

SUBJECT: Financial assurance for landfills operated by local governments

COMMITTEE: Environmental Regulation — favorable, without amendment

VOTE: 7 ayes — Bonnen, Howard, Driver, Homer, T. King, Kuempel, W. Smith
0 nays

WITNESSES: For — Kerry Russell, Texoma Area Solid Waste Authority
Against — None

BACKGROUND: Health and Safety Code, ch. 361 governs the disposal of solid waste in Texas. Texas Administrative Code, Title 30, secs. 37.271 and 37.281 establishes Texas Commission on Environmental Quality (TCEQ) regulations governing financial assurance of local governments that own or operate a landfill.

DIGEST: HB 2131 would allow a local government that owned or operated a municipal solid waste landfill to satisfy TCEQ requirements for the demonstration of financial assurance if it had:

- established and passed a financial test in accordance with TCEQ rules; and
- demonstrated that outstanding bonds — including general obligation bonds, revenue bonds, and certificates of obligation — that were not secured by any guarantee or collateral had a current Standard and Poor's rating of AAA, AA, A, or BBB or a Moody's rating of Aaa, Aa, A, or Baa.

The definition of "local government" would include transportation corporations and natural resources conservation and reclamation districts.

Financial assurance would have to be demonstrated before receipt of waste at the facility or as soon as practicable, if the facility already had received waste.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005.

**SUPPORTERS
SAY:**

HB 2131 would allow an organization created by one or more local governmental units for the purpose of operating a landfill to take advantage of the financial surety requirements available to a local government operating a landfill directly. Under current law, a local government must demonstrate that it has sufficient financial resources to operate a facility in a safe manner. TCEQ rules allow a local government to demonstrate financial assurance based on a satisfactory bond rating and attainment of certain financial conditions. This bill would extend this option to local government-sponsored organizations.

In some parts of the state, several local governments have formed partnerships to jointly operate a landfill under a public corporation or reclamation district. However, under current law and TCEQ rules, these public organizations are forced to put up surety bonds to provide financial assurance. This can cost the local governments up to \$200,000 per year in taxpayer funds. This bill simply would allow the district or corporation to demonstrate financial assurance on the basis of their bond ratings.

**OPPONENTS
SAY:**

No apparent opposition.

NOTES:

The companion bill, SB 1407 by Estes, is pending in the Senate Natural Resources Committee.