

BILL ANALYSIS

Senate Research Center
88R27692 DRS-F

C.S.S.B. 1430
By: Hinojosa; LaMantia
Local Government
5/4/2023
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

To safeguard the public health and ensure reliable sanitation service for residents who live in unincorporated areas, the counties of Hidalgo and Cameron seek to establish a mandatory solid waste management program under the County Solid Waste Control Act. In these counties, the rural, unincorporated areas are colloquially referred to as colonias. Both Hidalgo and Cameron are among the six Texas counties with the largest colonia populations. Colonia residents lack safe, sanitary, and sound housing and are without basic services such as potable water, adequate sewage systems, drainage, utilities, and paved roads. Many colonias in Hidalgo and Cameron still experience inadequate trash collection or lack trash containers to dispose of solid waste causing an accumulation of excess garbage in and around homes. The lack of these services in these colonias results in health hazards attributed to increased pollution, illegal dumping, and trash burning. As introduced, S.B. 1430 seeks to remedy this situation by providing Hidalgo and Cameron counties with similar authority given to Webb and Bexar counties to establish a mandatory solid waste disposal program to provide waste services in unincorporated areas and unserved extraterritorial jurisdictions cities within each county.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1430 amends current law relating to the provision of solid waste disposal services by certain counties.

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. Amends Section 364.011(a-1), Health and Safety Code, as follows:

(a-1) Authorizes a commissioners court by rule to regulate solid waste collection, handling, storage, and disposal by establishing a mandatory program under Section 364.034 (Solid Waste Disposal Service; Fees) in an area of the county located within the extraterritorial jurisdiction of a municipality if:

(1) makes no changes to this subdivision; and

(2) the county is adjacent to the United Mexican States and either:

(A) has a population of less than 300,000 and contains a municipality with a population of 200,000 or more; or

(B) has a population of more than 400,000 and contains at least two municipalities each of which has a population of 70,000 or more.

Makes nonsubstantive changes.

SECTION 2. Amends Section 364.034, Health and Safety Code, by amending Subsections (a) and (a-1) and adding Subsections (a-3), (d-1), and (g-1), as follows:

(a) Authorizes a public agency or a county to:

(1) offer solid waste disposal service to persons in its territory, including, in the case of a county described by Section 364.011(a-1)(2)(B) or (a-2)(2) (relating to authorizing a commissioners court of a county with a certain population and percentage of that population that resides in a single municipality to contract for solid waste services), rather than 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; and

(2)-(4) makes no changes to these subdivisions.

(a-1) Provides that a person, notwithstanding Subsection (a)(2), is not required to use solid waste disposal services offered by a county, including a county described by Section 364.011(a-1)(2)(B), to persons in an area of the county located within the extraterritorial jurisdiction of a municipality that does not provide solid waste disposal services in that area if:

(1)-(2) makes no changes to these subdivisions;

(a-3) Provides that if a county described by Section 364.011(a-1)(2)(B) contracts with a public or private entity to provide solid waste disposal services as authorized under Section 364.011(a-1) and Subsection (a) of this section, the contract is required to provide for solid waste disposal services for the entire unincorporated area of the county, not including areas in the extraterritorial jurisdiction of a municipality where the municipality provides waste disposal services.

(d-1) Prohibits a public or private utility that bills and collects solid waste disposal service fees under a contract under this section with a county described by Section 364.011(a-1)(2)(B) from suspending water or sewer service to a person who is delinquent in the payment of the solid waste disposal service fee, notwithstanding Section 364.034(d)(2) (relating to the establishment by a commissioners court of a solid waste collection and disposal program in the extraterritorial jurisdiction of a county that has a population of more than 400,000 and contains at least two municipalities each of which has a certain minimum population) or Section 552.910 (Agreements With Other Political Subdivisions for Collection of Past Due Utility or Solid Waste Disposal Service Fees), Local Government Code.

