By:  Darby H.B. No. 2723

A BILL TO BE ENTITLED

AN ACT

relating to the authority of local governments or other political subdivisions.

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

SECTION 1.  Subchapter C, Chapter 361, Health and Safety Code, Section 361.095 is amended to read as follows:

Sec. 361.095.  APPLICANT FOR HAZARDOUS WASTE MANAGEMENT OR MUNICIPAL SOLID WASTE FACILITY PERMIT EXEMPT FROM LOCAL PERMIT.

(a)  An applicant for a permit under this subchapter is not required to obtain a permit for the siting, construction, or operation of a hazardous waste management or municipal solid waste facility from a local government or other political subdivision of the state.

(b)  A local government or other political subdivision of the state may not adopt a rule or ordinance that conflicts with or is inconsistent with the requirements for hazardous waste management or municipal solid waste facilities as specified by the rules of the commission or by a permit issued by the commission.

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

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

(e)  The local government or other political subdivision whose rule or ordinance is being questioned shall be made a party to the action. The commission shall be given written notice by certified mail of the pendency of the action, and the commission may become a party to the action.

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

SECTION 2.  This Act takes effect September 1, 2019.