

BILL ANALYSIS

C.S.H.B. 1516
By: McClendon
Environmental Regulation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The attorney general recently released an opinion regarding the authority of a county to provide mandatory solid waste disposal services, by contract or otherwise, in an area of the county that is within the extraterritorial jurisdiction of a municipality but that is not receiving such service from the municipality. Interested parties have raised concerns regarding some apparent ambiguities in regard to this authority and seek clarification relating to a county's ability to contract with a municipality to provide services in its extraterritorial jurisdiction. The parties emphasize that comparable legislation introduced this session broadly addresses these problems but C.S.H.B. 1516, in addition to other issues, addresses these ambiguities with respect to counties with larger populations.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1516 amends the Health and Safety Code to authorize the commissioners court of a county by rule to regulate solid waste collection, handling, storage, and disposal by establishing a mandatory solid waste disposal service program in an area of the county located within the extraterritorial jurisdiction of a municipality if the municipality does not provide solid waste disposal services in that area and if the county has a population of more than 1.5 million in which at least 75 percent of the population resides in a single municipality. The bill exempts from the required use of such solid waste disposal services a person who contracts for such services with a provider that meets rules adopted by the Texas Commission on Environmental Quality (TCEQ) for the regulation of solid waste disposal.

C.S.H.B. 1516 amends the Government Code to authorize a county with a population of more than 1.5 million in which more than 75 percent of the population resides in a single municipality to contract with a municipality to provide, directly or through a contract with another entity, a mandatory program for solid waste disposal services in an area of the county located within the extraterritorial jurisdiction of the municipality if the municipality does not provide solid waste disposal services in that area. The bill makes a mandatory solid waste disposal program provided under such a contract inapplicable to a private entity that contracts to provide temporary solid waste disposal services to a construction site or project by furnishing a roll-off container used to transport construction waste or demolition debris to a facility for disposal or recycling, but specifies that this exception does not affect the authority of a governmental entity to pursue certain actions under the Texas Litter Abatement Act to address illegal dumping. The bill requires such a contract to include provisions regarding the termination of the county's provision of service on the occurrence of certain contingencies, including the annexation of the area covered by the contract by the municipality or the provision of service to the area by the municipality.

C.S.H.B. 1516 amends the Property Code, effective January 1, 2014, to require a landlord of two

or more leased dwellings located in the extraterritorial jurisdiction of a municipality located in a county with a population of more than 1.5 million in which at least 75 percent of the population resides in a single municipality to notify the county that the landlord has two or more such dwellings and provide the addresses of the dwellings and the landlord to the county and to provide solid waste services for the collection, transportation, and disposal of garbage and rubbish from each dwelling by using the solid waste disposal services offered by the county, if any, or by contracting for the services with a provider that meets rules adopted by TCEQ for the regulation of solid waste disposal. The bill requires the landlord, on request by the county, to provide the county with documentation showing that solid waste services for each dwelling are being provided. The bill makes void a provision of a lease that purports to waive a right or to exempt a party from a liability or duty under these provisions relating to required solid waste services. The bill authorizes the commissioners court of the county to adopt orders to enforce such provisions, including an order establishing a civil or administrative penalty.

EFFECTIVE DATE

Except as otherwise provided, on passage, or, if the bill does not receive the necessary vote, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1516 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 364.011, Health and Safety Code, is amended.

SECTION 2. Section 364.034(a), Health and Safety Code, is amended to read as follows:

- (a) A public agency or a county may:
- (1) offer solid waste disposal service to persons in its territory, including, in the case of a county described by Section 364.011(a-1)(2), an area of the county located within the extraterritorial jurisdiction of a municipality if the municipality does not provide solid waste disposal services in that area;
 - (2) require the use of the service by those persons;
 - (3) charge fees for the service; and
 - (4) establish the service as a utility separate from other utilities in its territory.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Section 364.034, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

- (a) A public agency or a county may:
- (1) offer solid waste disposal service to persons in its territory, including, in the case of a county described by Section 364.011(a-1)(2), an area of the county located within the extraterritorial jurisdiction of a municipality if the municipality does not provide solid waste disposal services in that area;
 - (2) require the use of the service by those persons, except as provided by Subsection (a-1);
 - (3) charge fees for the service; and
 - (4) establish the service as a utility separate from other utilities in its territory.
- (a-1) Notwithstanding Subsection (a)(2), a person is not required to use solid waste disposal services offered by a county to persons in an area of the county located within the extraterritorial jurisdiction of a municipality that does not provide such services in that area if the person contracts

for such services with a provider that meets rules adopted by the commission for the regulation of solid waste disposal.

