

1-1 By: Hinojosa, LaMantia S.B. No. 1430
 1-2 (In the Senate - Filed March 2, 2023; March 16, 2023, read
 1-3 first time and referred to Committee on Local Government;
 1-4 May 5, 2023, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 8, Nays 0; May 5, 2023, sent
 1-6 to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17			X	

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1430 By: Gutierrez

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the provision of solid waste disposal services by
 1-22 certain counties.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 364.011(a-1), Health and Safety Code, is
 1-25 amended to read as follows:

1-26 (a-1) A commissioners court by rule may regulate solid waste
 1-27 collection, handling, storage, and disposal by establishing a
 1-28 mandatory program under Section 364.034 in an area of the county
 1-29 located within the extraterritorial jurisdiction of a municipality
 1-30 if:

1-31 (1) the municipality does not provide solid waste
 1-32 disposal services in that area; and

1-33 (2) the county~~+~~
 1-34 [~~(A)~~] is adjacent to the United Mexican States
 1-35 and either:

1-36 (A) [~~+~~(B)] has a population of less than
 1-37 300,000~~+~~ and

1-38 [~~(C)~~] contains a municipality with a population
 1-39 of 200,000 or more; or

1-40 (B) has a population of more than 400,000 and
 1-41 contains at least two municipalities each of which has a population
 1-42 of 70,000 or more.

1-43 SECTION 2. Section 364.034, Health and Safety Code, is
 1-44 amended by amending Subsections (a) and (a-1) and adding
 1-45 Subsections (a-3), (d-1), and (g-1) to read as follows:

1-46 (a) A public agency or a county may:

1-47 (1) offer solid waste disposal service to persons in
 1-48 its territory, including, in the case of a county described by
 1-49 Section 364.011(a-1)(2)(B) or (a-2)(2) [~~364.011(a-2)(2)~~], an area
 1-50 of the county located within the extraterritorial jurisdiction of a
 1-51 municipality if the municipality does not provide solid waste
 1-52 disposal services in that area;

1-53 (2) require the use of the service by those persons,
 1-54 except as provided by Subsection (a-1);

1-55 (3) charge fees for the service; and

1-56 (4) establish the service as a utility separate from
 1-57 other utilities in its territory.

1-58 (a-1) Notwithstanding Subsection (a)(2), a person is not
 1-59 required to use solid waste disposal services offered by a county,
 1-60 including a county described by Section 364.011(a-1)(2)(B), to

2-1 persons in an area of the county located within the
2-2 extraterritorial jurisdiction of a municipality that does not
2-3 provide solid waste disposal services in that area if:

2-4 (1) the person contracts for solid waste disposal
2-5 services with a provider that meets rules adopted by the commission
2-6 for the regulation of solid waste disposal; or

2-7 (2) the person is a private entity that contracts to
2-8 provide temporary solid waste disposal services to a construction
2-9 site or project by furnishing a roll-off container used to
2-10 transport construction waste or demolition debris to a facility for
2-11 disposal or recycling.

2-12 (a-3) If a county described by Section 364.011(a-1)(2)(B)
2-13 contracts with a public or private entity to provide solid waste
2-14 disposal services as authorized under Section 364.011(a-1) and
2-15 Subsection (a) of this section, the contract must provide for solid
2-16 waste disposal services for the entire unincorporated area of the
2-17 county, not including areas in the extraterritorial jurisdiction of
2-18 a municipality where the municipality provides waste disposal
2-19 services.

2-20 (d-1) Notwithstanding Section 364.034(d)(2) or Section
2-21 552.910, Local Government Code, a public or private utility that
2-22 bills and collects solid waste disposal service fees under a
2-23 contract under this section with a county described by Section
2-24 364.011(a-1)(2)(B) may not suspend water or sewer service to a
2-25 person who is delinquent in the payment of the solid waste disposal
2-26 service fee.

2-27 (g-1) This subsection applies only to a county described by
2-28 Section 364.011(a-1)(2)(B). A person is exempt from the
2-29 application of a requirement adopted by a county under Subsection
2-30 (a) if the person, at any time, is receiving under a contract solid
2-31 waste disposal services at a level that is the same as or higher
2-32 than the level of services that otherwise would be required. To
2-33 qualify for the exemption provided by this subsection, the person
2-34 must provide to the county written documentation acceptable to the
2-35 county to show that the person is receiving services under the
2-36 contract. The person who provides solid waste disposal services to
2-37 a person who qualifies for the exemption shall notify the county
2-38 that the services under the contract have stopped not later than the
2-39 15th day after the date those services are stopped for any reason.

