

By: Flores, Creighton

S.B. No. 2018

A BILL TO BE ENTITLED

AN ACT

relating to prohibitions on camping in a public place.

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

SECTION 1. Section 364.002(a), Local Government Code, is amended to read as follows:

(a) A local entity may not adopt or enforce a policy under which the entity prohibits or discourages the enforcement of any public camping ban, including prohibiting or discouraging the investigation or enforcement of a violation of a public camping ban.

SECTION 2. Chapter 364, Local Government Code, is amended by adding Sections 364.0021, 364.0022, 364.0023, and 364.0024 to read as follows:

Sec. 364.0021. USE OF PROPERTY FOR CAMPING PURPOSE. A local entity may not permit camping by homeless individuals on a property designated for that purpose until the Texas Department of Housing and Community Affairs has approved a plan for the property under Section 2306.1122, Government Code.

Sec. 364.0022. COMPLAINTS AND REPORTING. (a) A local entity shall develop and implement a process that allows a person to file a complaint with the local entity regarding a violation of a public camping ban.

(b) Each year, a local entity shall report to the attorney general, in the form and manner prescribed by the attorney general,

1 the following information:

2 (1) the number of complaints received as part of the
3 local entity's complaint process implemented under Subsection (a);

4 (2) the disposition of each complaint, including
5 court-ordered diversion programs;

6 (3) the number of arrests made or citations in lieu of
7 arrest issued for a violation of a public camping ban; and

8 (4) any other information related to public camping
9 bans as required by the attorney general.

10 Sec. 364.0023. ENFORCEMENT REQUIRED BY LOCAL ENTITY;
11 DECLARATION AS "VIOLATING LOCAL ENTITY." (a) For each complaint
12 received by a local entity under Section 364.0022(a), the local
13 entity shall take an action to resolve the complaint not later than
14 the 90th day after the date the complaint is received.

15 (b) If the local entity does not take the required action
16 before the end of the period prescribed by Subsection (a), the
17 attorney general shall issue a written declaration that the local
18 entity is a "violating local entity" for the state fiscal year in
19 which the end of the period prescribed by Subsection (a) occurs.
20 The attorney general shall send a copy of the written declaration to
21 the local entity and the comptroller.

22 Sec. 364.0024. ENFORCEMENT BY DEPARTMENT OF PUBLIC SAFETY
23 AND ATTORNEY GENERAL; RECOVERY OF COSTS. (a) The attorney general
24 or the Department of Public Safety may enforce Section 48.05, Penal
25 Code.

26 (b) For each enforcement action described by Subsection (a)
27 that occurs within the boundaries of a local entity that is a

1 "violating local entity," the attorney general or Department of
2 Public Safety may recover any costs associated with the enforcement
3 action from the local entity in accordance with Section 321.5026 or
4 323.5026, Tax Code, as applicable.

5 SECTION 3. Section 48.05, Penal Code, is amended by
6 amending Subsection (i) and adding Subsection (i-1) to read as
7 follows:

8 (i) Subject to Subsection (i-1), if ~~if~~ the person is
9 arrested or detained solely for an offense under this section, a
10 peace officer enforcing this section shall ensure that all of the
11 person's personal property not designated as contraband under other
12 law is preserved by:

13 (1) permitting the person to remove all the property
14 from the public place at the time of the person's departure; or

15 (2) taking custody of the person's nonhazardous
16 personal property and allowing the person to retrieve the property
17 after the person is released from custody.

18 (i-1) Subsection (i) does not apply to personal property
19 that is a permanent or semipermanent structure unless the structure
20 is a camping tent.

21 SECTION 4. Subchapter F, Chapter 321, Tax Code, is amended
22 by adding Section 321.5026 to read as follows:

23 Sec. 321.5026. DISTRIBUTION OF TRUST FUNDS TO MUNICIPALITY
24 THAT FAILS TO ACT ON PUBLIC CAMPING BAN COMPLAINT. (a) In this
25 section, "violating local entity" means a municipality declared by
26 the attorney general to be a violating local entity for a state
27 fiscal year under Section 364.0023, Local Government Code.