SECTION 3. Subchapter C, Chapter 791, Government Code, is amended by adding Section 791.036 to read as follows:

Sec. 791.036. SOLID WASTE DISPOSAL SERVICES IN CERTAIN COUNTIES. (a) In this section, "solid waste" has the meaning assigned by Section 361.003, Health and Safety Code.

(b) This section applies only to a county with a population of more than 1.5 million in which more than 75 percent of the population resides in a single municipality.

(c) A county may contract with a municipality to provide, directly or through a contract with another entity, a mandatory program for solid waste disposal services in an area of the county located within the extraterritorial jurisdiction of the municipality if the municipality does not provide solid waste disposal services in that area.

(d) A mandatory solid waste disposal program provided under a contract under this section does not apply to a private entity that contracts to provide temporary solid waste disposal services to a construction project.

SECTION 3. Subchapter C, Chapter 791, Government Code, is amended by adding Section 791.036 to read as follows:

Sec. 791.036. SOLID WASTE DISPOSAL SERVICES IN CERTAIN COUNTIES. (a) In this section, "solid waste" has the meaning assigned by Section 361.003, Health and Safety Code.

(b) This section applies only to a county with a population of more than 1.5 million in which more than 75 percent of the population resides in a single municipality.

(c) A county may contract with a municipality to provide, directly or through a contract with another entity, a mandatory program for solid waste disposal services in an area of the county located within the extraterritorial jurisdiction of the municipality if the municipality does not provide solid waste disposal services in that area.

(d) A mandatory solid waste disposal program provided under a contract under this section does not apply to a private entity that contracts to provide temporary solid waste disposal services to a construction site or project by furnishing a roll-off container used to transport construction waste or demolition debris to a facility for disposal or recycling.

(e) Subsection (d) does not affect the authority of a governmental entity to pursue actions under Subchapter B, Chapter 365, Health and Safety Code, to address illegal dumping.

(f) A contract under this section must include provisions regarding the termination of the county's provision of service on the occurrence of certain contingencies, including the annexation of the area covered by the contract by the municipality or the provision of service to the area by the municipality.

SECTION 4. Subchapter A, Chapter 92, Property Code, is amended by adding Section 92.0071 to read as follows:

Sec. 92.0071. SOLID WASTE SERVICES REQUIRED IN UNINCORPORATED AREAS OF CERTAIN COUNTIES. (a) In this section, "garbage" and "rubbish" have

SECTION 4. Subchapter A, Chapter 92, Property Code, is amended by adding Section 92.0071 to read as follows:

Sec. 92.0071. SOLID WASTE SERVICES REQUIRED IN CERTAIN AREAS OF CERTAIN COUNTIES. (a) In this section, "garbage" and "rubbish" have the meanings

the meanings assigned by Section 361.003, Health and Safety Code.

(b) This section applies only to a county with a population of more than 1.5 million in which at least 75 percent of the population resides in a single municipality.

(c) A landlord of two or more leased dwellings located in the **unincorporated area of a county** must:

(1) notify the county that the landlord has two or more leased dwellings located in the **unincorporated area of a county** and provide the addresses of the dwellings and the landlord to the county; and

(2) provide solid waste services for the collection, transportation, and disposal of garbage and rubbish from each dwelling.

(d) On request by the county, the landlord must provide the county with documentation showing that solid waste services for each dwelling are being provided.

(e) A provision of a lease that purports to waive a right or to exempt a party from a liability or duty under this section is void.

(f) The commissioners court of a county may adopt orders to enforce this section, which may include establishing a civil or administrative **fine**.

SECTION 5. (a) Except as provided by Subsection (b) of this section, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

(b) Section 92.0071, Property Code, as added by this Act, takes effect January 1, 2014.

assigned by Section 361.003, Health and Safety Code.

(b) This section applies only to a county with a population of more than 1.5 million in which at least 75 percent of the population resides in a single municipality.

(c) A landlord of two or more leased dwellings located in the **extraterritorial jurisdiction of a municipality** located in the county must:

(1) notify the county that the landlord has two or more leased dwellings located in the **extraterritorial jurisdiction of the municipality** and provide the addresses of the dwellings and the landlord to the county; and

(2) provide solid waste services for the collection, transportation, and disposal of garbage and rubbish from each dwelling **by using the solid waste disposal services offered by the county, if any, or by contracting for the services with a provider that meets rules adopted by the Texas Commission on Environmental Quality for the regulation of solid waste disposal.**

(d) On request by the county, the landlord must provide the county with documentation showing that solid waste services for each dwelling are being provided.

(e) A provision of a lease that purports to waive a right or to exempt a party from a liability or duty under this section is void.

(f) The commissioners court of the county may adopt orders to enforce this section, including an order establishing a civil or administrative **penalty**.

SECTION 5. Same as introduced version.