

By: Creighton

S.B. No. 3016

A BILL TO BE ENTITLED

AN ACT

relating to state preemption of certain municipal and county regulation.

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

SECTION 1. The legislature finds that:

(1) the state has historically been the exclusive regulator of many aspects of commerce, trade, elections, and criminal justice in this state;

(2) in recent years, several local jurisdictions have sought to establish their own regulations that are different than the state's regulations; and

(3) such local regulations have led to a patchwork of regulations that apply inconsistently across this state.

SECTION 2. The purpose of this Act is to provide additional statewide consistency by returning sovereign regulatory powers to the state where those powers belong in accordance with Section 5, Article XI, Texas Constitution.

SECTION 3. This Act:

(1) may not be 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;

(2) may not be 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

1 provide or impose in its corporate limits;

2 (3) does not affect the authority of a municipality or  
3 county to conduct a public awareness campaign; and

4 (4) does not affect the authority of a municipality or  
5 county to repeal or amend an existing ordinance, order, or rule that  
6 violates the provisions of this Act for the limited purpose of  
7 bringing that ordinance, order, or rule in compliance with this  
8 Act.

9 SECTION 4. Title 5, Civil Practice and Remedies Code, is  
10 amended by adding a new Section 120A.0025 to read as follows:

11 Sec. 102A.0025. LIABILITY FOR CERTAIN REGULATION. Any  
12 person who has sustained an injury in fact, actual or threatened,  
13 from a municipal or county ordinance, order, or rule adopted or  
14 enforced by a municipality or county in violation of Sections  
15 40.001 or 250A.001, Local Government Code, a nonprofit  
16 organization, or a trade association representing the person has  
17 standing to bring and may bring an action against the municipality  
18 or county.

19 SECTION 5. Chapter 102A, Civil Practice and Remedies Code,  
20 is amended by adding sections 102A.008 through 102A.014 to read as  
21 follows:

22 Sec. 102A.008. DEFINITIONS. In this chapter:

23 (1) "Local government" means a municipality or county.

24 (2) "No-new-revenue tax rate" means the no-new-revenue tax  
25 rate calculated under Chapter 26, Tax Code.

26 Sec. 102A.009. ATTORNEY GENERAL INVESTIGATION AND ACTION.

27 (a) The attorney general may investigate an alleged violation of

this chapter by a local government.

(b) If, after conducting an investigation under Subsection (a), the attorney general determines a local government adopted, enforced, or maintained an ordinance, order, or rule in violation of the provisions listed in section 102A.002, the attorney general may bring an action in the name of the state against a local government for the violation.

Sec. 102A.010. ENFORCEMENT ACTIONS DURING PENDENCY OF ACTION. During the pendency of an action brought under Section 102A.009, with respect to a local government defending the action:

(1) the comptroller shall withhold payment of any money due to the local government under Section 321.502 or 323.502, Tax Code, as applicable;

(2) the local government may not adopt an ad valorem tax rate that exceeds the local government's no-new-revenue tax rate; and

(3) the local government may not receive state grant funds and any pending application for such funds shall be denied.

Sec. 102A.011. BURDEN OF PROOF; INITIAL HEARING. (a) A local government defending an action brought under Section 102A.009 has the burden of proof to establish by a preponderance of the evidence that the local government complied with the law the alleged violation of which is the subject of the action.

(b) The court of original jurisdiction shall set an action brought under Section 102A.009 for an initial hearing not later than the 30th day after the date the local government defending the action was served with process for the action.

1       Sec. 102A.012. RESOLUTION OF ACTION IN FAVOR OF ATTORNEY  
2 GENERAL. (a) If the attorney general prevails in an action brought  
3 under Section 102A.009:

4       (1) the local government defending the action may not,  
5 during the five state fiscal years following the year in which the  
6 judgment becomes final:

7           (A) adopt an ad valorem tax rate that exceeds the local  
8 government's no-new-revenue tax rate; or

9           (B) receive state grant funds; and

10       (2) the court issuing the final judgment resolving the  
11 action shall provide in the judgment that the state is entitled to  
12 recover from the local government defending the action a penalty  
13 equal to the balance of the suspense account maintained for the  
14 local government under Section 321.501 or 323.501, Tax Code, as  
15 applicable, that exists on the date the judgment is signed.

