

BILL ANALYSIS

C.S.H.B. 2723
By: Darby
Environmental Regulation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been noted that municipal solid waste facilities are a critical component of support infrastructure that the public depends on for proper waste disposal and the protection of public health and safety. However, concerns have been raised over regulations adopted by local governments and other political subdivisions that some suggest create a patchwork of inconsistent regulation that undermines the ability of facilities to operate as intended. C.S.H.B. 2723 seeks to address these concerns by setting out provisions relating to local government and other political subdivision regulation of certain solid waste facilities.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2723 amends the Health and Safety Code to establish that an applicant for a permit under the Solid Waste Disposal Act is not required to obtain a permit for the siting, construction, or operation of a municipal solid waste facility from a political subdivision as a prerequisite to a permit being issued by the Texas Commission on Environmental Quality (TCEQ). The bill prohibits a political subdivision from adopting a rule or ordinance that conflicts with or is inconsistent with the requirements for municipal solid waste facilities as specified by TCEQ rules or a TCEQ permit or the requirements for such facilities under TCEQ jurisdiction over the management of municipal solid waste. The bill clarifies the grounds on which the validity or applicability of a rule or ordinance of a political subdivision concerning a permit for the siting, construction, or operation of certain solid waste facilities may be the subject of an action for declaratory judgment. The bill establishes that provisions relating to local permits for hazardous waste management and municipal solid waste facilities, as amended by the bill, do not prevent or limit:

- a county or municipality from exercising certain authority granted under the Comprehensive Municipal Solid Waste Management, Resource Recovery, and Conservation Act to prohibit the processing or disposal of solid waste in certain areas; or
- a county from exercising certain authority granted under the County Solid Waste Control Act to prohibit solid waste disposal in the county.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2723 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute, with respect to the provision establishing that an applicant for a permit under the Solid Waste Disposal Act is not required to obtain a permit for the siting, construction, or operation of a municipal solid waste facility from a political subdivision, specifies that the applicant is not required to obtain such a permit as a prerequisite to a permit being issued by TCEQ.

The substitute includes a prohibition against a political subdivision adopting a rule or ordinance that conflicts with or is inconsistent with the requirements for municipal solid waste facilities under TCEQ jurisdiction over the management of municipal solid waste.

The substitute includes a provision establishing that provisions relating to local permits for hazardous waste management and municipal solid waste facilities, as amended by the substitute, do not prevent or limit:

- a county or municipality from exercising certain authority granted under the Comprehensive Municipal Solid Waste Management, Resource Recovery, and Conservation Act to prohibit the processing or disposal of solid waste in certain areas; or
- a county from exercising certain authority granted under the County Solid Waste Control Act to prohibit solid waste disposal in the county.