

PUBLIC COMMENTS

HB 610

HOUSE COMMITTEE ON JUDICIARY & CIVIL JURISPRUDENCE

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Hearing Date: March 24, 2021 8:00 AM

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Mark Kosiara

MK Endeavors

Houston, TX

I strongly oppose HB 610. I don't support legislation that discriminates against people, which I feel this Bill does. Please don't support this bill.

Mike Anglin

self

Dallas, TX

Vote NO. There is no reason to reverse the decisions of city and county lawmakers in protecting civil liberties merely because the Texas Legislature has not yet done so. This is a bad, mean-spirited bill.

Judy Ward

Self--financial advsor

RICHARDSON, TX

This very broad bill seems designed to deter cities from passing their own ordinances to provide local solutions to local problems. Specifically, It will have an extremely adverse impact on ordinances passed by 46 cities across Texas designed to protect their citizens from predatory lenders. Since the state has thus far not passed controls on entities except to a very limited degree, cities have taken it upon themselves to try to support their constituents and help them not get dragged into a never ending cycle of debt. This bill could also have an awful impact on localities to pass ordinances regarding any other topic that locality deems important due to the wording contained in the bill. This is a horrible bill, a bad idea for Texans and an awful precedent for legislators to move forward. Please do NOT move this bill any further in the process but stop it in it's tracks. Simple rewording is not sufficient. This bill must stop NOW!

Jonathan Lewis, Senior Policy Analyst

Every Texan

Austin, TX

HB 610 is bad news for every Texan.

This recklessly broad legislation would have sweeping effects on communities across every corner of the state. In addition to being an attack on nondiscrimination protections, safeguards for workers (including the millions of frontline workers who continue to risk their health to keep businesses open), and consumer protections. This bill would remove the most basic of public health protections.

These very essential public health protections prevent against sanitary nuisances, meaning conditions injurious to health. Examples include improperly treated human waste, garbage, or dead animals, improperly built septic tanks, permitting discharge of waste into ground waters, air, water, or ground pollution, and objectionable odors. Local governments also regulate smoking in

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restaurants, hotels, places of employment, and public spaces.

The bill would void hundreds of local regulations that Texans across the state have determined to be essential to creating an environment that supports growth and well-being of their community. The policies that would be made unenforceable by this legislation range from quality of life protections, consumer protections, to even health and safety protections. This legislation tells Texans their local concerns and values are not valid and diminishes local democracy. Local governments are accessible to citizens and meet to consider needs of their community year round. In the absence of action at the State Legislature, locally elected officials need to maintain the ability to create regulations that meet the needs of their communities.

We cannot allow the apatite of State leaders to take away power from local leaders to destroy the basic protections we expect from our government. These protections make Texas communities the thriving places that draw residents from all over the country.

Please vote no on HB 610 for the wellbeing of every Texan.

Ryan Adams

City of Denton, TX

Denton, TX

Thank you for allowing the City of Denton to provide written testimony regarding H.B. 610.

The bill would authorize a wide spectrum of state license holders, whether person or entity, to bring legal action against a city to enjoin the enforcement of a local law that:

1. establishes requirements for, imposes restrictions on, or otherwise regulates the occupation or business activity of the license holder in a manner that is more stringent than the requirements, restrictions, and regulations imposed on the license holder under state law; or
2. results in an adverse economic impact on the license holder

Under this bill, almost any state licensee could claim a local regulation has an adverse economic impact or is more stringent than the requirements imposed under state law. For instance, under this bill a restaurant with a license from the Texas Alcoholic Beverage Commission could attempt to enjoin the enforcement of a city's health code regulations. A state-licensed daycare could seek to enjoin city building codes that impose more stringent fire regulations than provided under state law. A cosmetologist could seek to enjoin the city parking regulations.

More concerning, is the ambiguous element of whether this bill would pre-empt the ability of cities to charge a reasonable fee related to permitting since that could be claimed to adversely impact the license holder. These fees, charged to developers and property owners who benefit from the increase in value of their property and are considered a cost of business, would be charged to taxpayers at large.

