

SUBJECT: Limiting local regulation of energy sources and engines

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 10 ayes — Hunter, Hernandez, Geren, Guillen, Metcalf, Raymond, Slawson, Smithee, Spiller, S. Thompson

1 nay — Turner

2 absent — Anchía, Dean

WITNESSES: For — Ivan Giraldo, Clean Scapes; Matt Coday, Oil & Gas Workers Association; Todd Staples, Texas Oil and Gas Association; John Gordon (*Registered, but did not testify*: Steven Albright, Associated General Contractors of Texas- Highway Heavy Utility and Industrial Branch; Matt Burgin, ConocoPhillips; Matt Welch, Conservative Texans for Energy Innovation; Mark Vane, Husch Blackwell Strategies; Greg Macksood, Ovintiv USA Inc.; Travis McCormick, Panhandle Producers & Royalty Owners Assoc; Michael D. Lozano, Permian Basin Petroleum Association; Neftali Partida, Phillips 66; Caleb Troxclair, Texas Alliance of Energy Producers; Glenn Hamer, Texas Association of Business; Kyle Bush, Texas Association of Manufacturers; Chris Noonan, Texas Chemical Council; Tom Glass, Texas Constitutional Enforcement; Charlie Leal, Texas Farm Bureau; Desiree Castro, Texas Food and Fuel Association; Ryan Paylor, Texas Independent Producers & Royalty Owners Association; Ryan Skrobarczyk, Texas Nursery & Landscape Association; Thure Cannon, Texas Pipeline Association; Mark Borskey, Texas Recreational Vehicle Association; Kelsey Streufert, Texas Restaurant Association; Jay Brown, Valero Energy Corporation; Julie Moore; Gregory Porter)

Against — Clayton Dana-Bashian (*Registered, but did not testify*: Clifford Sparks, City of Dallas; Guadalupe Cuellar, City of El Paso; Jason Sabo, Environment Texas; Tsion Amare, Environmental Defense Fund; Cyrus Reed, Lone Star Chapter Sierra Club; Bill Kelly, Mayor's Office, City of Houston; Joshua Houston, Texas Impact)

**DIGEST:** HB 2374 would prohibit political subdivisions from adopting or enforcing an ordinance, order, regulation, or similar measure that:

- limited access to an energy source, meaning any fuel or power source used to power an engine;
- resulted in the effective prohibition of certain entities and infrastructure, including service stations, necessary to provide access to an energy source; or
- directly or indirectly prohibited or restricted the use, sale, or lease of an engine based on its fuel source.

The bill would not limit a political subdivision's authority to adopt or enforce regulations that were not preempted by state or federal law and did not effectively prohibit or restrict the use, sale, or lease of an engine based on fuel source.

To the extent of any conflict, certain provisions of the Natural Resources Code related to political subdivisions' regulation of oil and gas operations would prevail over the bill's provisions limiting such entities' regulation of engines based on fuel source.

The bill would take effect September 1, 2023.

**SUPPORTERS SAY:** HB 2374 would protect consumer choice in energy by preventing local governments from restricting access to particular energy sources or the use an engine based on the type of fuel it used.

A Texas city is pursuing a plan to phase out gas-powered tools in the near future. Some communities outside the state have banned new gas stations entirely. In Texas, the state gas tax is a major source of transportation funding. Local restrictions targeting gasoline could undermine both consumer freedom and state revenue, and could harm various aspects of commerce and infrastructure. Landscapers still need gas-powered lawn equipment to operate efficiently, since electric alternatives increase costs, while many hospitals and nursing homes rely on gas-powered backup

generators.

HB 2374 would ensure that consumers could continue to use the energy source of their choice, while making it clear that political subdivisions could still enforce reasonable regulations, such as noise and nuisance ordinances, that did not effectively ban or restrict the sale or use of a specific energy source. The bill also would not affect environmental standards regulated by the TCEQ. If more needed to be done to regulate emissions and protect air quality, these regulations should be addressed by the appropriate state and federal authorities. While local control is desirable within reason, the state has a responsibility to set a standard for preserving individual liberty, which local governments must meet.

CRITICS  
SAY:

HB 2374 would impede local governments' ability to improve air quality and health outcomes for their citizens using reasonable regulations. The bill's language is too broad. Under the bill, any limitation of access, however minor, to an energy source would be prohibited, which could undermine cities' authority to zone areas for different purposes. Actions that "indirectly" restricted the use of a specific fuel type would be disallowed by the bill, which could be interpreted to prevent local governments from using or contracting exclusively with "clean" vehicles and equipment for their own operations, or from incentivizing electric charging stations.

Cities should have the authority to regulate energy sources in the interest of limiting nuisances, protecting public health, and reducing pollution. HB 2374 would make it more difficult for cities and other political subdivisions to meet federal air quality standards. Cities are accountable to voters, who could elect new officials if they did not support local energy-related regulations.