

BILL ANALYSIS

C.S.H.B. 2763
By: Gervin-Hawkins
Environmental Regulation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerned parties note that in unincorporated areas in some counties, such as Bexar County, solid waste services are voluntary, which can lead to unwanted proliferation of trash and debris in neighborhoods. C.S.H.B. 2763 seeks to address this issue by providing for solid waste management programs in the extraterritorial jurisdiction of municipalities in certain counties.

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. 2763 amends the Health and Safety Code to authorize a commissioners court to contract through a competitive bidding process for the provision of solid waste collection, handling, storage, and disposal in 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 and the county has a population of more than 1.5 million and at least 75 percent of the population resides in a single municipality. The bill exempts a person from being required to use solid waste disposal services offered by a county 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 the person contracts for solid waste disposal services with a provider that meets rules adopted by the Texas Commission on Environmental Quality (TCEQ) for the regulation of solid waste disposal or if 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. The bill establishes that such exemption does not affect the authority of a governmental entity to pursue certain actions under the Texas Litter Abatement Act to address illegal dumping.

C.S.H.B. 2763 authorizes the commissioners court of a county that has a population of more than 1.5 million and at least 75 percent of the population resides in a single municipality that requires the use of a county solid waste disposal service in the extraterritorial jurisdiction of a municipality to 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.

C.S.H.B. 2763 amends the Government Code to authorize a county with a population of more

than 1.5 million in which more than 75 percent of the population resides in a single municipality to contract with a municipality to provide, directly or through a contract with another entity, a mandatory program for solid waste disposal services in an area of the county located within the extraterritorial jurisdiction of the municipality if the municipality does not provide solid waste disposal services in that area. The bill requires the contract to include provisions regarding the termination of the county's provision of service on the occurrence of certain contingencies, including the annexation of the area covered by the contract by the municipality or the provision of service to the area by the municipality.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2763 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 364.011, Health and Safety Code, is amended by adding Subsection (a-1) 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 has a population of more than 1.5 million and at least 75 percent of the population resides in a single municipality.

SECTION 2. Section 364.034, Health and Safety Code, is amended.

No equivalent provision.

HOUSE COMMITTEE SUBSTITUTE

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

(a-1) Notwithstanding Subsection (a), a commissioners court may, through a competitive bidding process, contract for the provision of solid waste collection, handling, storage, and disposal 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 has a population of more than 1.5 million and at least 75 percent of the population resides in a single municipality.

SECTION 2. Same as introduced version.

SECTION 3. Subchapter C, Chapter 364, Health and Safety Code, is amended by adding Section 364.0345 to read as follows: Sec. 364.0345. PENALTIES FOR FAILURE TO USE REQUIRED SERVICE IN CERTAIN AREAS. The commissioners court of a county described by Section 364.011(a-1)(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.

SECTION 3. Subchapter C, Chapter 791, Government Code, is amended.

SECTION 4. Substantially the same as introduced version.

SECTION 4. Subchapter A, Chapter 92, Property Code, is amended by adding Section 92.0071 to read as follows:

Sec. 92.0071. SOLID WASTE SERVICES REQUIRED IN CERTAIN AREAS OF CERTAIN COUNTIES. (a) In this section, "garbage" and "rubbish" have the meanings assigned by Section 361.003, Health and Safety Code.

(b) This section applies only to a county with a population of more than 1.5 million in which at least 75 percent of the population resides in a single municipality.

(c) A landlord of two or more leased dwellings located in the extraterritorial jurisdiction of a municipality located in the county must:

(1) notify the county that the landlord has two or more leased dwellings located in the extraterritorial jurisdiction of the municipality and provide the addresses of the dwellings and the landlord to the county; and

(2) provide solid waste services for the collection, transportation, and disposal of garbage and rubbish from each dwelling by using the solid waste disposal services offered by the county, if any, or by contracting for the services with a provider that meets rules adopted by the Texas Commission on Environmental Quality for the regulation of solid waste disposal.

(d) On request by the county, the landlord must provide the county with documentation showing that solid waste services for each dwelling are being provided.

(e) A provision of a lease that purports to waive a right or to exempt a party from a liability or duty under this section is void.

(f) The commissioners court of the county may adopt orders to enforce this section, including an order establishing a civil or administrative penalty.

No equivalent provision.

SECTION 5. (a) Except as provided by Subsection (b) of this section, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

(b) Section 92.0071, Property Code, as added by this Act, takes effect January 1, 2018.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.