

By: _____ .B. No. _____

Substitute the following for ____B. No. _____:

By: _____ C.S.____B. No. _____

A BILL TO BE ENTITLED

1 AN ACT

2 relating to state preemption of certain municipal and county
3 regulation.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. This Act shall be known as the Texas Regulatory
6 Consistency Act.

7 SECTION 2. The legislature finds that:

8 (1) the state has historically been the exclusive
9 regulator of many aspects of commerce and trade in this state;

10 (2) in recent years, several local jurisdictions have
11 sought to establish their own regulations of commerce that are
12 different than the state's regulations; and

13 (3) the local regulations have led to a patchwork of
14 regulations that apply inconsistently across this state.

15 SECTION 3. The purpose of this Act is to provide statewide
16 consistency by returning sovereign regulatory powers to the state
17 where those powers belong in accordance with Section 5, Article XI,
18 Texas Constitution.

19 SECTION 4. This Act may not be construed to prohibit:

20 (1) a municipality or county from building or
21 maintaining a road or imposing a tax; or

22 (2) a home-rule municipality from providing the same
23 services a general-law municipality is authorized to provide.

24 SECTION 5. Chapter 1, Agriculture Code, is amended by

1 adding Section 1.004 to read as follows:

2 Sec. 1.004. FIELD PREEMPTION. Unless expressly authorized
3 by another statute, a municipality or county may not adopt,
4 enforce, or maintain an ordinance, order, or rule regulating
5 conduct in a field of regulation that is occupied by a provision of
6 this code. An ordinance, order, or rule that violates this section
7 is void, unenforceable, and inconsistent with this code.

8 SECTION 6. Chapter 1, Business & Commerce Code, is amended
9 by adding Section 1.109 to read as follows:

10 Sec. 1.109. FIELD PREEMPTION. Unless expressly authorized
11 by another statute, a municipality or county may not adopt,
12 enforce, or maintain an ordinance, order, or rule regulating
13 conduct in a field of regulation that is occupied by a provision of
14 this code. An ordinance, order, or rule that violates this section
15 is void, unenforceable, and inconsistent with this code.

16 SECTION 7. Title 5, Civil Practice and Remedies Code, is
17 amended by adding Chapter 102A to read as follows:

18 CHAPTER 102A. MUNICIPAL AND COUNTY LIABILITY FOR PREEMPTED
19 REGULATION

20 Sec. 102A.001. DEFINITION. In this chapter, "person" means
21 an individual, corporation, business trust, estate, trust,
22 partnership, limited liability company, association, joint
23 venture, government, governmental subdivision, agency or
24 instrumentality, public corporation, any legal or commercial
25 entity, or protected or registered series of a for-profit entity.

26 Sec. 102A.002. LIABILITY FOR CERTAIN PREEMPTED REGULATION.
27 Any person who has sustained an injury in fact, actual or

1 threatened, from a municipal or county ordinance, order, or rule
2 adopted or enforced by a municipality, county, or municipal or
3 county official acting in an official capacity in violation of any
4 of the following provisions or a membership association
5 representing the person has standing to bring and may bring an
6 action against the municipality, county, or official:

- 7 (1) Section 1.004, Agriculture Code;
- 8 (2) Section 1.109, Business & Commerce Code;
- 9 (3) Section 1.004, Finance Code;
- 10 (4) Section 30.005, Insurance Code;
- 11 (5) Section 1.005, Labor Code;
- 12 (6) Section 1.003, Natural Resources Code;
- 13 (7) Section 1.004, Occupations Code; or
- 14 (8) Section 1.004, Property Code.

15 Sec. 102A.003. REMEDIES. A claimant is entitled to recover
16 in an action brought under this chapter:

- 17 (1) compensatory damages for the costs and reasonable
18 attorney's fees incurred in defending against an action brought by
19 the defendant to enforce the law that is the basis for the action;
- 20 (2) declaratory and injunctive relief; and
- 21 (3) costs and reasonable attorney's fees.

22 Sec. 102A.004. IMMUNITY WAIVER AND PROHIBITED DEFENSES.

23 (a) Governmental immunity of a municipality or county to suit and
24 from liability is waived to the extent of liability created by this
25 chapter.

26 (b) Official and qualified immunity may not be asserted as a
27 defense in an action brought under this chapter.