1 (b) Notwithstanding Section 321.502, the comptroller may
2 not, after the date the comptroller receives notice that a
3 municipality is a violating local entity for a state fiscal year,
4 send to the municipality its share of the taxes collected by the
5 comptroller under this chapter during the state fiscal year until
6 the comptroller makes any deduction required by Subsection (c).

7 (c) Before sending a violating local entity its share of the
8 taxes collected by the comptroller under this chapter during a
9 state fiscal year, the comptroller shall deduct the amount reported
10 to the comptroller for the violating local entity under Subsection
11 (d) and credit that deducted amount to the general revenue fund.
12 Money credited to the general revenue fund under this subsection
13 may be appropriated only to the attorney general or the Department
14 of Public Safety, as applicable.

15 (d) Not later than August 1 of each state fiscal year, the
16 attorney general and the Department of Public Safety shall report
17 to the comptroller the amount of money the attorney general or
18 department spent in that state fiscal year taking enforcement
19 actions described by Section 364.0024, Local Government Code, in
20 each violating local entity. The attorney general and the
21 department shall make a reasonable estimate of the amount spent
22 after the date the report is made until the end of the state fiscal
23 year based on amounts spent before the date the report is made.

24 SECTION 5. Subchapter F, Chapter 323, Tax Code, is amended
25 by adding Section 323.5026 to read as follows:

26 Sec. 323.5026. DISTRIBUTION OF TRUST FUNDS TO COUNTY THAT
27 FAILS TO ACT ON PUBLIC CAMPING BAN COMPLAINT. (a) In this section,

1 "violating local entity" means a county declared by the attorney
2 general to be a violating local entity for a state fiscal year under
3 Section 364.0023, Local Government Code.

4 (b) Notwithstanding Section 323.502, the comptroller may
5 not, after the date the comptroller receives notice that a county is
6 a violating local entity for a state fiscal year, send to the county
7 its share of the taxes collected by the comptroller under this
8 chapter during the state fiscal year until the comptroller makes
9 any deduction required by Subsection (c).

10 (c) Before sending a violating local entity its share of the
11 taxes collected by the comptroller under this chapter during a
12 state fiscal year, the comptroller shall deduct the amount reported
13 to the comptroller for the violating local entity under Subsection
14 (d) and credit that deducted amount to the general revenue fund.
15 Money credited to the general revenue fund under this subsection
16 may be appropriated only to the attorney general or the Department
17 of Public Safety, as applicable.

18 (d) Not later than August 1 of each state fiscal year, the
19 attorney general and the Department of Public Safety shall report
20 to the comptroller the amount of money the attorney general or
21 department spent in that state fiscal year taking enforcement
22 actions described by Section 364.0024, Local Government Code, in
23 each violating local entity. The attorney general and the
24 department shall make a reasonable estimate of the amount spent
25 after the date the report is made until the end of the state fiscal
26 year based on amounts spent before the date the report is made.

27 SECTION 6. Section 48.05, Penal Code, as amended by this

1 Act, applies only to an offense committed on or after the effective
2 date of this Act. An offense committed before the effective date of
3 this Act is governed by the law in effect on the date the offense was
4 committed, and the former law is continued in effect for that
5 purpose. For purposes of this section, an offense was committed
6 before the effective date of this Act if any element of the offense
7 occurred before that date.

8 SECTION 7. Sections 321.5026 and 323.5026, Tax Code, as
9 added by this Act, apply only to a distribution of sales and use tax
10 revenue to a municipality or county in a state fiscal year that
11 begins on or after the effective date of this Act.

12 SECTION 8. Not later than December 1, 2023, each local
13 entity, as defined by Section 364.001, Local Government Code, shall
14 develop and implement the complaint process required by Section
15 364.0022, Local Government Code, as added by this Act.

16 SECTION 9. Not later than January 1, 2024, the attorney
17 general by rule shall prescribe the form and manner for reporting as
18 required by Section 364.0022, Local Government Code.

19 SECTION 10. This Act takes effect September 1, 2023.