



TEXAS MUNICIPAL LEAGUE
Empowering Texas cities to serve their citizens

President **David Rutledge**, Mayor, Bridge City
Executive Director **Bennett Sandlin**

March 27, 2023

The Honorable Charles Perry
Chairman, Senate Water, Agriculture, and Rural Affairs Committee
Texas State Senate
P.O. Box 12068
Austin, TX 78768-2068

Dear Chairman Perry,

I am writing on behalf of the Texas Municipal League to provide comments on **S.B. 1421**. We appreciate the author's intent to highlight the unique nature of agricultural operations and distinguish the applicability of certain city codes and ordinances to such operations. However, as currently drafted, the bill does not differentiate between agricultural operations and agricultural-like activity on residential lots. We are concerned that the lack of such a distinction will inadvertently prevent a city from quickly and effectively addressing real public health and safety concerns in densely populated residential areas.

S.B. 1421 would, among other things, prohibit a city from imposing a governmental regulation on agricultural operations located anywhere within city limits until:

- (1) a city prepares a report by the city health officer that: (a) identifies a specified health or safety hazard posed by the agricultural operation; (b) states whether enforcement would restrict or prohibit a generally accepted agricultural practice; and (c) provides clear and convincing evidence that enforcing an applicable regulation is necessary to protect nearby persons and property and that enforcement is the least restrictive means to address the hazard;
- (2) a city presents the health officer's report to the city council; and
- (3) the city council adopts a resolution authorizing the city to enforce the regulation.

Section 251.005 of the Agriculture Code establishes heightened code enforcement thresholds and standards for pre-existing annexed agricultural operations. The rationale behind these heightened standards is that such operations require substantial financial investment and effort, are vital to the state's food security, and are generally located far from denser residential developments.

S.B. 1421 would expand these heightened standards to any agricultural operation within city limits. Specifically, it would limit the scope of health and safety hazards that a city can address and delay its ability to protect nearby persons and property by requiring the city council to adopt a formal resolution before the city can act.

S.B. 1421 would also eliminate a city's ability to impose zoning regulations on any agricultural operation within city limits. As drafted, a governmental regulation under S.B. 1421 includes a zoning regulation. Zoning is often key to preserving neighborhood character, promoting and planning for growth, and protecting the public. S.B. 1421 would prevent a city from enforcing its zoning regulations unless the city meets the heightened standards described above.

For these reasons, we respectfully request that the committee consider the three following revisions to S.B. 1421 to properly balance preserving agricultural operations and protecting public health, safety, and welfare: (1) limit the heightened code enforcement standards in Section 251.0055 to pre-existing annexed agricultural operations under Section 251.005, and agricultural operations located on a tract of land over one acre in area within city limits; (2) limiting the prohibition against governmental regulations regarding vegetation height for agricultural operations to such operations located on a tract of land over one acre in area within city limits; and (3) remove zoning regulations from the definition of governmental regulation to protect a city's authority to enforce its zoning regulations within city limits.

City governments are uniquely positioned to make informed decisions about local land uses and local health and safety concerns. In its current form, we believe that S.B. 1421 would undermine a city's ability to honor its obligation to protect its residents. We welcome the ability to work with you and the committee to make changes that would retain the legislation's overall goal while supporting local decision-making.

Sincerely,

A handwritten signature in black ink, appearing to read 'Monty Wynn', with a stylized flourish at the end.

Monty Wynn
Director, Grassroots and Legislative Services
Texas Municipal League