

Memorandum

DATE March 22, 2023

CITY OF DALLAS

TO Representative Rafael Anchía

SUBJECT **CSHB 2127 – Impact to Local Ordinances in House District 103**

On Wednesday, March 15, 2023, Laura Morrison from the City Attorney's Office testified on behalf of the City of Dallas in opposition to [CSHB 2127](#).

Following testimony, you requested a list of city ordinances within House District 103 expected to be impacted by the proposed legislation – Dallas, Irving, Farmers Branch, and Carrollton.

Attached are the City of Dallas ordinances that will be affected should CSHB 2127 pass, including but not limited to:

- City of Dallas Minimum Wage Ordinance
- City of Dallas Water Conservation Ordinance
- City of Dallas Regulation of Business or Services – Sexually Oriented Businesses
- City of Dallas Insurance Requirements for Ambulances, Dockless Vehicles, Tow Services, Special Events, Valet Parking and Streetlight Pole Banners
- City of Dallas Equal Opportunity Employment Contracts
- City of Dallas anti-discrimination provisions relating to labor unions, ethics and personnel rules, including family and holiday leave
- City of Dallas Occupations Code relating to breeding permits, boarding home facilities, alarm system requirements

Should you have any questions, please contact Clifford Sparks, State Legislative Director, at Clifford.Sparks@dallas.gov.

Tennell Atkins
Chairman – Ad Hoc Committee on Legislative Affairs
City of Dallas

c: T.C. Broadnax, City Manager
Tammy Palomino, Interim City Attorney
Clifford Sparks, State Legislative Director
Carrie Roger, Director, Government Affairs
Bertram Vandenberg, Assistant City Attorney
Laura Morrison, Assistant City Attorney

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Committee Substitute for H.B. 2127

(1) Section 1.004, Agriculture Code;

Title 6. Production, Processing, and Sale of Animal Products
Dallas City Code § 7-7.3. Keeping of Roosters. (Prohibiting owning a rooster in the city.)

Fertilizer facilities (Chapter 62 and 63, Agriculture Code)
Dallas City Code § 19-118.3. Regulation of Pesticides, Herbicides, and Fertilizers

Title 7. Soil and Water Conservation
Dallas City Code § 49-21.1 Conservation Measures Relating to Lawn and Landscape Irrigation

Chapter 251. Nuisance Actions – Agricultural Operations
Dallas City Code Chapter 27 Minimum Property Standards
Dallas City Code Article IV-a Municipal Jurisdiction over Urban Nuisances
Dallas City Code Section 7A-18 City Removal of Litter from Private Premises
Dallas City Code Section 18-17 City Removal of Weeds and Vegetation Upon Failure of Owner, Occupant, or Person in Control to Do So.

(2) Section 1.109, Business & Commerce Code;

Title 2 Competition and Trade Practices
Dallas City Code Chapter 42 Home Solicitations
Dallas City Code Article XI Credit Services Organizations and Credit Access Businesses

Title 5. Regulation of Business or Services
Dallas City Code Chapter 41A Sexually Oriented Businesses
Dallas City Code Chapter 43, Article VI, Division 3 Valet Parking

- Chapter 18: Municipal Solid Wastes
18-3, Regulating Containers for Municipal Solid Waste Materials

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18-4, Regulating the Collection of Solid Waste Materials from Residences and Duplexes
18-5, Regulating the Collection and removal of Solid Waste Materials from Apartments, Institutions, Commercial Establishments, and Mobile Home Parks.
18-6 , Regulating the Collection and Removal of Solid Waste From the Downtown Area
18-7, Regulating the Collection and Removal of Dead Animals
18-9 (a), Specifying Charges for Sanitation Service
18-10, Regulating the Processing and Disposal of Solid Waste Materials
18-11, Specifying Charges for Disposal of Solid Waste Materials
18-30, Authority of Director
18-38 (a), Amendments to and Transfer of Franchise
18-39 (a), Expiration and Renewal of Franchise; Voidance of Authority to Operate Vehicles
18-52 (a), Director of Sanitation's Authority
18-58; 18-59; 18-60, Issuance, Denial, and Display of a License or Permit; Revocation of a Licenses; Appeals

