88R1903 JAM-D

By:  Thompson of Brazoria H.B. No. 3210

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of the Texas Cleaner Landscapes for the Economy, Agriculture, and Nature (CLEAN) Advisory Council.

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

SECTION 1.  This Act may be cited as the Texas Cleaner Landscapes for the Economy, Agriculture, and Nature (CLEAN) Act.

SECTION 2.  Subtitle B, Title 5, Health and Safety Code, is amended by adding Chapter 375 to read as follows:

CHAPTER 375. TEXAS CLEANER LANDSCAPES FOR THE ECONOMY, AGRICULTURE, AND NATURE ADVISORY COUNCIL

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 375.0101.  DEFINITIONS. In this chapter:

(1)  "Beverage container":

(A)  means an individual, separate, and sealed container that is made entirely or of any combination of glass, aluminum, steel, other metal, or plastic, regardless of size, and is used for containing, at the time of sale to a consumer, a beverage for consumption; and

(B)  does not include refillable containers that are intended to be refilled and reused more than once for sale or distribution.

(2)  "Carryout bag":

(A)  means a bag that is designed for one use and provided gratuitously by a grocery store, retail store, or food service establishment at the point of sale for the purpose of transporting groceries, prepared foods, or consumer goods; and

(B)  does not include a bag:

(i)  that lacks handles and is used to prevent an item of food from damaging or contaminating another food item;

(ii)  intended to contain an unwrapped food item, food items sold in bulk, or a hot food item;

(iii)  used as part of distributing newspapers; or

(iv)  used by a customer to transport dry cleaning or pharmaceuticals.

(3)  "Council" means the Texas Cleaner Landscapes for the Economy, Agriculture, and Nature Advisory Council.

(4)  "Food service establishment" means an establishment, place, or location, whether permanent, temporary, seasonal, or itinerant, where food is prepared and the public is offered to be served, or is served, prepared food.

(5)  "Grocery store" means a business primarily engaged in the retail sale of packaged food for off-site consumption.

(6)  "Retail store" means a business engaged in the sale of consumer goods.

SUBCHAPTER B. TEXAS CLEANER LANDSCAPES FOR THE ECONOMY, AGRICULTURE, AND NATURE ADVISORY COUNCIL

Sec. 375.0201.  TEXAS CLEANER LANDSCAPES FOR THE ECONOMY, AGRICULTURE, AND NATURE ADVISORY COUNCIL. (a) The Texas Cleaner Landscapes for the Economy, Agriculture, and Nature Advisory Council consists of 13 residents of this state appointed as follows:

(1)  four members appointed by the governor as follows:

(A)  one representative of county governments;

(B)  one representative of the agriculture industry;

(C)  one representative of the solid waste industry; and

(D)  one representative of the conservation community;

(2)  three members appointed by the lieutenant governor as follows:

(A)  one representative of retailers who sell or give away beverage containers or carryout bags;

(B)  one representative of manufacturers or distributors of beverage containers or carryout bags; and

(C)  one representative of businesses that utilize recycled glass, aluminum, or plastic in manufacturing operations;

(3)  three members appointed by the governor from a list provided by the speaker of the house of representatives as follows:

(A)  one representative of retailers who sell or give away beverage containers or carryout bags;

(B)  one representative of manufacturers or distributors of beverage containers or carryout bags; and

(C)  one representative of businesses that utilize recycled glass, aluminum, or plastic in manufacturing operations;

(4)  the comptroller or the comptroller's designee, who serves as a voting ex officio member;

(5)  the executive director of the Texas Department of Transportation or that executive director's designee, who serves as a voting ex officio member; and

(6)  the commissioner of agriculture or the commissioner's designee, who serves as a voting ex officio member.

(b)  The members serve staggered terms of six years with three or four members' terms, as applicable, expiring February 1 of even-numbered years.

(c)  The members shall elect a chair and a vice chair, whose duties are established by the council.

(d)  In making the appointments under Subsection (a), an appointing authority shall strive to ensure that the council is composed of persons who are diverse in professional or educational background, ethnicity, race, sex, geographic residency, heritage, perspective, and experience.

Sec. 375.0202.  MEETINGS. (a) The council shall elect its chair and vice chair annually.

(a-1)  Notwithstanding Subsection (c), the comptroller shall call the first meeting of the council. The council shall elect its chair and vice chair at that meeting. This subsection expires September 1, 2025.

(b)  The council shall:

(1)  establish a time and place for regular meetings; and

(2)  meet not less than once quarterly.

