

BILL ANALYSIS

Senate Research Center
87R2472 NC-F

S.B. 46
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Local Government
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas needs approximately 9,000 additional shelter beds to serve persons experiencing homelessness. Some religious organizations that want to help fill this gap in services are prohibited from doing so by local zoning ordinances. These zoning ordinances not only prevent persons from accessing shelter, but also violate the federal Religious Land Use and Institutionalized Persons Act (RLUIPA), which bans land use restrictions that burden religious exercise. The United States Department of Justice has stated that, for the purpose of RLUIPA, the definition of religious exercise includes providing social services.

S.B. 46 would preempt local zoning ordinances that restrict religious organizations' ability to operate a shelter, unless the ordinance is narrowly tailored to serve a compelling public health concern. This change would ensure more Texans have access to temporary housing, protect the religious freedoms of persons for whom serving the less fortunate is an essential element of their faith, and bring Texas into compliance with federal law.

As proposed, S.B. 46 amends current law relating to the municipal regulation of housing for homeless individuals provided by a religious organization.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 229, Local Government Code, by adding Subchapter C, as follows:

SUBCHAPTER C. REGULATION OF HOUSING PROVIDED BY RELIGIOUS ORGANIZATIONS

Sec. 229.071. **DEFINITIONS.** Defines "homeless individual" and "religious organization."

Sec. 229.072 **CERTAIN ZONING OR LAND USE REGULATIONS PROHIBITED.** Prohibits a municipal zoning or land use ordinance from prohibiting a religious organization from using its facility as housing for homeless individuals or having housing units on its property for homeless individuals.

Sec. 229.073. **OTHER REGULATIONS PERMITTED.** (a) Authorizes a municipality to adopt or enforce an ordinance that imposes reasonable health and safety regulations on housing for homeless individuals provided on a religious organization's property.

(b) Authorizes a municipality to require a religious organization that provides housing for homeless individuals on its property to provide electricity and heat for each housing unit and at least one kitchen and bathroom on the property that may be used by the individuals.

(c) Provides that, for purposes of this section, "housing" does not include temporary housing provided during a life-threatening emergency or for natural disaster relief.

SECTION 2. Effective date: September 1, 2021.