

BILL ANALYSIS

Senate Research Center

S.B. 2018
By: Flores
Local Government
4/1/2023
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The 87th Legislature passed H.B. 1925, which instituted a statewide ban on camping in public places. The purpose was to address the growing problem of homeless campsites in public areas that presented a safety and health hazard to those living there as well as to the surrounding communities. Among the bill's provisions, local entities were prohibited from adopting or enforcing a policy that prohibited or discouraged enforcement of a public camping ban and required plan approval for designated camping areas.

Unfortunately, many areas still have open campsites throughout their cities, and none have submitted a plan for designated campsites. The attorney general has found it difficult to seek injunctive relief under the existing statutory framework. A change in the law is needed to make it easier to enforce the ban and for the attorney general to take action against cities that continue to allow open camping in their jurisdictions.

S.B. 2018 specifies that a local entity may not prohibit or discourage the investigation or enforcement of violations of the public camping ban following official, written complaints made by a person. The bill provides that a policy that encourages diversion or provision of services under the statute must be a court-ordered program and contains reporting guidelines for courts that operate such programs as well as reporting requirements to the Office of the Attorney General criminal justice division of citizen complaints. S.B. 2018 specifies that a property can be utilized for camping as long as the plan has been approved by the Texas Department of Housing and Community Affairs. Additionally, it contains provisions for declaring a local entity that does not enforce the camping ban a "violating local entity" and authorizes the Department of Public Safety of the State of Texas to enforce the camping ban as well as withhold sales taxes for the amount of money the state spent that year in enforcing the camping ban.

As proposed, S.B. 2018 amends current law relating to prohibitions on camping in a public place.

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. Amends Sections 364.002(a) and (c), Local Government Code, as follows:

- (a) Prohibits a local entity from adopting or enforcing a policy under which the entity prohibits or discourages the enforcement of any public camping ban, including prohibiting or discouraging the investigation or enforcement of violations of a public camping ban.
- (c) Prohibits a local entity from utilizing a property designated to be used by homeless individuals to camp unless the Texas Department of Housing and Community Affairs has submitted and had approved a plan described by Section 2306.1123(b) (relating to requiring that a plan submitted for approval under Subchapter PP (Property Designated

by Political Subdivision for Camping by Homeless Individuals) describe certain information with respect to a proposed property), Government Code.

SECTION 2. Amends Chapter 364, Local Government Code, by adding Sections 364.0021 and 364.0022, as follows:

Sec. 364.0021. COMPLAINTS AND REPORTING. (a) Requires a local entity to develop and provide a process for a person to file a complaint to the local entity regarding public camping.

(b) Requires a local entity to report to the attorney general, in form and manner prescribed by the attorney general, the following information:

(1) number of complaints received on public camping;

(2) disposition of each complaint, including court-ordered diversion programs;

(3) number of citations issued under Section 48.05 (Prohibited Camping), Penal Code; and

(4) any other information deemed pertinent by the attorney general.

Sec. 364.0022. ENFORCEMENT. (a) Requires the local entity, for a complaint received under Section 364.0021, to take an action within 90 days.

(b) Provides that a local entity, if the local entity does not take action within the prescribed time, will be deemed a "violating local entity" by the attorney general.

(c) Authorizes the attorney general or the Department of Public Safety of the State of Texas (DPS) to initiate an action to enforce Section 48.05, Penal Code, and to recover any costs associated with enforcing Chapter 364 (Enforcement of Public Camping Bans) from a violating local entity in accordance with Section 321.5026, Tax Code.

SECTION 3. Amends Section 48.05, Penal Code, by amending Subsection (i) and adding Subsection (k), as follows:

(i) Requires a peace officer enforcing this section, if a person is arrested or detained solely for an offense under this section, to ensure that all of the person's personal property not designated as contraband under other law is preserved by taking certain actions, including taking custody of non-hazardous personal property and allowing the person to retrieve the property after the person is released from custody. Makes a nonsubstantive change.

(k) Provides that personal property, for the purposes of this section, does not include any permanent or semi-permanent structure other than a camping tent.

SECTION 4. Amends Chapter 321, Tax Code, by adding Section 321.5026, as follows:

Sec. 321.5026. DISTRIBUTION OF TRUST FUNDS TO VIOLATING LOCAL ENTITIES. (a) Defines "violating local entity."

(b) Prohibits the Comptroller of Public Accounts of the State of Texas (comptroller), notwithstanding Section 321.502 (Distribution of Trust Funds), before July 1 of each state fiscal year, from sending to a violating local entity its share of the taxes collected by the comptroller under Chapter 321 (Municipal Sales and Use Tax Act) during the state fiscal year. Requires the comptroller, before sending the violating local entity its share of the taxes, to deduct the amount reported to the comptroller for the violating local entity under Subsection

(c) and to credit that deducted amount to the general revenue fund. Authorizes money credited to the general revenue fund under this subsection to be appropriated to the attorney general and DPS equally.

(c) Requires the attorney general and DPS, not later than August 1 of each state fiscal year, to report to the comptroller for each violating local entity the amount of money the state spent in that state fiscal year to provide law enforcement services in that defunding municipality.

SECTION 5. (a) Makes application of Section 321.5026, Tax Code, as added by this Act, prospective.

(b) Requires a local entity, not later than December 1, 2023, to develop and implement a complaint process as required under Section 364.0021, as added by this Act.

(c) Requires the attorney general, not later than January 1, 2024, to prescribe the manner and form for reporting as required under Section 364.0021, as added by this Act.

(d) Effective date: September 1, 2023.