(c)  All meetings of the council, including emergency meetings, are at the call of the chair with written notice given to all council members.

(d)  The council may conduct special or regular meetings by electronic or other means pursuant to Chapter 551, Government Code.

(e)  A majority of the voting members of the council constitutes a quorum. If a quorum is present, the council may act on any matter within its jurisdiction by a majority vote.

Sec. 375.0203.  VACANCY. A vacancy on the council shall be filled for the unexpired term in the same manner as the original appointment.

Sec. 375.0204.  REMOVAL. The respective appointing authorities may remove a member of the council other than an ex officio member for misconduct, incapacity, or neglect of duty.

Sec. 375.0205.  COMPENSATION. A member of the council is not entitled to compensation for services on the council but is entitled to reimbursement for actual reasonable and necessary expenses incurred in performing council duties.

Sec. 375.0206.  DUTIES. (a) The council shall:

(1)  create and implement a program that recovers, for the purpose of recycling, 85 percent of plastic, glass, and aluminum beverage containers sold within this state;

(2)  develop a carryout bag reduction and recycling program to:

(A)  address the proliferation of carryout bags; and

(B)  reduce a source of litter on the landscape, source of contamination to recycling systems, source of injury to wildlife and livestock, and threat to this state's agriculture industry;

(3)  develop and implement a statewide litter program to comprehensively address litter prevention and reduction;

(4)  evaluate existing state laws, and any administrative rules related to those laws, that address litter; and

(5)  report to the legislature on the effectiveness of any laws and rules evaluated under Subdivision (4) and make recommendations on how those laws and rules may be improved.

(b)  In developing and implementing programs required by Subsections (a)(1)-(3), the council shall:

(1)  determine how money generated from a program developed under Subsection (a)(1) may be used for the purposes of this chapter;

(2)  develop and implement a system to prevent fraud and abuse of the programs;

(3)  establish civil penalties to deter fraud;

(4)  work with manufacturers to maximize the amount of recovered material returned to the production cycle; and

(5)  take any other action directly related to the development of the programs and to effectuate the purposes of this chapter.

Sec. 375.0207.  REPORT. (a) Not later than September 1 of each year, the council shall prepare and submit to the governor and the legislature a financial report on the implementation of the programs described by Sections 375.0206(a)(1)-(3).

(b)  Not later than September 1, 2027, the council shall prepare and submit to the governor and the legislature a report that details the operational framework of the programs described by Sections 375.0206(a)(1)-(3) as of that date. This subsection expires January 1, 2028.

Sec. 375.0208.  IMPLEMENTATION AND RULES. (a) The comptroller, in consultation with the council, may adopt rules to effectuate the purposes of this chapter.

(b)  Before developing and implementing the programs required under Sections 375.0206(a)(1)-(3), performing the evaluation required under Section 375.0206(a)(4), and making the reports required under Sections 375.0206(a)(5) and 375.0207, the comptroller shall:

(1)  research, evaluate, and develop recommendations in order to determine the most effective methods and actions necessary to effectuate the purposes of this chapter; and

(2)  submit those recommendations to the council.

SECTION 3.  (a) Not later than December 1, 2024, the appropriate appointing authority shall appoint the members to the Texas Cleaner Landscapes for the Economy, Agriculture, and Nature Advisory Council as required by Section 375.0201, Health and Safety Code, as added by this Act.

(b)  Notwithstanding Section 375.0201, Health and Safety Code, as added by this Act, in making the initial appointments under that section, the governor and lieutenant governor shall, as applicable, designate one member of the Texas Cleaner Landscapes for the Economy, Agriculture, and Nature Advisory Council appointed by that person to serve a term expiring February 1, 2026, one member appointed by that person to serve a term expiring February 1, 2028, and one member appointed by that person to serve a term expiring February 1, 2030. The governor shall appoint an additional member to serve a term expiring February 1, 2026.

SECTION 4.  (a) Not later than June 30, 2026, the Texas Cleaner Landscapes for the Economy, Agriculture, and Nature Advisory Council shall develop and begin the implementation of programs described by Section 375.0206(a), Health and Safety Code, as added by this Act, and shall make the report regarding state laws and administrative rules as required by Subsection (a)(5) of that section.

(b)  Not later than September 1, 2027, the Texas Cleaner Landscapes for the Economy, Agriculture, and Nature Advisory Council shall submit to the legislature and the governor the initial report required under Section 375.0207(a), Health and Safety Code, as added by this Act.

SECTION 5.  This Act takes effect September 1, 2023.