

By: Hinojosa, et al.
(Canales)

S.B. No. 1430

A BILL TO BE ENTITLED

AN ACT

relating to the provision of solid waste disposal services by certain counties.

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

SECTION 1. Section 364.011(a-1), Health and Safety Code, is amended to read as follows:

(a-1) A commissioners court by rule may regulate solid waste collection, handling, storage, and disposal by establishing a mandatory program under Section 364.034 in an area of the county located within the extraterritorial jurisdiction of a municipality if:

(1) the municipality does not provide solid waste disposal services in that area; and

(2) the county~~+~~
~~[(A)]~~ is adjacent to the United Mexican States and either:

(A) ~~[(B)]~~ has a population of less than 300,000~~+~~ and

~~[(C)]~~ contains a municipality with a population of 200,000 or more; or

(B) has a population of more than 400,000 and contains at least two municipalities each of which has a population of 70,000 or more.

SECTION 2. Section 364.034, Health and Safety Code, is

1 amended by amending Subsections (a) and (a-1) and adding
2 Subsections (d-1) and (g-1) to read as follows:

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

4 (1) offer solid waste disposal service to persons in
5 its territory, including, in the case of a county described by
6 Section 364.011(a-1)(2)(B) or (a-2)(2) [~~364.011(a-2)(2)~~], an area
7 of the county located within the extraterritorial jurisdiction of a
8 municipality if the municipality does not provide solid waste
9 disposal services in that area;

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

12 (3) charge fees for the service; and

13 (4) establish the service as a utility separate from
14 other utilities in its territory.

15 (a-1) Notwithstanding Subsection (a)(2), a person is not
16 required to use solid waste disposal services offered by a county,
17 including a county described by Section 364.011(a-1)(2)(B), to
18 persons in an area of the county located within the
19 extraterritorial jurisdiction of a municipality that does not
20 provide solid waste disposal services in that area if:

21 (1) the person contracts for solid waste disposal
22 services with a provider that meets rules adopted by the commission
23 for the regulation of solid waste disposal; or

24 (2) the person is a private entity that contracts to
25 provide temporary solid waste disposal services to a construction
26 site or project by furnishing a roll-off container used to
27 transport construction waste or demolition debris to a facility for

1 disposal or recycling.

2 (d-1) Notwithstanding Section 364.034(d)(2) or Section
3 552.910, Local Government Code, a public or private utility that
4 bills and collects solid waste disposal service fees under a
5 contract under this section with a county described by Section
6 364.011(a-1)(2)(B) may not suspend water or sewer service to a
7 person who is delinquent in the payment of the solid waste disposal
8 service fee.

9 (g-1) This subsection applies only to a county described by
10 Section 364.011(a-1)(2)(B). A person is exempt from the
11 application of a requirement adopted by a county under Subsection
12 (a) if the person is receiving under a contract solid waste disposal
13 services at a level that is the same as or higher than the level of
14 services that otherwise would be required. To qualify for the
15 exemption provided by this subsection, the person must, not later
16 than the first day of the month preceding the beginning of the
17 calendar quarter during which the person intends for the exemption
18 to take effect, provide to the county written documentation
19 acceptable to the county to show that the person is receiving
20 services under the contract. The person who provides solid waste
21 disposal services to a person who qualifies for the exemption shall
22 notify the county that the services under the contract have stopped
23 not later than the 15th day after the date those services are
24 stopped for any reason.

25 SECTION 3. Subchapter C, Chapter 364, Health and Safety
26 Code, is amended by adding Section 364.0343 to read as follows:

27 Sec. 364.0343. NOTICE AND HEARING OF CERTAIN FEES FOR SOLID

1 WASTE DISPOSAL SERVICES. (a) This section applies to a county
2 that:

3 (1) regulates solid waste collection, handling,
4 storage, and disposal by establishing a mandatory program under
5 Section 364.011(a-1)(2)(B); and

6 (2) provides in the program rules that this section
7 applies to the collection of a fee under the program.

8 (b) Before a county may impose the fee described by Section
9 364.034, the commissioners court must hold a public hearing on the
10 proposed fee. Not later than the 10th day before the date of the
11 hearing, the county shall provide notice of the hearing that
12 includes the date, time, and location of the hearing and a statement
13 that an interested citizen of the county may testify at the hearing.

14 The county:

15 (1) shall deliver the notice:

16 (A) by mail to each owner of real property that
17 would be affected by the fee, at the address shown on the most
18 recently certified tax roll of the district;

19 (B) by posting the notice prominently on the
20 county's Internet website from the date the notice is mailed until
21 the public hearing is concluded; and

22 (C) if the county maintains a public account on a
23 social media platform, by posting the notice on the county's social
24 media platform account; and

25 (2) may publish notice of the hearing in a newspaper in
26 addition to delivery of the notice by the methods required under
27 this section.

1 (c) As early as practicable in advance of a public hearing
2 required by this section, the county shall post on the county's
3 Internet website any written agenda and related supplemental
4 written materials provided by the county to the commissioners in
5 advance of the hearing for the commissioners' use during the
6 hearing. The county may exclude written materials that the county
7 attorney certifies are confidential or may be withheld from public
8 disclosure under Chapter 552, Government Code.

9 (d) A public hearing held under this section must be on a
10 weekday that is not a public holiday. At the hearing, the
11 commissioners court shall afford adequate opportunity for
12 proponents and opponents of the proposed fee to present their
13 views.

14 (e) Not later than the 60th day before the scheduled start
15 date of the solid waste disposal services for which a fee is
16 collected under Section 364.034, the county shall mail notice to
17 each landowner whose real property will be benefited by the
18 services. The notice must include:

19 (1) a statement that:

20 (A) the county has adopted an order to require
21 the use of county solid waste disposal services under Section
22 364.034 and to collect a fee; and

23 (B) the landowner may qualify under Section
24 364.034(a-1), (g), or (g-1) for an exemption from the application
25 of the requirement; and

26 (2) instructions for completing and submitting the
27 documentation required for the exemptions under Sections

1 364.034(a-1), (g), and (g-1).

2 SECTION 4. 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; LATE FEES. (a) The commissioners court
6 of a county described by Section 364.011(a-1)(2)(B) or (a-2)(2)
7 [~~364.011(a-2)(2)~~] that requires the use of a county solid waste
8 disposal service under Section 364.034 in the extraterritorial
9 jurisdiction of a municipality may adopt orders to enforce the
10 requirement, including an order establishing a civil or
11 administrative penalty in an amount reasonable and necessary to
12 ensure compliance with the requirement.

13 (b) A county described by Section 364.011(a-1)(2)(B) may
14 not:

15 (1) impose a civil penalty under Subsection (a) of
16 this section on a person in an amount that exceeds 10 percent of the
17 person's delinquent annual service charge; or

18 (2) charge fees for late payment of a fee for a service
19 provided under this section that exceed \$60 in a single year.

20 SECTION 5. Section 791.037(b), Government Code, is amended
21 to read as follows:

22 (b) This section applies only to a county:

23 (1) with a population of more than 1.5 million in which
24 more than 75 percent of the population resides in a single
25 municipality; or

26 (2) that is located adjacent to the United Mexican
27 States, has a population of more than 400,000, and contains at least

1 two municipalities each of which has a population of 70,000 or more.

2 SECTION 6. This Act takes effect September 1, 2023.