

By: Darby

H.B. No. 631

Substitute the following for H.B. No. 631:

By: Kuempel

C.S.H.B. No. 631

A BILL TO BE ENTITLED

1 AN ACT
2 relating to local government and other political subdivision
3 regulation of certain solid waste facilities.

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

5 SECTION 1. The heading to Section 361.095, Health and
6 Safety Code, is amended to read as follows:

7 Sec. 361.095. LOCAL PERMITS FOR [APPLICANT FOR] HAZARDOUS
8 WASTE MANAGEMENT AND MUNICIPAL SOLID WASTE FACILITIES [FACILITY
9 PERMIT EXEMPT FROM LOCAL PERMIT].

10 SECTION 2. Section 361.095, Health and Safety Code, is
11 amended by adding Subsections (a-1) and (g) and amending
12 Subsections (b), (c), and (d) to read as follows:

13 (a-1) An applicant for a permit under this subchapter is not
14 required to obtain a permit for the siting, construction, or
15 operation of a municipal solid waste facility from a local
16 government or other political subdivision of the state as a
17 prerequisite to a permit being issued by the commission.

18 (b) A local government or other political subdivision of the
19 state may not adopt a rule, order, or ordinance that conflicts with
20 or is inconsistent with:

21 (1) the requirements for hazardous waste management or
22 municipal solid waste facilities as specified by:

23 (A) the rules of the commission; or

24 (B) [by] a permit issued by the commission; or

1 (2) the requirements for municipal solid waste
2 facilities under Section 361.011.

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

7 (d) The validity or applicability of a rule, order, or
8 ordinance of a local government or other political subdivision may
9 be determined in an action for declaratory judgment under Chapter
10 37, Civil Practice and Remedies Code, if it is alleged that the
11 rule, order, or ordinance, or its threatened application,
12 interferes with, ~~or~~ impairs, or threatens to interfere with or
13 impair, the legal rights or privileges of the plaintiff concerning
14 an issued permit, an application for a permit, or the issuance of a
15 permit for the siting, construction, or operation of a hazardous
16 waste management or municipal solid waste facility.

17 (g) This section may not be construed to prevent or limit
18 the right of:

19 (1) a county or municipality to exercise the authority
20 granted under Section 363.112 to prohibit the processing or
21 disposal of municipal solid waste;

22 (2) a county to exercise the authority granted under
23 Section 364.012 to prohibit the disposal of municipal solid waste;
24 or

25 (3) a local government or other political subdivision
26 to adopt or enforce a rule, order, or ordinance under the authority
27 of the National Flood Insurance Program governing permits or other

1 approvals for the development of land in areas prone to floods or
2 mudslides.

3 SECTION 3. This Act takes effect September 1, 2021.