

BILL ANALYSIS

Senate Research Center

S.B. 1537
By: West
Natural Resources
5-21-97
As Filed

DIGEST

Currently, many lower income and minority communities support a disproportionately high concentration of solid waste and other industrial facilities which negatively affect air quality and property values. Individuals and community groups in these areas are often without the financial resources necessary to prevent these facilities from locating near their homes, churches, and schools. In order to minimize the adverse effects of solid waste facilities, the state may need to consider in its solid waste strategic planning the cumulative effect of multiple sources of pollution and the adverse effects of additional facilities on communities. This bill will provide restrictions on the siting of solid waste facilities and require the Texas Natural Resource Conservation Commission to consider cumulative risks in certain administrative proceedings.

PURPOSE

As proposed, S.B. 1537 provides restrictions on the siting of solid waste facilities and requires the Texas Natural Resource Conservation Commission to consider cumulative risks in certain administrative proceedings.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 361.002, Health and Safety Code, by adding Subsection (c), to provide that it is this state's policy to restrict the siting of solid waste facilities so that those facilities are not located disproportionately in low-income, minority, or other communities and the adverse effects of those facilities on the communities in which they are located will be minimized, while ensuring that this state has adequate solid waste management capacity.

SECTION 2. Amends Section 361.020(a), Health and Safety Code, to require the strategic state solid waste plan to include certain provisions.

SECTION 3. Amends Section 361.0201(b), Health and Safety Code, to require the plan to assess historical trends regarding the siting of solid waste facilities in low-income, minority, and other communities and include provisions to restrict the siting of those facilities so as to minimize their adverse effects on those communities.

SECTION 4. Amends Section 361.0216, Health and Safety Code, to provide that the office of pollution prevention is created to coordinate all environmental justice activities of the Texas Natural Resource Conservation Commission (TNRCC).

SECTION 5. Amends Section 361.034(a), Health and Safety Code, to require a report to be submitted by TNRCC to certain persons to include an evaluation of the progress made in accomplishing the state's policy of restricting the siting of solid waste facilities so as to minimize the adverse effects of those facilities on low-income, minority, and other communities.

SECTION 6. Amends Section 361.102, Health and Safety Code, as follows:

Sec. 361.102. New heading: PROHIBITION ON SITING OF FACILITIES WITHIN A CERTAIN DISTANCE OF RESIDENCE, CHURCH, SCHOOL, DAY CARE CENTER, PUBLIC DRINKING WATER SUPPLY, OR PARK. (a) Requires TNRCC, by rule, to prohibit the issuance of a permit for a new solid waste facility, rather than for a hazardous waste landfill or land treatment facility, or the areal expansion of such a facility, the siting or areal expansion of a solid waste facility that is exempt from the requirement of a permit, or the disposal of solid waste if the facility or disposal site is to be located within one-half mile, rather than 1,000 feet of an established residence, church, school, day care center, surface water body used for a public drinking water supply, or dedicated public park.

(b) