

March 15<sup>th</sup>, 2023

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## **Some Republicans raise questions about push by Chair Burrows to broadly preempt local government, concerns emerge about protections for payday lenders**

Chair Burrows was nearly yelling at members of House State Affairs when closing on his bill after he couldn't answer basic questions about what regulations the bill would apply to. He has said "This bill is designed to be somewhat of a living document."

By James Russell

In Texas House State Affairs on Wednesday, Calendars Chairman Dustin Burrows, R-Lubbock, sounded really frustrated after he received pushback from some of his fellow Republicans and others as he laid out his proposal for broad preemption of local government regulations.

After the Texas Municipal League raised questions about what regulations the bill would even apply to – Burrows himself has taken pride to say it is deliberately vague – Burrows tweeted during the hearing: "Listening to TML lie and confuse has never made me want to ban taxpayer funded lobbying more than today!!!"

The so-called "Texas Regulatory Consistency Act" – some call it a "super-preemption bill" – takes aim at the patchwork of local regulations that supporters say makes operating a small business in Texas more difficult. It also allows residents to sue if restricted ordinances are in place. The proposal has been championed by conservative media since Burrows filed it, but some conservative lawmakers and faith leaders like Texas Baptists wondered aloud today whether it would be a boon to payday lenders, for example.

Education Chairman Brandon Creighton has filed companion legislation.

HB 2127 is just the latest chapter in the preemption saga. It was one of the few real flashpoints during the 2019 session, as you may remember. A version of it died after the House and Senate failed to agree on protecting local nondiscrimination ordinances, which include sexual orientation, gender identity, veteran status and other classes not protected statewide.

This time around the bill does not regulate nondiscrimination ordinances, Burrows emphasized.

Ahead of the hearing, a coalition including local elected officials, Democrats, unions and others denounced the bill.

Marisa Bono, CEO of Every Texan, called it an “attack on our democracy” and pointed to a 2019 Baseline & Associates poll showing a majority of Texans have more faith in local leaders to pass policies meeting their needs.

As Burrows made his argument to the committee later in the day, Republicans including Rep. John Smithee, R-Amarillo, and Rep. Jay Dean, R-Longview both raised concerns about the short and long-term consequences of the state broadly preventing local governments from regulating everything from beekeeping to payday lending.

Smithee said it is unclear if the bill preempts local payday lending ordinances.

Bennet Sandlin of TML said the vagueness is exactly what’s wrong with Burrows’ bill, even if the Lubbock lawmaker is “good intentioned.” In his testimony, Sandlin pointed out that lawmakers had spent hours in the hearing trying to figure out whether the bill would even apply to local regulations surrounding that industry.

Burrows said his bill isn’t about that topic but he’d be happy to have further discussions about those who are concerned about it. “If we need to address these businesses, I think that we certainly need to take a hard look at it at the state level,” he said.

Smithee suggested the bill’s language is simply too broad.

“My concern is twofold. One is how broad we’re going here and secondly, I’m not sure I understand from reading the bill, what all is being preempted because of its reference to these codes?” he asked.

“We could sit there and try to be prescriptive and identify each and everything that we are preempting,” Burrows said. “This bill is designed to be somewhat of a living document,” he said. “Also, I think it encourages the legislature to do a better job of regulating if we need to regulate (an) industry altogether.”

But, Smithee asked, what if Texas legalizes abortion after some cities like Lubbock have passed ordinances declaring themselves as “sanctuary cities for the unborn?”

“At that point if the legislature had specifically adopted a policy, legalizing abortion, would a municipality within the state have the power to declare abortion unlawful within the confines of that city?” Smithee asked.

Those provisions would “be preserved and protected underneath this bill,” Burrows said, but a different political climate may have some effect on the overall issue.

“We’re not looking to become Big Brother. We prefer local control. We’re not looking to be the weed control people. But I think it’s important that we make sure that whole home rule charter cities are going to continue to operate just as they always have,” Rep. Dean said. “We want to allow the people that are elected in those cities to continue, unless they go out of bounds,” said Dean, who is a former mayor. Burrows said he agreed with that sentiment.

Rep. Rafael Anchia, D-Dallas, argued that it is not inherently good that more power would be concentrated at the state level.

“I could give you a laundry list of things that the state does a really terrible job of regulating right, including Child Protective Services and Adult Protective Services and mental health. I mean, we are not doing well at regulating many of these things. Simply because the state is regulating or not regulating something doesn’t mean that it is de facto doing a great job,” he said. “I am certain that there are there are businesses who feel like we’re either under or overregulating them from the state level as well.”