(g-1) Provides that this subsection applies only to a county described by Section 364.011(a-1)(2)(B). Provides that a person is exempt from the application of a requirement adopted by a county under Subsection (a) if the person, at any time, is receiving under a contract solid waste disposal services at a level that is the same as or higher than the level of services that otherwise would be required. Requires a person, to qualify for the exemption provided by this subsection, to provide to the county written documentation acceptable to the county to show that the person is receiving services under the contract. Requires a person who provides solid waste disposal services to a person who qualifies for the exemption to notify the county that the services under the contract have stopped not later than the 15th day after the date those services are stopped for any reason.

SECTION 3. Amends Subchapter C, Chapter 364, Health and Safety Code, by adding Section 364.0343, as follows:

Sec. 364.0343. NOTICE AND HEARING OF CERTAIN FEES FOR SOLID WASTE DISPOSAL SERVICES. (a) Provides that this section applies to a county that:

(1) regulates solid waste collection, handling, storage, and disposal by establishing a mandatory program under Section 364.011(a-1)(2)(B); and

(2) provides in the program rules that this section applies to the collection of a fee under the program.

(b) Requires the commissioners court, before a county is authorized to impose the fee described by Section 364.034, to hold a public hearing on the proposed fee. Requires the county, not later than the 10th day before the date of the hearing, to provide notice of the hearing that includes the date, time, and location of the hearing and a statement that an interested citizen of the county is authorized to testify at the hearing. Provides that the county:

(1) is required to deliver the notice:

(A) by mail to each owner of real property that would be affected by the fee, at the address shown on the most recently certified tax roll of the district;

(B) by posting the notice prominently on the county's Internet website from the date the notice is mailed until the public hearing is concluded; and

(C) if the county maintains a public account on a social media platform, by posting the notice on the county's social media platform account; and

(2) is authorized to publish notice of the hearing in a newspaper in addition to delivery of the notice by the methods required under this section.

(c) Requires the county, as early as practicable in advance of a public hearing required by this section, to post on the county's Internet website any written agenda and related supplemental written materials provided by the county to the commissioners in advance of the hearing for the commissioners' use during the hearing. Authorizes the county to exclude written materials that the county attorney certifies are confidential or are authorized to be withheld from public disclosure under Chapter 552 (Public Information), Government Code.

(d) Requires that a public hearing held under this section be on a weekday that is not a public holiday. Requires the commissioners court, at the hearing, to afford adequate opportunity for proponents and opponents of the proposed fee to present their views.

(e) Requires the county, not later than the 60th day before the scheduled start date of the solid waste disposal services for which a fee is collected under Section 364.034, to mail notice to each landowner whose real property will be benefited by the services. Requires that the notice include:

(1) a statement that:

(A) the county has adopted an order to require the use of county solid waste disposal services under Section 364.034 and to collect a fee; and

(B) the landowner may qualify under Section 364.034(a-1), (g) (relating to an exemption from the application of a requirement adopted by a public agency or county for people that currently receive solid waste services of equal or higher quality than that of

the requirement from the public agency or county), or (g-1) for an exemption from the application of the requirement; and

(2) instructions for completing and submitting the documentation required for the exemption under Sections 364.034(a-1), (g), and (g-1).

SECTION 4. Amends Section 364.0345, Health and Safety Code, as follows:

Sec. 364.0345. New heading: PENALTIES FOR FAILURE TO USE REQUIRED SERVICE IN CERTAIN AREAS; LATE FEES. (a) Provides that the commissioners court of a county described by Section 364.011(a-1)(2)(B) or (a-2)(2), rather than 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 is authorized to 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.

(b) Prohibits a county described by Section 364.011(a-1)(2)(B) from:

(1) imposing a civil penalty under Subsection (a) of this section on a person in an amount that exceeds 10 percent of the person's delinquent annual service charge; or

(2) charging fees for late payment of a fee for a service provided under this section that exceed \$60 in a single year.

SECTION 5. Amends Section 791.037(b), Government Code, as follows:

(b) Provides that Section 791.037 (Solid Waste Disposal Services in Certain Counties) applies only to a county:

(1) creates this subdivision from existing text; or

(2) that is located adjacent to the United Mexican States, has a population of more than 400,000, and contains at least two municipalities each of which has a population of 70,000 or more.

SECTION 6. Effective date: September 1, 2023.