(3) Section 1.004, Finance Code;

Chapter 25 – Loan Brokers

Chapter 50, Article XI – Credit Services Organizations & Credit Access Businesses (short term lenders)

Ch. 43-170 Insurance requirements

(4) Section 30.005, Insurance Code;

Dallas City Code § 5-25 -insurance requirements for transportation services (preempted by Ch. 1954)

Dallas City Code § 8A-34(j)(1)(B) -preventing boarding home operators from being life insurance beneficiary of boarding home residents (preempted by Subchapter B of Chapter 1103)

Article I of Chapter 15D of the Dallas City Code- insurance requirements for ambulances-auto, malpractice, and commercial general liability (preempted by Sections 551.052 and 1952.0515)

Article II of Chapter 15D of the Dallas City Code -insurance requirements for emergency wreckers-auto insurance (preempted by Section 1952.0515)

Dallas City Code § 17-8.2(c)(1)(E) – insurance requirements for mobile food units (preempted by Section 1952.0515)

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Dallas City Code § 28-168 - insurance requirements for motor vehicle escorts for hire (preempted by Section 1952.0515)
Dallas City Code § 42A-28.7 -insurance requirements for street seat permit (preempted by Section 551.052)
Dallas City Code § 42A-15 -insurance requirements for special events (preempted by Section 551.052)
Dallas City Code § 42A-37 -insurance requirements for streetlight pole banner (preempted by Section 551.052)
Dallas City Code § 43-126.12 -insurance requirements for valet parking services (preempted by Sections 1952.0515 and 551.052)
Dallas City Code § 43-140 -insurance requirements for construction work performed in the right-of-way (preempted by Section 551.052)
Dallas City Code § 43-170 -insurance requirements for shared dockless vehicles (preempted by Section 1952.0515)
Division 5 of Article II of Chapter 47A - insurance requirements for transportation for hire (preempted by Section 1952.0515)
Dallas City Code § 48A-29- insurance requirements for vehicle tow services (preempted by Section 1952.0515)
Dallas City Code § 48C-30- insurance requirements for vehicle immobilizations services (preempted by Section 1952.0515)

(5) Section 1.005, Labor Code;

Charter, title XIV, § 5 (Franchises - non-discrimination provision)
Dallas City Code § 2-17.3 (Nondiscrimination in Provision of City Services)
Dallas City Code § 15B-3 (Equal Employment Opportunity Contracts – anti-discrimination provision)
Dallas City Code, ch. 20A (Fair Housing - non-discrimination provisions and enforcement, voucher incentives, etc.)
Dallas City Code § 20A-4.1 (Housing Voucher Incentives – antidiscrimination provision)
Dallas City Code § 31-3 (Discrimination and Dress Codes in Places of Public Accommodation)
Dallas City Code, ch. 46 (Unlawful Discriminatory Practices Relating to Sexual Orientation and Gender Identity and Expression)
Dallas City Code, § 47A-2.4.2 (Transportation for Hire – non-discrimination requirement)
Dallas City Code ch. 52, sect. 610 (rest breaks for construction workers)
-To the extent H.B. 2127 also aims to preempt the City’s Charter, ordinances, and other rules and regulations in its capacity as an employer, this bill could preempt the following:

Charter, title XIII, § 5 (DFR - additional compensation for continuous service)
Charter, title XVI (Civil Service and Personnel)

