By:  Hinojosa, LaMantia S.B. No. 1430

(In the Senate - Filed March 2, 2023; March 16, 2023, read first time and referred to Committee on Local Government; May 5, 2023, reported adversely, with favorable Committee Substitute by the following vote: Yeas 8, Nays 0; May 5, 2023, sent to printer.)

COMMITTEE VOTE

                 Yea Nay Absent  PNV

Bettencourt       X

Springer          X

Eckhardt          X

Gutierrez         X

Hall              X

Nichols           X

Parker            X

Paxton            X

West                        X

COMMITTEE SUBSTITUTE FOR S.B. No. 1430 By:  Gutierrez

A BILL TO BE ENTITLED

AN ACT

relating to the provision of solid waste disposal services by certain counties.

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

SECTION 1.  Section 364.011(a-1), Health and Safety Code, is amended to read as follows:

(a-1)  A commissioners court by rule may regulate solid waste collection, handling, storage, and disposal by establishing a mandatory program under Section 364.034 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[~~:~~

[~~(A)~~]  is adjacent to the United Mexican States and either:

(A) [~~; (B)~~]  has a population of less than 300,000[~~;~~] and

[~~(C)~~]  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.

SECTION 2.  Section 364.034, Health and Safety Code, is amended by amending Subsections (a) and (a-1) and adding Subsections (a-3), (d-1), and (g-1) 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-1)(2)(B) or (a-2)(2) [~~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.

(a-1)  Notwithstanding Subsection (a)(2), a person 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)  the person contracts for solid waste disposal services with a provider that meets rules adopted by the commission for the regulation of solid waste disposal; or

(2)  the person is a private entity that contracts to provide temporary solid waste disposal services to a construction site or project by furnishing a roll-off container used to transport construction waste or demolition debris to a facility for disposal or recycling.

(a-3)  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 must 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)  Notwithstanding Section 364.034(d)(2) or Section 552.910, Local Government Code, 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) may not suspend water or sewer service to a person who is delinquent in the payment of the solid waste disposal service fee.

(g-1)  This subsection applies only to a county described by Section 364.011(a-1)(2)(B). 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. To qualify for the exemption provided by this subsection, the person must provide to the county written documentation acceptable to the county to show that the person is receiving services under the contract. The person who provides solid waste disposal services to a person who qualifies for the exemption shall 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.  Subchapter C, Chapter 364, Health and Safety Code, is amended by adding Section 364.0343 to read as follows:

Sec. 364.0343.  NOTICE AND HEARING OF CERTAIN FEES FOR SOLID WASTE DISPOSAL SERVICES. (a) 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)  Before a county may impose the fee described by Section 364.034, the commissioners court must hold a public hearing on the proposed fee. Not later than the 10th day before the date of the hearing, the county shall 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 may testify at the hearing. The county:

(1)  shall 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)  may publish notice of the hearing in a newspaper in addition to delivery of the notice by the methods required under this section.

(c)  As early as practicable in advance of a public hearing required by this section, the county shall 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. The county may exclude written materials that the county attorney certifies are confidential or may be withheld from public disclosure under Chapter 552, Government Code.

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

(e)  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, the county shall mail notice to each landowner whose real property will be benefited by the services. The notice must 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), or (g-1) for an exemption from the application of the requirement; and

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

SECTION 4.  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; LATE FEES. (a) The commissioners court of a county described by Section 364.011(a-1)(2)(B) or (a-2)(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.

(b)  A county described by Section 364.011(a-1)(2)(B) may not:

(1)  impose 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)  charge fees for late payment of a fee for a service provided under this section that exceed $60 in a single year.

SECTION 5.  Section 791.037(b), Government Code, is amended to read as follows:

(b)  This section applies only to a county:

(1)  with a population of more than 1.5 million in which more than 75 percent of the population resides in a single municipality; 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.  This Act takes effect September 1, 2023.

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