16       (b) The comptroller shall, on receipt of a copy of the final  
17 judgment in an action brought under Section 102A.009 that includes  
18 a provision described by Subsection (a)(2), deposit the balance of  
19 the suspense account maintained for the local government defending  
20 the action under Section 321.501 or 323.501, Tax Code, as  
21 applicable, as of the date the judgment is signed to the credit of  
22 the general revenue fund.

23       Sec. 102A.013. RESOLUTION OF ACTION IN FAVOR OF LOCAL  
24 GOVERNMENT. If a local government prevails in an action brought  
25 under section 102A.009, the comptroller shall, notwithstanding any  
26 other law, immediately send to the local government the balance of  
27 the suspense account maintained for the local government under

1 Section 321.501 or 323.501, Tax Code, as applicable, as of the date  
2 the judgment resolving the action is signed.

3 SECTION 6. Title 2, Subtitle C, Local Government Code, is  
4 amended by adding Chapter 40 to read as follows:

5 CHAPTER 40. PREEMPTION.

6 Sec. 40.001. PREEMPTION. Unless expressly authorized by  
7 another statute, a municipality may not adopt, enforce, or maintain  
8 an ordinance, order, or rule regulating conduct in a field of  
9 regulation that is occupied by a provision of this subtitle. An  
10 ordinance, order, or rule that violates this section is void,  
11 unenforceable, and inconsistent with this subtitle.

12 SECTION 7. Title 7, Subtitle C, Local Government Code, is  
13 amended by adding Chapter 250A to read as follows:

14 CHAPTER 250A. PREEMPTION.

15 Sec. 250A.001. PREEMPTION. Unless expressly authorized by  
16 another statute, a municipality or county may not adopt, enforce,  
17 or maintain an ordinance, order, or rule regulating conduct in a  
18 field of regulation that is occupied by a provision of this title.  
19 An ordinance, order, or rule that violates this section is void,  
20 unenforceable, and inconsistent with this title.

21 SECTION 8. Section 102A.0025, Civil Practices and Remedies  
22 Code, as amended by this Act, applies only to a cause of action that  
23 accrues on or after the effective date of this Act. Section  
24 102A.009, Civil Practice and Remedies Code, as added by this Act,  
25 applies only to a cause of action that accrues on or after the  
26 effective date of this Act. Section 102A.014, Civil Practice and  
27 Remedies Code, as added by this Act, and Section 22.220, Government

1 Code, as amended by this Act, apply only to an appeal initiated on  
2 or after the effective date of this Act.

3       SECTION 9. Every provision, section, subsection, sentence,  
4 clause, phrase, or word in this Act, and every application of the  
5 provisions in this Act to every person, group of persons, or  
6 circumstances, are severable from each other. If any application  
7 of any provision in this Act to any person, group of persons, or  
8 circumstances is found by a court to be invalid, preempted, or  
9 unconstitutional, for any reason whatsoever, then the remaining  
10 applications of the Act to all other persons and circumstances  
11 shall be severed and preserved and shall remain in effect. All  
12 constitutionally valid applications of the provisions in this Act  
13 shall be severed from any applications that a court finds to be  
14 invalid, preempted, or unconstitutional, because it is the  
15 legislature's intent and priority that every single valid  
16 application of every statutory provision be allowed to stand alone.  
17 The legislature further declares that it would have enacted this  
18 Act, and each provision, section, subsection, sentence, clause,  
19 phrase, or word, and all constitutional applications of the  
20 provisions of this Act, irrespective of the fact that any  
21 provision, section, subsection, sentence, clause, phrase, or word,  
22 or applications of this chapter were to be declared invalid,  
23 preempted, or unconstitutional.

24       SECTION 10. The Texas Supreme Court has exclusive and  
25 original jurisdiction over a challenge to the constitutionality of  
26 this Act or any part of this Act and may issue injunctive or  
27 declaratory relief in connection with the challenge.

1       SECTION 11. This Act takes effect immediately if it  
2 receives a vote of two-thirds of all the members elected to each  
3 house, as provided by Section 39, Article III, Texas Constitution.  
4 If this Act does not receive the vote necessary for immediate  
5 effect, this Act takes effect September 1, 2025.