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Charter, title XXIV, § 18 (Miscellaneous Provisions - employees' wages)
Dallas City Code §§ 2-5 – 2-7 (labor unions)
Dallas City Code § 12A-5 (Ethics Code - anti-discrimination provision)
Dallas City Code, ch. 34 (Personnel Rules), including but not limited to:
§ 34-5 (required membership in Employees' Retirement Fund)
§ 34-6 (minimum age for employment)
§ 34-9 (eligibility for benefits)
§§ 34-15 - 34-21 (compensation)
§§ 34-22 – 34-31.1 (sick leave, vacation leave, quarantine leave, mental health leave, compassionate leave, compensatory leave, paid parental leave, paid holidays, court leave, death-in-family leave, leave with pay, military leave, injury leave, mandatory city leave)
§§ 34-30, 34-35, 34-38, 34-39 (non-discrimination provisions, right to appeal grievance involving claim of discrimination)
§§ 34-32 – 34-33 (health benefit plans, life insurance)
§ 34-36 (rules of conduct)
§§ 34-38 – 34-40 (discipline, grievance, and appeal procedures)
§ 34-43, § 34-45 (wage supplementation plan, benefit policy for police officers injured while off-duty)
Dallas City Code, ch. 40A (Employees' Retirement Fund)

(6) Section 1.003, Natural Resources Code;

1. Dallas City Code sect. 51A art. XII & 51A-4.203(b)(3.2) – oil and gas regulation (Ch. 52, 85)
Section 51A-8.511 - Conservation easements (Ch. 183)
Section 51A-11.301 - Historic conservation easement program (Ch. 183)
Section 51A-10.135(f) - Alternative methods of compliance with tree replacement requirements (Ch. 183)
2. Dallas City Code, Chapter 18 Municipal Solid Waste (Dallas City Code Sec. 18-1)
3. Dallas City Code, Chapter 18 Municipal Solid Waste (Dallas City Code Sec. 18-3)
4. Dallas City Code, Chapter 18 Municipal Solid Waste (Dallas City Code Sec. 18-5)
5. Dallas City Code, Chapter 18 Municipal Solid Waste (Dallas City Code Sec. 18-10)
6. Dallas City Code, Chapter 32 Parks and Water Reservoirs (Dallas City Code Sec. 32-3)
7. Dallas City Code, Chapter 32 Parks and Water Reservoirs (Dallas City Code Sec. 32-7)
8. Dallas City Code, Chapter 32 Parks and Water Reservoirs (Dallas City Code Sec. 32-11.4)
9. Dallas City Code, Chapter 32 Parks and Water Reservoirs (Dallas City Code Article IV, White Rock Lake and Bachman Lake Reservoirs)
10. Dallas City Code Chapter 32 Parks and Water Reservoirs (Dallas City Code Article V, Elm Fork, Secs. 32-55, 32-56, 32-57, 32-58, 32-59)
11. Dallas City Code, Chapter 32 Parks and Water Reservoirs (Dallas City Code Article VI, Lake Ray Hubbard)
12. Dallas City Code, Chapter 49 Water and Wastewater

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13. Dallas City Code, Chapters 45 & 52 Temporary Inclement Weather Sheltering
13. Dallas City Code, Chapter 50 Consumer Affairs (Dallas City Code Article V, Wood Vendors,
Sec. 50-79(3)&(5))

(7) Section 1.004, Occupations Code; or

Sec. 5-13 – license fee for aviation fuel sales
Sec. 5-19 – license/permit required for sale of products at airport
Sec. 5-23 – registration/permit required for airport transportation
Sec. 5-25 – registration of transportation services
Sec. 5-26 – fee for transportation services registration
Ch. 6A- amusement centers
Sec. 7-4.11- breeding permit
Sec. 7-4.5 - sale of dogs and cats
Sec. 7-6.2 - regulated animal permit
Ch. 8A – boarding home facilities license
Ch. 9A – license required for billiard halls
Ch. 11- cemeteries and burials
Ch. 12B – registration of convenience stores
Ch. 14 – dance hall license
Sec. 15C-1 – 15C-16 – alarm system requirements
Sec. 15D-1 – 15D-9.39 - private ambulance service license
Sec. 15D-10 – 15D-64 - emergency wrecker license/permit
Sec. 15D-70 – chauffeur's license
Sec. 18-32 – 18-51 – solid waste collection franchises
Sec. 18-52 – 18-54 - multifamily site recycling collection service
Sec. 18-55 – 18-66 – tire business license/permit
Ch. 19 - permits required to dispose of fetal material
Ch. 25 – loan broker license