2-40 SECTION 3. Subchapter C, Chapter 364, Health and Safety
2-41 Code, is amended by adding Section 364.0343 to read as follows:

2-42 Sec. 364.0343. NOTICE AND HEARING OF CERTAIN FEES FOR SOLID
2-43 WASTE DISPOSAL SERVICES. (a) This section applies to a county
2-44 that:

2-45 (1) regulates solid waste collection, handling,
2-46 storage, and disposal by establishing a mandatory program under
2-47 Section 364.011(a-1)(2)(B); and

2-48 (2) provides in the program rules that this section
2-49 applies to the collection of a fee under the program.

2-50 (b) Before a county may impose the fee described by Section
2-51 364.034, the commissioners court must hold a public hearing on the
2-52 proposed fee. Not later than the 10th day before the date of the
2-53 hearing, the county shall provide notice of the hearing that
2-54 includes the date, time, and location of the hearing and a statement
2-55 that an interested citizen of the county may testify at the hearing.
2-56 The county:

2-57 (1) shall deliver the notice:

2-58 (A) by mail to each owner of real property that
2-59 would be affected by the fee, at the address shown on the most
2-60 recently certified tax roll of the district;

2-61 (B) by posting the notice prominently on the
2-62 county's Internet website from the date the notice is mailed until
2-63 the public hearing is concluded; and

2-64 (C) if the county maintains a public account on a
2-65 social media platform, by posting the notice on the county's social
2-66 media platform account; and

2-67 (2) may publish notice of the hearing in a newspaper in
2-68 addition to delivery of the notice by the methods required under
2-69 this section.

3-1 (c) As early as practicable in advance of a public hearing
3-2 required by this section, the county shall post on the county's
3-3 Internet website any written agenda and related supplemental
3-4 written materials provided by the county to the commissioners in
3-5 advance of the hearing for the commissioners' use during the
3-6 hearing. The county may exclude written materials that the county
3-7 attorney certifies are confidential or may be withheld from public
3-8 disclosure under Chapter 552, Government Code.

3-9 (d) A public hearing held under this section must be on a
3-10 weekday that is not a public holiday. At the hearing, the
3-11 commissioners court shall afford adequate opportunity for
3-12 proponents and opponents of the proposed fee to present their
3-13 views.

3-14 (e) Not later than the 60th day before the scheduled start
3-15 date of the solid waste disposal services for which a fee is
3-16 collected under Section 364.034, the county shall mail notice to
3-17 each landowner whose real property will be benefited by the
3-18 services. The notice must include:

3-19 (1) a statement that:

3-20 (A) the county has adopted an order to require
3-21 the use of county solid waste disposal services under Section
3-22 364.034 and to collect a fee; and

3-23 (B) the landowner may qualify under Section
3-24 364.034(a-1), (g), or (g-1) for an exemption from the application
3-25 of the requirement; and

3-26 (2) instructions for completing and submitting the
3-27 documentation required for the exemptions under Sections
3-28 364.034(a-1), (g), and (g-1).

3-29 SECTION 4. Section 364.0345, Health and Safety Code, is
3-30 amended to read as follows:

3-31 Sec. 364.0345. PENALTIES FOR FAILURE TO USE REQUIRED
3-32 SERVICE IN CERTAIN AREAS; LATE FEES. (a) The commissioners court
3-33 of a county described by Section 364.011(a-1)(2)(B) or (a-2)(2)
3-34 [~~364.011(a-2)(2)~~] that requires the use of a county solid waste
3-35 disposal service under Section 364.034 in the extraterritorial
3-36 jurisdiction of a municipality may adopt orders to enforce the
3-37 requirement, including an order establishing a civil or
3-38 administrative penalty in an amount reasonable and necessary to
3-39 ensure compliance with the requirement.

3-40 (b) A county described by Section 364.011(a-1)(2)(B) may
3-41 not:

3-42 (1) impose a civil penalty under Subsection (a) of
3-43 this section on a person in an amount that exceeds 10 percent of the
3-44 person's delinquent annual service charge; or

3-45 (2) charge fees for late payment of a fee for a service
3-46 provided under this section that exceed \$60 in a single year.

3-47 SECTION 5. Section 791.037(b), Government Code, is amended
3-48 to read as follows:

3-49 (b) This section applies only to a county:

3-50 (1) with a population of more than 1.5 million in which
3-51 more than 75 percent of the population resides in a single
3-52 municipality; or

3-53 (2) that is located adjacent to the United Mexican
3-54 States, has a population of more than 400,000, and contains at least
3-55 two municipalities each of which has a population of 70,000 or more.

3-56 SECTION 6. This Act takes effect September 1, 2023.

3-57 * * * * *