

BILL ANALYSIS

Senate Research Center

S.B. 814
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas cities have passed burdensome local ordinances, creating a patchwork regulations across the state. These policies are better left to the employer, and if necessary, the state and federal government. Uniformity and consistent policy gives employers and employees greater clarity and flexibility.

The redundant and inconsistent patchwork of regulations creates serious compliance issues and bureaucratic hurdles, which is especially hard on small businesses and their employees. Streamlined statewide regulations allow Texans to spend less time and resources fighting through red tape and focus more on their businesses, employees and communities.

S.B. 814 addresses this issue by returning commercial regulatory authority to the state, where it originated. There are six codes identified in S.B. 814: Agriculture, Finance, Insurance, Labor, Natural Resources, and Occupations. S.B. 814 prohibits municipalities and counties from regulating in a field occupied by these codes, with two exceptions. These include if the field is not addressed by the listed codes or the local government has explicit authority for the regulation.

S.B. 814 does not strip municipalities from their expressly authorized powers, affect services provided by a general law municipality, or affect a municipality's right to levy taxes.

As proposed, S.B. 814 amends current law relating to state preemption of certain municipal and county regulation.

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. Requires that this Act be known as the Texas Regulatory Consistency Act.

SECTION 2. Provides that the legislature finds that:

- (1) the State of Texas has historically been the exclusive regulator of many aspects of commerce and trade in this state;
- (2) in recent years, several local jurisdictions have sought to establish their own regulations of commerce that are different than the state's regulations; and
- (3) the local regulations have led to a patchwork of regulations across this state that provide inconsistency.

SECTION 3. Provides that the purpose of this Act is to provide regulatory consistency across this state and return the historic exclusive regulatory powers to the state where those powers belong.

SECTION 4. Amends Chapter 1, Agriculture Code, by adding Section 1.004, as follows:

Sec. 1.004. FIELD PREEMPTION. Provides that the provisions of this code preclude municipalities or counties from adopting or enforcing an ordinance, order, rule, or policy in a field occupied by a provision of this code unless explicitly authorized by statute. Provides that a municipal or county ordinance, order, rule, or policy that violates this section is void and unenforceable.

SECTION 5. Amends Title 5, Civil Practice and Remedies Code, by adding Chapter 102A, as follows:

CHAPTER 102A. MUNICIPAL AND COUNTY LIABILITY FOR PREEMPTED
REGULATION

Sec. 102A.001. LIABILITY FOR CERTAIN PREEMPTED REGULATION. Provides that any person, including a taxpayer, adversely affected by a municipal or county ordinance, order, rule, or policy adopted or enforced by a municipality, county, municipal official or county official acting in their official capacity in violation of certain provisions has standing to bring and is authorized to bring an action against the municipality, county or official.

Sec. 102A.002. REMEDIES. Provides that a claimant is entitled to recover in an action brought under this chapter:

- (1) declaratory and injunctive relief; and
- (2) costs and reasonable attorney's fees.

Sec. 102A.003. IMMUNITY WAIVER AND PROHIBITED DEFENSES. (a) Provides that governmental immunity, official immunity, and qualified immunity, as applicable, are waived to the extent of liability created by this chapter.

- (b) Prohibits official and qualified immunity from being asserted as a defense in an action brought under this chapter.

Sec. 102A.004. VENUE. Authorizes a claimant, notwithstanding any other law, including Chapter 15 (Venue), to bring an action under this chapter in any county in this state. Prohibits the action, if the action is brought in a venue authorized by this section, from being transferred to a different venue without the written consent of all parties.

Sec. 102A.005. PERSON. Defines "person."

SECTION 6. Amends Chapter 1, Finance Code, by adding Section 1.004, as follows:

Sec. 1.004. FIELD PREEMPTION. Provides that the provisions of this code preclude municipalities and counties from adopting or enforcing an ordinance, order, rule, or policy in a field occupied by a provision of this code unless explicitly authorized by statute. Provides that a municipal or county ordinance, order, rule, or policy that violates this section is void and unenforceable.

SECTION 7. Amends Chapter 30, Insurance Code, by adding Section 30.005, as follows:

Sec. 30.005. FIELD PREEMPTION. Provides that the provisions of this code preclude municipalities and counties from adopting or enforcing an ordinance, order, rule, or policy in a field occupied by a provision of this code unless explicitly authorized by statute. Provides that a municipal or county ordinance, order, rule, or policy that violates this section is void and unenforceable.

SECTION 8. Amends Chapter 1, Labor Code, by adding Section 1.005, as follows:

Sec. 1.005. FIELD PREEMPTION. Provides that the provisions of this code preclude municipalities and counties from adopting or enforcing an ordinance, order, rule, or policy in a field occupied by a provision of this code unless explicitly authorized by statute. Provides that a municipal or county ordinance, order, rule, or policy that violates this section is void and unenforceable.

SECTION 9. Amends Chapter 1, Natural Resources Code, by adding Section 1.003, as follows:

Sec. 1.003. FIELD PREEMPTION. Provides that the provisions of this code preclude municipalities and counties from adopting or enforcing an ordinance, order, rule, or policy in a field occupied by a provision of this code unless explicitly authorized by statute. Provides that a municipal or county ordinance, order, rule, or policy that violates this section is void and unenforceable.

SECTION 10. Amends Chapter 1, Occupations Code, by adding Section 1.004, as follows:

Sec. 1.004. FIELD PREEMPTION. Provides that the provisions of this code preclude municipalities and counties from adopting or enforcing an ordinance, order, rule, or policy in a field occupied by a provision of this code unless explicitly authorized by statute. Provides that a municipal or county ordinance, order, rule, or policy that violates this section is void and unenforceable.

SECTION 11. Makes application of Chapter 102A, Civil Practice and Remedies Code, as added by this Act, prospective.

SECTION 12. Effective date: upon passage or September 1, 2023.