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Ch. 25A - massage establishments
Sec. 28-161, 28-170 – escort license
Sec. 28-173 – chauffeur's license
Ch. 33 – assisted living facilities
Ch. 38 - private detective license
Ch. 38A – commercial promoter registration
Ch. 39B – license to purchase/sell regulated property
Ch. 40B – secondary metal recycler license
Ch. 41A – sexually oriented business license
Ch. 42 – home solicitation registration
Sec. 43-126.3 - 43-126.14 - valet parking license
Sec. 43-126.15 - 43-126.31 - newsrack license
Sec.
Ch. 42A Special Event and 38A promoters, insurance requirement (42A-28.7)
Ch. 47 – transportation for hire permit
Ch. 48 – vehicle towing service license
Ch. 48C – vehicle immobilization service license
Sec. 50-79 – 50-86 – license for wood vendors
Sec. 50-99 – 50-112 - electronic repair license
Sec. 50-113 – 50-130 – motor vehicle repair license
Sec. 50-131 – 50-143 - home repair license
Sec. 50-162 – 50-167 – concession license
Sec 2401 & 2402 – Transportation Regulation Division in Aviation

Tex. Occ. Code § 1701.003 states that, “[e]xcept as expressly provided by this chapter, this chapter does not: (1) limit the powers or duties of a municipality” It further provides, “This chapter does not prevent an employing agency from establishing qualifications and standards for hiring or training [peace] officers ... that exceed the commissions’ minimum standards.” However, H.B. 2127 introduces confusion regarding the existence and scope, if any, of the city’s power to direct and control the Dallas Police Department, including but not limited to, issues of

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hiring, training, and discipline. As such, H.B. 2127 could potentially preempt chapter 12 of the City Charter, chapter 37 of the Dallas City Code, and DPD's General Orders, Code of Conduct, and Standard Operating Procedures.

(8) Section 1.004, Property Code.

1. Chapter 20A Fair Housing would be preempted Chapter 301 TPC Fair Housing Act pertaining to Fair Housing; Portions of Chapter 20A dealing with restrictive covenants and issuance of certificate of occupancy (mixed income housing; assisted living; retirement housing; multi-family housing) may be preempted by Chapter 209 TPC.
2. Portions of Chapter 51A would be preempted by Chapter 301 related to mixed income and disability exceptions;
3. Chapter 46-6.1 and 46-7 of the Dallas City Code pertaining to unlawful housing practices and discrimination on the basis of gender identity expression and sexual orientation would also be preempted by Chapter 301 of the Texas Property Code.
4. Chapter 27 of the Dallas City Code would be preempted by Chapters 91 & 92 of the Texas Property Code pertaining to landlord-tenant relationship & residential tenancies. Also by Chapters 81,82 related to condominiums.
5. Chapter 32-74 Abandonment of Personal Property would be preempted by Chapter 72 of TPC Abandonment of Personal Property
6. Portions Chapter 39A of the Dallas City Code pertaining to relocation benefits would be preempted by Chapter 21.046 of the Texas Property Code.
7. Chapter 8A of the Dallas City Code regarding Boarding Homes may be impacted.
8. Section 2-11.3 of the Dallas City Code may be preempted by Chapter 21 of the Texas Property Code regarding Eminent Domain procedures.
9. Ordinance 32346 pertaining to providing tenants a notice of proposed eviction is preempted by Chapter 24 of the Texas Property Code.
10. Portions of Chapter 51A related to manufactured housing would be preempted by Chapter 94 Manufactured home tenancies.
11. Ordinance 21521 (eviction notice)

(9) Chapter 186 Natural Resources Code—conservation easements.