1 Sec. 102A.005. VENUE. (a) Notwithstanding any other law,
2 including Chapter 15, a claimant may bring an action under this
3 chapter in:

4 (1) the county in which all or a substantial part of
5 the events giving rise to the cause of action occurred;

6 (2) if the defendant is a municipality or municipal
7 official, a county in which the municipality is located or a county
8 contiguous to a county in which the municipality is located; or

9 (3) if the defendant is a county or county official, a
10 county contiguous to the county.

11 (b) If the action is brought in a venue authorized by this
12 section, the action may not be transferred to a different venue
13 without the written consent of all parties.

14 SECTION 8. Chapter 1, Finance Code, is amended by adding
15 Section 1.004 to read as follows:

16 Sec. 1.004. FIELD PREEMPTION. Unless expressly authorized
17 by another statute, a municipality or county may not adopt,
18 enforce, or maintain an ordinance, order, or rule regulating
19 conduct in a field of regulation that is occupied by a provision of
20 this code. An ordinance, order, or rule that violates this section
21 is void, unenforceable, and inconsistent with this code.

22 SECTION 9. Chapter 30, Insurance Code, is amended by adding
23 Section 30.005 to read as follows:

24 Sec. 30.005. FIELD PREEMPTION. Unless expressly authorized
25 by another statute, a municipality or county may not adopt,
26 enforce, or maintain an ordinance, order, or rule regulating
27 conduct in a field of regulation that is occupied by a provision of

1 this code. An ordinance, order, or rule that violates this section
2 is void, unenforceable, and inconsistent with this code.

3 SECTION 10. Chapter 1, Labor Code, is amended by adding
4 Section 1.005 to read as follows:

5 Sec. 1.005. FIELD PREEMPTION. (a) Unless expressly
6 authorized by another statute, a municipality or county may not
7 adopt, enforce, or maintain an ordinance, order, or rule regulating
8 conduct in a field of regulation that is occupied by a provision of
9 this code. An ordinance, order, or rule that violates this section
10 is void, unenforceable, and inconsistent with this code.

11 (b) For purposes of Subsection (a), a field occupied by a
12 provision of this code includes employment leave, hiring practices,
13 breaks, employment benefits, scheduling practices, and any other
14 terms of employment that exceed or conflict with federal or state
15 law for employers other than a municipality or county.

16 SECTION 11. Chapter 1, Natural Resources Code, is amended
17 by adding Section 1.003 to read as follows:

18 Sec. 1.003. FIELD PREEMPTION. Unless expressly authorized
19 by another statute, a municipality or county may not adopt,
20 enforce, or maintain an ordinance, order, or rule regulating
21 conduct in a field of regulation that is occupied by a provision of
22 this code. An ordinance, order, or rule that violates this section
23 is void, unenforceable, and inconsistent with this code.

24 SECTION 12. Chapter 1, Occupations Code, is amended by
25 adding Section 1.004 to read as follows:

26 Sec. 1.004. FIELD PREEMPTION. Unless expressly authorized
27 by another statute, a municipality or county may not adopt,

1 enforce, or maintain an ordinance, order, or rule regulating
2 conduct in a field of regulation that is occupied by a provision of
3 this code. An ordinance, order, or rule that violates this section
4 is void, unenforceable, and inconsistent with this code.

5 SECTION 13. Chapter 1, Property Code, is amended by adding
6 Section 1.004 to read as follows:

7 Sec. 1.004. FIELD PREEMPTION. Unless expressly authorized
8 by another statute, a municipality or county may not adopt,
9 enforce, or maintain an ordinance, order, or rule regulating
10 conduct in a field of regulation that is occupied by a provision of
11 this code. An ordinance, order, or rule that violates this section
12 is void, unenforceable, and inconsistent with this code.

13 SECTION 14. Chapter 102A, Civil Practice and Remedies Code,
14 as added by this Act, applies only to a cause of action that accrues
15 on or after the effective date of this Act.

16 SECTION 15. This Act takes effect immediately if it
17 receives a vote of two-thirds of all the members elected to each
18 house, as provided by Section 39, Article III, Texas Constitution.
19 If this Act does not receive the vote necessary for immediate
20 effect, this Act takes effect September 1, 2023.