

BILL ANALYSIS

Senate Research Center
89R25139 SCL-F

C.S.S.B. 3016
By: Creighton
Business & Commerce
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The 88th Legislature passed H.B. 2127, the Texas Regulatory Consistency Act, to create a more uniform regulatory environment by preempting certain local ordinances that conflict with state law. The bill voided municipal and county regulations that conflicted with or were not explicitly authorized under the Agriculture, Business & Commerce, Finance, Insurance, Labor, Local Government, Natural Resources, Occupations, and Property Codes.

S.B. 3016 builds on that effort by adding Titles 2 and 7, Subtitle C, of the Local Government Code to the preemptions, as well as introducing a stronger enforcement mechanism to ensure cities and counties are following the law.

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

C.S.S.B. 3016 amends current law relating to state preemption of municipal and county regulation on land use, structures, businesses, and related activities and municipal boundaries and annexation.

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. Provides that the legislature finds that the state has historically been the exclusive regulator of many aspects of commerce, trade, elections, and criminal justice in this state; in recent years, several local jurisdictions have sought to establish their own regulations of commerce, trade, elections, and criminal justice that are different than the state's regulations; and such local regulations have led to a patchwork of regulations that apply inconsistently across this state.

SECTION 2. Sets forth the purpose of this Act.

SECTION 3. Provides that this Act is prohibited from being construed to prohibit a municipality or county from building or maintaining a road, imposing a tax, or carrying out any authority expressly authorized by statute; is prohibited from being construed to prohibit a home-rule municipality from providing the same services and imposing the same regulations that a general-law municipality is authorized to provide or impose; does not affect the authority of a municipality or county to conduct a public awareness campaign; and does not affect the authority of a municipality or county to repeal or amend an existing ordinance, order, or rule that violates the provisions of this Act for the limited purpose of bringing that ordinance, order, or rule in compliance with this Act.

SECTION 4. Amends Chapter 102A, Civil Practice and Remedies Code, by adding Subchapter A and a subchapter heading, to read as follows:

SUBCHAPTER A. PRIVATE ACTION

SECTION 5. Transfers Sections 102A.001, 102A.002, 102A.003, 102A.004, 102A.005, and 102A.006, Civil Practice and Remedies Code, to Subchapter A, Civil Practice and Remedies Code, as added by this Act, and amends them, as follows:

Sec. 102A.001. DEFINITION. Makes a conforming change to this section.

Sec. 102A.002. LIABILITY FOR CERTAIN REGULATION. (a) Creates this subsection from existing text and makes no further changes.

(b) Provides that a person who has sustained an actual or threatened injury in fact from a municipal or county ordinance, order, or rule adopted or enforced in violation of Section 40.001 or 250A.001, Local Government Code, or a nonprofit organization or trade association representing the person, has standing to bring an action against the municipality or county.

Sec. 102A.003. REMEDIES. Makes conforming changes to this section.

Sec. 102A.004. IMMUNITY WAIVER. Makes a conforming change to this section.

Sec. 102A.005. NOTICE. Makes conforming changes to this section.

Sec. 102A.006. VENUE. Makes a conforming change to this section.

SECTION 6. Amends Chapter 102A, Civil Practice and Remedies Code, by adding Subchapter B, as follows:

SUBCHAPTER B. ATTORNEY GENERAL ENFORCEMENT

Sec. 102A.051. DEFINITION. Defines "no-new-revenue tax rate."

Sec. 102A.052. ATTORNEY GENERAL INVESTIGATION AND ACTION. (a) Authorizes the attorney general to investigate an alleged violation of a law described by Section 102A.002 by a municipality or county.

(b) Authorizes the attorney general to bring an action for injunctive, declaratory, or mandamus relief against a municipality or county if the attorney general determines after conducting an investigation under Subsection (a) that the municipality or county violated a law described by Section 102A.002.

(c) Authorizes the attorney general, notwithstanding any other law, including Chapter 15 (Venue), to bring an action under this section in the county in which all or a substantial part of the events giving rise to the cause of action occurred or, if the defendant is a municipality, a county in which the municipality is located.

Sec. 102A.053. EFFECTS OF PENDENCY OF ACTION. (a) Provides that during the pendency of an action brought under Section 102A.052, with respect to a municipality or county defending the action:

(1) the Comptroller of Public Accounts of the State of Texas (comptroller) is required to withhold payment of any money due to the municipality or county under Section 321.501 (Trust Account) or 323.502 (Distribution of Trust Funds), Tax Code;

(2) the municipality or county is prohibited from adopting an ad valorem tax rate that exceeds the municipality's or county's no-new-revenue tax rate;

(3) the municipality or county is prohibited from adopting a budget that exceeds the total expenditures of the budget under which the municipality

or county is operating at the time the attorney general brings the action under Section 102A.052; and

(4) the municipality or county is prohibited from receiving state grant funds and any pending application for such funds is required to be denied.

