By:  Zaffirini S.B. No. 32

A BILL TO BE ENTITLED

AN ACT

relating to land development, waste management, and the creation of special districts in counties.

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

SECTION 1.  The heading to Section 791.037, Government Code, is amended to read as follows:

Sec. 791.037.  SOLID WASTE DISPOSAL SERVICES [~~IN CERTAIN COUNTIES~~].

SECTION 2.  Subchapter C, Chapter 361, Health and Safety Code, is amended by adding Section 361.1121 to read as follows:

Sec. 361.1121.  MARKING USED OR SCRAP TIRES IN CERTAIN COUNTIES. (a) In this section:

(1)  "Generator" includes a fleet operator, a tire recapper or retreader, or a retailer, wholesaler, or manufacturer of whole new or used tires. The term does not include a scrap tire energy recovery facility or a scrap tire recycling facility.

(2)  "Retailer" means a person who is engaged in the business of selling or otherwise placing tires in the stream of commerce for use on a vehicle, trailer, or piece of equipment.

(3)  "Scrap tire" has the meaning assigned by Section 361.112. The term does not include a tire:

(A)  in or on a vehicle that:

(i)  has been crushed; or

(ii)  is being transported to a registered metal recycling entity or a licensed used automotive parts recycler; or

(B)  that is mounted on a metal wheel that is intended to be recycled.

(4)  "Used tire" means a tire that:

(A)  has been used as a tire on a vehicle, trailer, or piece of equipment;

(B)  has tire tread at least one-sixteenth inch deep;

(C)  can still be used for its original intended purpose; and

(D)  meets the visual and tread depth requirements for used tires established by the Department of Public Safety.

(b)  This section applies only to a county with a population of 150,000 or less.

(c)  The commissioners court of a county to which this section applies may establish and enforce a program requiring a generator to mark used or scrap tires handled by the generator.

(d)  A program established under this section must:

(1)  assign to each generator a unique identifying mark required to be affixed to or imprinted on each scrap or used tire taken possession of or produced by the generator;

(2)  allow a customer to retain a scrap or used tire removed from the customer's vehicle during the purchase of a tire from a retailer;

(3)  require a retailer whose customer retains a scrap or used tire to keep a record of the customer's retention; and

(4)  include a system to inspect generators for compliance.

SECTION 3.  Section 364.011(a-2), Health and Safety Code, is amended to read as follows:

(a-2)  Notwithstanding Subsection (a), a commissioners court may, through a competitive bidding process, contract for the provision of solid waste collection, handling, storage, and disposal in an area of the county located within the extraterritorial jurisdiction of a municipality if[~~:~~

[~~(1)~~]  the municipality does not provide solid waste disposal services in that area[~~; and~~

[~~(2)  the county has a population of more than 1.5 million and at least 70 percent of the population resides in a single municipality~~].

SECTION 4.  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-2)(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.

SECTION 5.  Section 364.0345, Health and Safety Code, is amended to read as follows:

Sec. 364.0345.  PENALTIES FOR FAILURE TO USE REQUIRED SERVICE IN CERTAIN AREAS.  The commissioners court of a county described by Section 364.011(a-2) [~~364.011(a-2)(2)~~] that requires the use of a county solid waste disposal service under Section 364.034 in the extraterritorial jurisdiction of a municipality may adopt orders to enforce the requirement, including an order establishing a civil or administrative penalty in an amount reasonable and necessary to ensure compliance with the requirement.

SECTION 6.  The heading to Chapter 231, Local Government Code, is amended to read as follows:

CHAPTER 231. COUNTY ZONING AUTHORITY AND BUFFER REGULATIONS

SECTION 7.  Chapter 231, Local Government Code, is amended by adding Subchapter N to read as follows:

SUBCHAPTER N. BUFFER REGULATIONS

Sec. 231.291.  DEFINITION. In this subchapter, "agricultural operation" has the meaning assigned by Section 251.002, Agriculture Code.

Sec. 231.292.  BUFFER AREAS. (a) The commissioners court of a county may regulate, by order, land development in the unincorporated area of the county by requiring a buffer area between the land used for a purpose specified by this subsection and residential areas as follows:

(1)  at least 1,000 feet for heavy industrial or quarry use;

(2)  at least 750 feet for light industrial use; and

(3)  at least 500 feet for commercial or other business use.

(b)  This section does not authorize a county to adopt zoning regulations.

(c)  A buffer area established under this section does not apply to land used for an activity described by Section 81.051, Natural Resources Code, or to an interstate gas pipeline facility as defined by 49 U.S.C. Section 60101.

(d)  A county regulation under this section does not apply to:

(1)  a platted residential subdivision in existence on the date the regulation takes effect;

(2)  an agricultural operation; or

(3)  an activity or a structure or appurtenance on a tract of land devoted to an agricultural operation.

SECTION 8.  Subchapter Z, Chapter 232, Local Government Code, is amended by adding Section 232.902 to read as follows:

Sec. 232.902.  MODEL RULES FOR WATER SUPPLY AND SEWER SERVICES IN CERTAIN COUNTIES. (a) This section applies only to a county that contains a groundwater conservation district governed by Chapter 36, Water Code.

(b)  The commissioners court of a county subject to this section may adopt model rules for the subdivision of land in the unincorporated area of the county.

(c)  Model rules adopted under this section may only regulate standards for the safe and sanitary supply of water and sewer services.

(d)  Model rules adopted under this section must be in compliance with the model rules adopted under Section 16.343, Water Code.

