

**SUBJECT:** Requiring notice to nearby cities of waste and air permit applications

**COMMITTEE:** Environmental Regulation — committee substitute recommended

**VOTE:** 8 ayes — Chisum, Jackson, Dukes, Hirschi, Howard, Kuempel, Puente, Talton

0 nays

1 absent — Allen

**WITNESSES:** For — Nancy Sikes, City of Balch Springs; Bob Durrett

Against — Jon Fisher, Texas Chemical Council

**DIGEST:** CSHB 1936 would require that entities applying for Texas Natural Resource Conservation Commission (TNRCC) solid waste, hazardous waste, and air permits for facilities located within 1,000 feet of the corporate limits of a city notify the governing body of that city.

The notice would have to describe the location of the facility and the activities to be conducted there and state that a person or city affected by the facility would be entitled to request a hearing from TNRCC. The notice also would have to describe how TNRCC could be contacted and could include other information.

The bill would take effect September 1, 1997.

**SUPPORTERS SAY:** The bill would ensure that cities are notified of about the location of facilities with potential for environmental and health effects. This information can be very important to those who live nearby and could prevent certain types of facilities from being located near schools and other sensitive areas. The City of Balch Springs, for example, was unaware of the fact that a cement batch plant was planned within approximately 800 feet of a school until well after the application was made. CSHB 1936 would ensure that this type of situation would no longer occur.

Prior notice of proposed applications would allow city officials to review the situation and decide if a facility would present a problem for their residents. Applicants might be persuaded to make appropriate modifications ahead of time, so contested case hearings could be avoided. The earlier notice is given and received, the more time there is to work problems out ahead of time. Current methods of notice are often overlooked; rarely do citizens scour the legal notices in their daily newspaper or peruse the *Texas Register*. This bill would provide a clear and direct means of notification.

OPPONENTS  
SAY:

Applicants for these type of permits must already comply with numerous notice requirements and requiring yet another one would be burdensome and unnecessary. Notice of applications can be found in newspapers and the *Texas Register*, and city officials have access to both of them. Each requirement becomes another trip-wire for the applicant whose permit can be denied if even a single step is forgotten. If application processes become too onerous, industries may at some point decide to take their business to other states. The bill also sets an arbitrary limit of 1,000 feet; these kind of details should be set by rule, not statute.

NOTES:

The committee substitute added a provision to include air permits and deleted a provision of the original version of the bill that would have required notice to counties.