(b) Provides that Section 109.004(a)(1) (relating to providing that a municipality is not considered to be a defunding municipality if the percentage reduction to the appropriation to the police department does not exceed the percentage reduction to the total budget), Local Government Code, does not apply to a municipality if the comptroller is withholding payments from the municipality in accordance with Subsection (a)(1) of this section.

(c) Prohibits a county, notwithstanding Section 120.002 (Election Required), Local Government Code, from holding an election under that section if the comptroller is withholding payments from the county in accordance with Subsection (a)(1) of this section.

Sec. 102A.054. ACTION PROCEDURES. (a) Provides that a municipality or county defending an action brought under Section 102A.052 has the burden of proof to establish that the municipality or county complied with the law that is the subject of the action.

(b) Requires the trial court to set an action brought under Section 102A.052:

(1) for an initial hearing not later than the 30th day after the date the municipality or county defending the action was served with process for the action; and

(2) for a trial on the merits not later than the 90th day after the date the municipality or county defending the action was served with process for the action unless the municipality or county and the attorney general agree to a later date and the court determines that holding trial at a later date is in the interest of justice.

Sec. 102A.055. APPELLATE JURISDICTION; EXPEDITED APPEAL. (a) Provides that the Fifteenth Court of Appeals has exclusive intermediate appellate jurisdiction of an action brought Section 102A.052. Requires a party to appeal the action not later than the 30th day after the date the judgment is signed.

(b) Requires an appellate court to expedite an appeal of an action brought under Section 102A.052.

Sec. 102A.056. RESOLUTION OF ACTION IN FAVOR OF ATTORNEY GENERAL. (a) Provides that if the attorney general prevails in an action brought under Section 102A.009:

(1) the municipality or county defending the action is prohibited from, during the five state fiscal years following the year in which the judgment becomes final, adopting an ad valorem tax rate that exceeds the municipality's or county's no-new-revenue tax rate or receive state grant funds; and

(2) the court issuing the final judgment resolving the action is required to provide in the judgment that the state is entitled to recover from the municipality or county defending the action a penalty equal to the balance of the suspense account maintained for the municipality or county under Section 321.501 (Trust Account) or 323.501 (Trust Account), Tax Code, as applicable, that exists on the date the judgment is signed.

(b) Requires the comptroller, on receipt of a copy of the final judgment in an action brought under Section 102A.052, to deposit the balance of the suspense account maintained for the municipality or county defending the action under Section 321.501 or 323.501, Tax Code, as applicable, as of the date the judgment signed to the credit of the general revenue fund.

(c) Provides that Section 109.004(a)(1), Local Government Code, does not apply to a municipality subject to a final judgment in an action brought under Section 102A.052 for six state fiscal years following the date the judgment is signed.

(d) Prohibits a county, notwithstanding Section 120.002, Local Government Code, from holding an election under that section if the county has been the subject of an adverse final judgment in an action brought under Section 102A.052 before the sixth anniversary of the date the judgment is signed.

Sec. 102A.057. RESOLUTION OF ACTION IN FAVOR OF MUNICIPALITY OR COUNTY. Requires the comptroller, if a municipality or county prevails in an action brought under section 102A.052, to immediately send to the municipality or county any balance of the suspense account maintained for the municipality or county under Section 102A.053(a)(1) as of the date the final judgment resolving the action is signed.

SECTION 7. Amends Subtitle C, Title 2, Local Government Code, by adding Chapter 40, as follows:

CHAPTER 40. PREEMPTION

Sec. 40.001. PREEMPTION. Prohibits a municipality, unless expressly authorized by another statute, from adopting, enforcing, or maintaining an ordinance or rule regulating conduct in a field of regulation that is occupied by a provision of Subtitle C (Municipal Boundaries and Annexation). Provides that an ordinance or rule that violates this section is void, unenforceable, and inconsistent with this subtitle.

SECTION 8. Amends Subtitle C, Title 7, Local Government Code, by adding Chapter 250A, as follows:

CHAPTER 250A. PREEMPTION

Sec. 250A.001. PREEMPTION. Prohibits a municipality or county, unless expressly authorized by another statute, from adopting, enforcing, or maintaining an ordinance, order, or rule regulating conduct in a field of regulation that is occupied by a provision of Title 7 (Regulation of Land Use, Structures, Businesses, and Related Activities). Provides that an ordinance, order, or rule that violates this section is void, unenforceable, and inconsistent with this title.

SECTION 9. Makes application of Subchapter B, Chapter 102A, Civil Practice and Remedies Code, as added by this Act, prospective.

SECTION 10. Severability clause.

SECTION 11. Provides that the Supreme Court of Texas has exclusive and original jurisdiction over a challenge to the constitutionality of this Act or any part of this Act and is authorized to issue injunctive or declaratory relief in connection with the challenge.

SECTION 12. Effective date: September 1, 2025.