

SUBJECT: Limiting the expansion of certain landfills

COMMITTEE: Environmental Regulation — committee substitute recommended

VOTE: 8 ayes — Morrison, E. Rodriguez, Isaac, Kacal, P. King, Lozano, Reynolds, E. Thompson

0 nays

1 absent — K. King

WITNESSES: For — Jeff Andonian and Scott Hudson, City of Carrollton; Roy Neil Ferguson and Burt Solomons, City of Lewisville; Robin Schneider, Texas Campaign for the Environment; Byron Friedrich; (*Registered, but did not testify*: Lou MacNaughton; Steven Bacchus, City of Lewisville, Texas; David Foster, Clean Water Action; Rob Kohler, Environmental Protection of Caldwell County; David Weinberg, Texas League of Conservation Voters; Jennifer Allmon, the Texas Catholic Conference of Bishops)

Against — Shane Davis and Harold Froehlich, City of Farmers Branch TX; Steve Carr, National Waste and Recycling Association Texas Chapter, Republic Services; Stephen Minick, Texas Association of Business; Arden Kemler, Texas Chapter, Solid Waste Association of North America; Chris Macomb, Waste Management of TX, Inc.; (*Registered, but did not testify*: Daniel Eden, Farmers Branch)

On — (*Registered, but did not testify*: Earl Lott, Texas Commission on Environmental Quality)

DIGEST: CSHB 281 would limit expansion of Type 1 landfills when they were wholly located inside the boundaries of one municipality but owned by another municipality. The Texas Commission on Environmental Quality (TCEQ) could not approve an application to issue, amend, or renew a permit that sought to expand the area or capacity of the landfill, unless the governing body of the municipality in which the landfill was located approved by resolution or order the issuance, amendment, or renewal of

the permit.

CSHB 281 also would require TCEQ to provide an opportunity for members of the Legislature who represented the district containing the landfill described in the permit to comment on the application and to consider those comments in evaluating the application.

This 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, 2015 and would apply only to an application pending before TCEQ on or after that date.

**SUPPORTERS
SAY:**

CSHB 281 would provide for additional scrutiny regarding the expansion of landfills in Texas. The state's landfills have been increasing in capacity even as they are decreasing in number, which has ushered in an age of "mega landfills." Whereas the average height of landfills in 1986 was 13 feet, today the average height is 83 feet, and Texas has more than 12 landfills taller than 200 feet.

These large landfills tend to serve regions, rather than single communities. Capacity is outstripping need, and the proliferation of large landfills can lead to water pollution and the evaporation of mercury into the air. CSHB 281 would create an impetus for TCEQ to consider a bigger picture when approving such projects, not just whether the technical merits of the application were met.

One landfill to which this bill would apply is located in Lewisville and owned by the city of Farmers Branch. The city is seeking a permit for its expansion that would create a massive landfill 725 feet tall in an urbanized area, and the proposed expansion would affect another municipality, the city of Carrollton. The landfill expansion would more than double its current volume, and much of the new material deposited there will come from areas outside of Farmers Branch, which indicates that the city values the landfill as a source of revenue rather than a solution to its waste problem. It is not fair or appropriate that one city should be able to make such an important decision for another city with

no effective voice in that decision.

TCEQ holds public meetings to hear concerns about permits under certain circumstances, but the agency is stretched thin in terms of resources. It also is limited in how it can formally consider community concerns. CSHB 281 would provide a formal pathway to include input from a community that could be significantly affected by decisions such as these.

This bill would increase fairness by bringing a stronger voice back to the community. A quarter of a million people live in the area that could be affected by this landfill, and the Trinity River, which provides drinking water to more people in Texas than any other river, could be harmed if the landfill leaked. Members of the public and the officials who represent the affected area should have some say in a project like this.

OPPONENTS
SAY:

CSHB 281 would interfere with a process that has been in the works for five years and would be unfair to the parties that have been following all the rules and procedures to pursue the landfill expansion. Furthermore, the bill would set a bad precedent. Businesses or municipalities cannot be expected to invest resources in following existing processes, such as seeking permits, if they could be undone in this manner.

The current process already provides for disclosure and opportunities for the public to comment on new or expanding landfills and does not need to be changed. The parties have been negotiating a solution at the local level, and this bill only would complicate and interfere with those solutions.

A bill like this would not benefit the state as a whole but rather would target a specific situation. This is not the best use of the Legislature's resources and authority. Furthermore, interfering with this expansion would not solve the problem of what to do with solid waste for this growing region.

The bill effectively would give cities veto power in such cases. Because the bill would require action in the form of a resolution or order to approve a permit, a project could be killed just by the city taking no

action. A contested case hearing already has been requested regarding the Farmers Branch landfill permit. That process should be allowed to play out.