This bill, as filed, is overbroad and has the potential to have unforeseen impacts across a wide variety of city ordinances and services. It would also thwart cities from passing ordinances that address community concerns. Regulations with broad community support, such as those for sexually oriented businesses or predatory payday loan establishments, would be exceedingly more difficult to enforce at a local level.

For these reasons, the City of Denton opposes H.B. 610. Thank you for your leadership and for taking into consideration the City of Denton's position.

Tiger Hill

Self

San Antonio, TX

I want to express my opposition for HB 610. This bill will directly impact our cities' Non-Discrimination Ordinances. It is important that we allow our Texas cities the freedom to hold NDOs in place for the citizens who deem them important and

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necessity to their community.

Bruce Archer, Mayor

City of Mesquite

Mesquite, TX

On behalf of the many Texans who have been financially abused by payday lending businesses, I implore you to vote against House Bill 610. The bill, among other damaging effects, seeks to preempt local regulations and effectively protect the predatory lending practices of payday loan businesses. I want to focus on providing more information on how specifically payday lending is a major concern.

The regulation of payday lending businesses is an important issue for Mesquite residents. Beginning in late 2014, our residents petitioned the City Council to enact local regulations on payday lending businesses. We heard countless stories of individuals who became ensnared in the confusing loan terms of payday lenders preying upon those in vulnerable financial situations. In December 2015, the Mesquite City Council passed an ordinance that strengthened the regulations on payday lending businesses. The ordinance requires that the businesses register with the City, maintain a record of all loans made in the previous three years and provide enhanced financial education/assistance programs for customers. These requirements do not impose an excessive burden on these businesses; they merely seek to provide additional protections for customers who may need to utilize their products.

The Mesquite City Council, along with many other councils throughout the state, passed a payday lending ordinance at the request of our residents for the protection of our residents. House Bill 610 elevates protecting predatory lending practices above our residents. The City of Mesquite is against this bill and ask that this committee does not push it forward in the legislative process as it will have detrimental effects to our residents and the City.

Monty Wynn

Texas Municipal League

Austin, TX

March 24, 2021

The Honorable Jeff Leach  
Chairman, Judiciary and Civil Jurisprudence  
Texas House of Representatives  
P.O. Box 2910  
Austin, TX 78768-2910

Dear Chairman Leach:

I am writing on behalf of the Texas Municipal League to express our opposition to H.B. 610 by Swanson. The bill would authorize a person who, or entity that, holds a state license in order to practice the individual's occupation or conduct the entity's business to bring legal action against a city to enjoin the enforcement of a local law that: (1) establishes requirements for, imposes restrictions on, or otherwise regulates the occupation or business activity of the license holder in a manner that is more stringent than the requirements, restrictions, and regulations imposed on the license holder under state law; or (2) results in an adverse economic impact on the license holder.

A single state agency, the Texas Department of Licensing and Regulation, licenses over 25 individual occupations. Add to all the licensed individuals the entities that must be licensed by state agencies (such as the Texas Commission on Environmental Quality) in order to operate in Texas and one begins to see the astounding breadth of this bill.

Under this bill, almost any state-licensed individual (e.g., realtor) or business (e.g. pest control) that is required to comply with almost any city regulation (e.g., parking) can claim that the regulation has some adverse economic impact on them or is more stringent than the requirements imposed on them under state law. For instance, under this bill a restaurant with a license from the Texas Alcoholic Beverage Commission could attempt to enjoin the enforcement of a city's health code regulations. A state-

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licensed daycare could seek to enjoin city building codes that impose more stringent fire regulations than provided under state law.

Even if the bill were narrowed to focus on so-called “dual licensing requirements” it would present serious public health and safety concerns. For example, under this bill:

1. Sexually oriented businesses could seek to enjoin city regulations, such as “no touch” ordinances, if the business also obtains a license from the Texas Alcoholic Beverage Commission.
2. State-licensed contractors could seek to enjoin city contractor registration programs that work to protect elderly residents from unscrupulous contractors that sometimes descend upon a city after a disaster.
3. Businesses that obtain a license from the Texas Alcoholic Beverage Commission to sell alcohol could seek to enjoin a city ordinance that regulates alcohol sales near churches and schools designed to protect youth.