SECTION 9.  Sections 352.082(a) and (c), Local Government Code, are amended to read as follows:

(a)  This section applies only to:

(1)  the unincorporated area of a county:

(A) [~~(1)~~]  that is adjacent to a county with a population of 3.3 million or more; and

(B) [~~(2)~~]  in which a planned community is located that has 20,000 or more acres of land, that was originally established under the Urban Growth and New Community Development Act of 1970 (42 U.S.C. Section 4501 et seq.), and that is subject to restrictive covenants containing ad valorem or annual variable budget based assessments on real property; or

(2)  the unincorporated area of a county that offers solid waste disposal services to persons in its territory.

(c)  A person commits an offense if the person intentionally or knowingly burns household refuse outdoors on a lot that is either:

(1)  located in the unincorporated area of a county described by Subsection (a)(1) and:

(A)  located in a neighborhood; or

(B) [~~(2)~~]  smaller than five acres; or

(2)  located in the unincorporated area of a county described by Subsection (a)(2), if the commissioners court of the county has established a mandatory program under Section 364.034, Health and Safety Code, that benefits the lot.

SECTION 10.  The Local Government Code is amended by adding Title 15 to read as follows:

TITLE 15. REQUIREMENTS FOR CREATION OF CERTAIN LOCAL GOVERNMENTAL ENTITIES

SUBTITLE A. MUNICIPAL REQUIREMENTS

SUBTITLE B. COUNTY REQUIREMENTS

CHAPTER 661. SPECIAL DISTRICTS

Sec. 661.001.  DEFINITION. In this chapter, "special district" means a political subdivision with a limited geographic area created by local law or under general law for a special purpose.

Sec. 661.002.  REQUIREMENTS FOR PROPOSED LOCAL LAW DISTRICTS. (a) This section applies only to a special district created by local law.

(b)  Except as provided by Subsection (c), the commissioners court of a county in which a special district is proposed to be located may by order adopt requirements for the district to ensure that all county territory included in the district will benefit from the creation of the district.

(c)  The commissioners court of a county may not adopt an order described by Subsection (b) for a special district after the effective date of the Act that creates the district.

(d)  A special district shall comply with each order adopted under Subsection (b) that applies to the district.

Sec. 661.003.  APPROVAL BEFORE CREATION OF GENERAL LAW DISTRICTS. (a) This section applies only to a special district created under general law.

(b)  A special district may not be created unless the commissioners court of each county in which the district is proposed to be located approves the creation of the district after each court holds a hearing described by Subsection (c).

(c)  On the request of a person proposing to create a special district in a county, the commissioners court of the county shall hold a hearing in which the court accepts evidence on the creation of the district and whether:

(1)  the creation of the district is feasible, practicable, and necessary; and

(2)  the district would wholly or partly benefit the county.

Sec. 661.004.  EXCEPTIONS. This chapter does not apply to a special district if:

(1)  the creation of the district is initiated by the commissioners court of a county; or

(2)  other law requires the approval of the commissioners court of a county before the district may be created.

SECTION 11.  Section 7.107, Water Code, is amended to read as follows:

Sec. 7.107.  DIVISION OF CIVIL PENALTY; DISPOSITION OF STATE'S PORTION OF CIVIL PENALTY. (a) Except in a suit brought for a violation of Chapter 28 of this code or of Chapter 401, Health and Safety Code, a civil penalty recovered in a suit brought under this subchapter by a local government shall be divided as follows:

(1)  the first $4.3 million of the amount recovered shall be divided equally between:

(A)  the state; and

(B)  the local government that brought the suit; and

(2)  any amount recovered in excess of $4.3 million shall be awarded to the state.

(b)  One-half of the state's portion of a civil penalty under Subsection (a) shall be deposited to the credit of the special environmental remediation fund created under Section 7.1075.

SECTION 12.  Subchapter D, Chapter 7, Water Code, is amended by adding Section 7.1075 to read as follows:

Sec. 7.1075.  SPECIAL ENVIRONMENTAL REMEDIATION FUND; GRANT PROGRAM. (a) The environmental remediation fund is created as a special fund in the state treasury outside the general revenue fund. The fund consists of money deposited to the credit of the fund under Section 7.107. Money in the fund may be appropriated only to the commission for purposes of the grant program established under Subsection (b).

(b)  From money appropriated from the special environmental remediation fund for that purpose, the commission shall establish and administer a grant program to provide financial assistance to counties and municipalities for environmental remediation projects.

(c)  The commission shall adopt rules to implement the program established under Subsection (b), including rules establishing:

(1)  eligibility criteria for grant applicants and environmental remediation projects;

(2)  grant application procedures;

(3)  criteria for evaluating grant applications and awarding grants;

(4)  guidelines related to grant amounts; and

(5)  procedures for monitoring the use of a grant awarded under Subsection (b) and ensuring compliance with any conditions of the grant.

SECTION 13.  Section 791.037(b), Government Code, is repealed.

SECTION 14.  Section 352.082, Local Government Code, as amended by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 15.  Section 661.003, Local Government Code, as added by this Act, applies only to a special district, as defined by Section 661.001, Local Government Code, as added by this Act, created on or after the effective date of this Act.

SECTION 16.  Section 7.107, Water Code, as amended by this Act, applies only to a violation that occurs on or after the effective date of this Act. A violation that occurs before the effective date of this Act is governed by the law in effect on the date the violation occurred, and the former law is continued in effect for that purpose.

SECTION 17.  This Act takes effect on the 91st day after the last day of the legislative session.