

CHAPTER 159

S.B. No. 570

AN ACT

relating to the responsibility of a political subdivision, its officers, or its employees for solid waste on certain property acquired through certain functions as sovereign.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 361.271, Health and Safety Code, is amended to read as follows:

Sec. 361.271. PERSONS RESPONSIBLE FOR SOLID WASTE. (a) For the purpose of this subchapter, a person is responsible for solid waste if the person:

- (1) is any owner or operator of a solid waste facility;
- (2) owned or operated a solid waste facility at the time of processing, storage, or disposal of any solid waste;
- (3) by contract, agreement, or otherwise, arranged to process, store, or dispose of, or arranged with a transporter for transport to process, store, or dispose of, solid waste owned or possessed by the person, by any other person or entity at:
  - (A) the solid waste facility owned or operated by another person or entity that contains the solid waste; or
  - (B) the site to which the solid waste was transported that contains the solid waste; or
- (4) accepts or accepted any solid waste for transport to a solid waste facility or site selected by the person.

(b) *A political subdivision or an officer or employee of the political subdivision is not a person responsible for solid waste released or threatened to be released from a facility or at a site if:*

- (1) *the political subdivision acquired ownership or control of the facility or site through bankruptcy, tax delinquency, abandonment, or other circumstances in which the subdivision involuntarily acquired title to the facility or site by virtue of the subdivision's function as sovereign; and*
- (2) *the political subdivision, officer, or employee did not cause or contribute to the release or threatened release of solid waste at the facility or site.*

(c) *A political subdivision that is in a county with a population of 2.4 million or more or is in a county adjacent to a county with a population of 2.4 million or more and that builds*

*or installs a drainage project on a site of a solid waste facility is not a person responsible for solid waste released or threatened to be released from the facility or at a site of the facility if:*

*(1) the political subdivision acquired ownership or control of the facility or site through bankruptcy, tax delinquency, abandonment, or other circumstances in which the subdivision involuntarily acquired title to the facility or site by virtue of the subdivision's function as sovereign; and*

*(2) the plans for the drainage project have been submitted to and reviewed by the Texas Water Commission.*

*(d) A political subdivision that builds or installs a drainage project under Subsection (c) is not subject to civil or criminal liability arising from the building or installation of the drainage project. This subsection does not apply to an injury or property damage claim that results from an act or omission of the political subdivision constituting gross negligence, recklessness, or intentional misconduct.*

**SECTION 2.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on April 29, 1993: Yeas 30, Nays 0; passed the House on May 7, 1993: Yeas 139, Nays 0, two present not voting.

Approved May 16, 1993.

Effective May 16, 1993.