Thank you for your consideration and please do not hesitate to contact me with questions about the vital role city government plays in Texas.

Sincerely,

Monty Wynn  
Director, Grassroots and Legislative Services  
Texas Municipal League

Rebecca Marques  
Human Rights Campaign  
Austin, TX

Dear Chair Leach and Members of the Committee,

On behalf of the Human Rights Campaign’s more than three million members and supporters, I write to you regarding your consideration of H.B. 610. While this law may seem neutral on its face, it would undermine the applicability of local non-discrimination ordinances by allowing licensees to sue cities whose ordinances go beyond state law to prohibit discrimination in, for example, employment or places of public accommodation. For that reason, we ask you to reject this harmful piece of legislation.

We will send a full written testimony in PDF for to committee members. We urge you to vote NO on HB 610.

Stephanie Hayden-Howard, Director of Austin Public Health  
City of Austin  
Austin, TX

Thank you for the opportunity to submit written testimony and express some of the City of Austin’s concerns about House Bill 610 by Representative Valoree Swanson, which authorizes state license holders to sue the City if local ordinances, rules, or regulations impose restrictions or otherwise regulate state license holders in a manner that is more restrictive than under state law or if local regulations “would result in an adverse economic impact on the license holder.” Given the large number of licensed professions and the broad language of the bill, it could have many unintended consequences and interfere a city's ability to protect activities that impact the health, safety, and civil rights of its residents. Below are just two examples of common activities that this bill affects.

While many of the City’s food and pool safety ordinance provisions are based on State law, the City is particularly concerned about the impact that HB 610 may have on local regulations designed to protect the health and safety of patrons of public pools and food establishments. For example, based on local ordinance, restaurants are required to close down when significant food

safety concerns are identified, a measure that ensures that the food establishment will correct the identified health and safety issues immediately and food handlers must take the time to address the food safety concerns in order to provide safe food for the public. These measures were enacted in order to reduce the possibility of foodborne illness outbreaks. Relatedly, mobile food establishments must meet same standards. Additionally, the City requires operators of public pools, who are licensed by the state, to close their pool for certain safety issues. This prevents a resident from entering the pool area and would be prohibited by the bill. If the anti-suction safety system of a pool is found to be faulty by City staff and the City is unable to close the pool, a resident could potentially be trapped at the bottom of a pool.

The provision of the bill prohibiting regulations that could “result in adverse economic impact on the license holder” would also undermine the ability of local governments to regulate the safety and health aspects of public services such as food establishments and swimming pools. Such regulation almost always imposes a cost on the license holder relative to no or lesser regulation, yet the bill’s requirement for a neutral or positive financial impact fails to account for the negative economic impacts that are almost certainly incurred by the public in the absence of local government health and safety regulation of licensed/ permitted public services, such as foodborne illness outbreaks or accidental deaths due to unsafe swimming pools. The requirements may result in a cost, but these requirements are vital to the safety of local residents, employees and visitors.

Thank you for your your consideration of these comments.

Alexa Aragonez  
City of Arlington  
Arlington, TX

(Part 1 of 2)

March 24, 2021

The Honorable Jeff Leach  
Chairman, Judiciary and Civil Jurisprudence  
Texas House of Representatives  
P.O. Box 2910  
Austin, TX 78768-2910

Dear Chairman Leach:

We are contacting you on behalf of the City of Arlington to express our opposition to H.B. 610 by Representative Swanson. As currently written, the bill would authorize a person who holds a state license in order to practice the individual’s occupation or conduct business to bring legal action against a city to enjoin the enforcement of a local law that: (1) establishes requirements for, imposes restrictions on, or otherwise regulates the occupation or business activity of the license holder in a manner that is more stringent than the requirements, restrictions, and regulations imposed on the license holder under state law; or (2) results in an adverse economic impact on the license holder.

City residents rely on city building officials throughout the state to inspect and ensure compliance with applicable building codes. City staff reviews state records to confirm that contractors doing business within a city have active licenses and meet current bonding and insurance requirements. These are not demanding requirements, but they do establish a minimum level of confidence for owners making repairs or improvements to their homes or places of business.

