



CITY OF HOUSTON
Administration & Regulatory Affairs
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The Honorable Brooks Landgraf
Chair, House Committee on Environmental Regulation
Texas House of Representatives
P.O. Box 2910
Austin, Texas 78768

Dear Chairman Landgraf and Members of the Committee,

The City of Houston (“Houston”) appreciates this opportunity to testify in opposition to House Bill 1227 (HB 1227), which is set for a hearing on Thursday, April 17, 2025, before the House Environmental Regulation Committee. House Bill 1227 would limit the amount the City of Houston could charge solid waste management services operators to two percent of the operator’s gross receipts for the sale of services in the municipality.

Solid waste management operators profit by using the public right-of-way to conduct their business operations. In Houston, these operators have been paying four percent of gross receipts to the City of Houston for the use of the public asset since 2003. When the City implemented the fee in 2003, we did not set the fee arbitrarily. We looked at both state law and other local franchise agreements that spoke to the fair market rental value of the right-of-way. As you know, the Texas Constitution has long required valued-based rental fees for use of public property. The Texas Constitution, art. III, § 52 (a) and art. XI, § 3, prohibits the State and other governmental entities (e.g., cities) from making “gifts of public property.” A gift includes allowing the use of public property to any entity for less than market value. Tex. Atty. Gen. Op. DM-232 (1993).

When we conducted our fair market rental review, Houston’s other franchise agreements were at four and five percent depending on the scope of use. In at least one other municipality, the solid waste management operator fee was set as high as nine percent of gross receipts.

We invited industry and public stakeholders to draft the regulations with us, and after several months of collaborative work, we arrived at the Solid Waste Franchise structure and the four percent franchise fee that is expressed in Chapter 39 of the City of Houston Code of Ordinances. We worked with industry stakeholders to create a regulatory framework that works for solid waste haulers as well as the Houstonians they serve. As a result of our inclusive work with industry members, the City of Houston currently holds franchise agreements with 246 waste hauling companies that operate within the city limits – the most solid waste franchisees of any Texas municipality. We believe we have the highest level of compliance and the highest participation by the industry for any city in Texas specifically because these were negotiated terms that the City and the industry established together. In the 22 years that this ordinance has been in place, we have received no complaints from the industry or the public about the franchise fee rates or the services provided.

Texas cities spend billions of dollars each year maintaining the public right-of-way for the health, safety, and benefit of all who use it. The amendments proposed by H.B. 1227 would cut the fees received by the City in half, to two percent, reducing the City's revenue by approximately \$4.9 million annually, directly impacting even the City's own solid waste operations, as well as our ability to repair and maintain the public right-of-way.

The proposed bill dictates what all cities in Texas should receive in remuneration for a public asset, without any rational basis for limiting the franchise fee to two percent or addressing whether two percent represents the fair market value of the right-of-way as required by the Texas Constitution. This one-size-fits-all approach purports to arbitrarily set the value of all municipal rights-of-way for every municipality that currently has a solid waste management operator fee above two percent.

Any reduction in public right-of-way compensation, below fair market value, is an illegal gift of public property under the Texas Constitution, as well as a threat to the public rights-of-way and the residents, cities, and Texas businesses that use it.

The City of Houston values the opportunity to raise these concerns and stands ready to work collaboratively to improve the bill's language.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Tina Paez', is written over a horizontal line.

Tina Paez, Director
City of Houston
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