

SUBJECT: Increasing the number of counties that may license waste transporters

COMMITTEE: Environmental Regulation — committee substitute recommended

VOTE: 6 ayes — Chisum, Hirschi, Howard, Kuempel, Puente, Talton
0 nays
3 absent — Jackson, Allen, Dukes

WITNESSES: For — Jeff Garrett, Fort Bend Health Department; Diana Jetter; Fort Bend County
Against — Henry Flores; A&A Waste Disposal
On — None

BACKGROUND : The Health and Safety Code allows the commissioners court of a county with a population of less than 100,000 to license waste haulers who transport waste in unincorporated areas of the county. The commissioners can set standards governing the transportation of waste hauling in the county, establish grounds for the suspension or revocation of a license, and prescribe provisions necessary to administer the program.

Certain waste haulers are exempt from regulation of the transport of waste by counties, including those who transport waste on behalf of a city or other governmental entity unless the waste is deposited outside of the county where the city or entity is located; waste haulers operating in more than three counties; recyclers; and those who transport waste associated with oil and gas exploration.

DIGEST: CSHB 473 would amend the Health and Safety Code to allow counties with a population of less than 375,000 (rather than 100,000) to license waste haulers in their unincorporated areas.

CSHB 473 would take immediate effect if finally approved by a two-thirds record vote of the membership in each house.

**SUPPORTERS
SAY:**

CSHB 473 would help 21 additional counties fight illegal dumping in their unincorporated areas. The bill would help bring relief to county residents, including landowners who are victimized by illegal dumping on their property. The bill would also save counties the time and money spent cleaning up some of these messes. The bill would deter those waste haulers who now dump illegally because they would fear losing their license to transport waste. Counties with a population of less than 100,000 already have the statutory authority to regulate the transportation of waste in unincorporated areas; this bill would merely permit (not mandate) other counties to do so as well.

Fort Bend County, for example, has a serious problem with illegal dumping but cannot combat the problem because it has a population of more than 100,000. As a result, in some areas of Fort Bend County the banks of the Brazos River are lined with trash. In many cases, county officials know who is dumping the waste but cannot catch them in the act as it is done at odd hours of day or night to avoid detection. CSHB 473 would allow counties to make sure that waste haulers use legal landfills.

**OPPONENTS
SAY:**

CSHB 473 would expand a statutory provision that unfairly targets small waste haulers; large and mid-size waste haulers are usually exempt from county regulation because they are either licensed by municipalities or they operate in more than three counties. Waste hauling is one of the few businesses that can be started without a large initial investment and provide employment opportunities in rural and semi-rural areas.

Expanding the law to cover more counties would penalize the small entrepreneurs in these areas who must compete with the giant corporations who dominate the waste hauling business. These small haulers could be subject to unreasonable fees for county regulation of waste transport since the law does not cap the fees. The illegal waste haulers, meanwhile, who are fly-by-night operators who often dump at night, would bother to obtain licenses in the first place.

OTHER
OPPONENTS
SAY:

The bill should remove the statutory exemption from licensing for waste haulers who transport material as part of a recycling program, since there have been problems in certain areas with so-called recyclers who actually dump the material illegally rather than transporting it to a recycling center. Also, all population restrictions should be removed to allow all counties to regulate waste haulers in their unincorporated areas.

NOTES:

The committee substitute provided for a population restriction of 375,000; the original version would have removed the 100,000 restriction to allow all Texas counties to regulate waste haulers.

The following seven counties have population over 375,000 and thus would be excluded by CSHB 473: Harris, Dallas, Bexar, Tarrant, El Paso, Travis and Hidalgo.

The companion bill, SB 321 by Armbrister et. al., which would raise the population restriction to 500,000, a change that would add Hidalgo County to the list of counties that could license waste hauling, has been referred to the Senate Natural Resources Committee.