Currently there are several occupations that require state licenses that citizens depend on cities to monitor and ensure that such licensees comply with state and local regulations. Often local regulations only provide a local method of enforcing state requirements. The broad language of H.B. 610 creates a cause of action that potentially requires cities to defend health and safety regulations related to a host of state-licensed occupations. These include, but are not limited to, the following: health permits for state-licensed daycare centers, health permits for restaurants and bars with state-issued TABC licenses, and registrations for air conditioning and refrigeration contractors.

Most concerning, the proposed language includes a prohibition against requirements that “results in an adverse economic impact on the license holder.” A court could construe any impact, no matter how de minimis, to infringe on a state-issued license holder.

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Under the language in the current bill, a city would have to prove by clear and convincing evidence that the local regulation does not conflict with state law AND is narrowly tailored to protect public health and safety. In essence, this wording places a state licensee in the same legal position as a protected class.

Alexa Aragonez  
City of Arlington  
Arlington, TX

(Part 2 of 2)

The bill provides that a suit may be brought in Travis County, as well as the home county of the municipality. This provision would only add additional practical burdens to a city located outside the Austin metropolitan area. And it would only benefit state licensed entities with a statewide presence or based in the Austin area.

Finally, the bill as currently written, mandates a district court to award attorney's fees to the license holder who prevails in litigating its complaint. It makes no mention of attorney's fees for cities who prevail in defending reasonable public health and safety requirements. Such a one-sided provision almost guarantees the commencement of legal battles to interpret the language of this legislation. The only true "winner" of these disputes will be the state-licensed attorney who brings such disputes to court.

For the foregoing reasons, the City of Arlington opposes H.B. 610 as currently proposed.

Please contact Alexa Aragonez at (817) 459-6347 if you have questions or need additional information.

Sincerely,

Rick Ripley, CBO MCP  
Building Official  
City of Arlington

Galen Gatten  
Assistant City Attorney  
City of Arlington

Alison Boleware, Government Relations Director  
National Association of Social Workers - Texas Chapter  
Austin, TX

The National Association of Social Workers - Texas Chapter (NASW/TX) has questions and concerns with HB 610 (Swanson) as is currently written. We do not see HB 610 as a remedy for any concerns licensed social workers currently have. The bill would allow individuals to bring suit against any local law that establishes regulations or requirements for licensed professionals that go beyond state law, or if the local law would result in an "adverse economic impact" for the licensee. Licensed social workers have anti-discrimination language included in our state Code of Conduct that includes protections for LGBTQIA+ Texans. As written HB 610 is vague and we do not believe this is something license holders need. Local laws are tailored to the needs of the city and HB 610 would threaten laws that impact health, safety and equality. We are concerned how HB 610 could have adverse implications on licensed practitioners, including social workers.

Further, social workers are worried that this bill would endanger LGBTQ-inclusive nondiscrimination ordinances across the state. We want to ensure that HB 610 does not have any negative impacts on our professions' ability to regulate themselves as licensees or on LGBTQ-inclusive nondiscrimination ordinances. NASW/TX will continue to follow the bill.

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Zahrah Ektefaei  
self/teacher  
Galveston, TX

"Protect LGBTQ Texans and our non-discrimination ordinances. Vote NO on HB 610" Thank you for supporting Equality!

Patrick Brophy  
North Texas Commission  
Irving, TX

Oppose

Melodía Gutiérrez  
Human Rights Campaign  
Irving, TX

"Protect LGBTQ Texans and our non-discrimination ordinances. Vote NO on HB 610" Thank you for supporting Equality!

Preston Knight  
Self  
Mansfield, TX

Protect LGBTQ Texans and our non-discrimination ordinances. Vote NO on HB 610

Andrew Aleman  
Self  
Addison, TX

Protect LGBTQ Texans and our non-discrimination ordinances. Vote NO on HB 610" Thank you for supporting Equality!

Jennifer Snowden  
Self  
Fort Worth, TX

"Protect LGBTQ Texans and our non-discrimination ordinances. Vote NO on HB 610" Thank you for supporting Equality!