

BILL ANALYSIS

C.S.S.B. 1017
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State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Recently, governmental entities such as the California Air Resources Board and the City of Dallas have taken steps to phase out the use of gas-powered lawn equipment, ban small gas-powered engines, and outlaw the construction of new gas stations. Based on these actions, legislation is needed to ensure local governments in Texas cannot create a patchwork of regulations across the state that limit individual liberty and hurt local businesses based on specific sources of fuel or engine types. C.S.S.B. 1017 seeks to protect energy choice by preventing political subdivisions from adopting or enforcing ordinances, orders, regulations, or similar measures which would limit access to specific fuel sources or prohibit the sale of engines based on their fuel source.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 1017 amends the Local Government Code to prohibit a county, municipality, special district, school district, junior college district, or housing authority from adopting or enforcing an ordinance, order, regulation, or similar measure that limits access to or use of an energy source or results in the effective prohibition of infrastructure that is necessary to provide access to a specific energy source, including a wholesaler, retailer, energy producer, or related infrastructure, including a retail service station. This prohibition expressly does not limit the authority of any such political subdivision to adopt or enforce an ordinance, order, regulation, or measure relating to an energy source or infrastructure necessary to provide access to a specific energy source that is not preempted by state or federal law and that:

- provides siting requirements, including siting requirements involving certain geographic areas; and
- does not effectively prohibit the operation of an energy source or infrastructure that is necessary to provide access to a specific energy source.

C.S.S.B. 1017 also prohibits a county, municipality, special district, school district, junior college district, or housing authority from adopting or enforcing an ordinance, order, regulation, or similar measure that directly prohibits or restricts the use, sale, or lease of an engine based on its fuel source. This prohibition expressly does not limit the authority of any such political subdivision to adopt or enforce an ordinance, order, regulation, or measure that is not preempted by state or federal law and that:

- does not effectively prohibit or restrict the use, sale, or lease of the engine;
- implements an agreement between the political subdivision and the Texas Commission on Environmental Quality to regulate an idling motor vehicle; or
- only affects an engine owned or operated by the political subdivision and that is included in the state implementation plan or otherwise necessary for compliance with the federal Clean Air Act.

These provisions do not limit the authority of an applicable political subdivision to adopt a measure to encourage, promote, or provide rebates for engines and fuel sources from alternative sources such as electricity, hydrogen, gas, or biofuels and that does not directly or effectively ban, restrict, or prohibit the use, sale, or lease of an engine based on the engine's fuel source. The bill establishes that state law granting the state exclusive jurisdiction over oil and gas operations prevails to the extent of a conflict with these provisions.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 1017 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute retains the prohibition from the engrossed against a political subdivision adopting or enforcing a measure that limits access to an energy source or that results in the effective prohibition of infrastructure that is necessary to provide access to a specific energy source but also prohibits a political subdivision from adopting or enforcing a measure that limits the use of an energy source.

The substitute changes the provision in the engrossed establishing an exception to the prohibition against a political subdivision adopting or enforcing a measure that directly prohibits or restricts the use, sale, or lease of an engine based on its fuel source for measures that only affect an engine owned or operated by the political subdivision to further narrow the scope of that exception by requiring that the engine, in addition to being owned or operated by the political substitution, also be included in the state implementation plan or otherwise be necessary for compliance with the federal Clean Air Act for the exception to apply. Additionally, the substitute changes the provision in the engrossed establishing that such prohibition does not limit a political subdivision's authority to adopt a measure to encourage, promote, or provide rebates for cleaner engines and fuel sources so long as the measure does not directly or effectively ban, restrict, or prohibit the use, sale, or lease of an engine based on the engine's fuel source by replacing references to cleaner engines and fuel sources with a reference to engines and fuel sources from alternative sources such as electricity, hydrogen, gas, or biofuels.