the law in effect on the date it was  
2-28 adopted, and the former law is continued in effect for that purpose.

2-29 SECTION 3. This Act takes effect immediately if it receives  
2-30 a vote of two-thirds of all the members elected to each house, as  
2-31 provided by Section 39, Article III, Texas Constitution. If this  
2-32 Act does not receive the vote necessary for immediate effect, this  
2-33 Act takes effect September 1, 2023.

2-34 \* \* \* \* \*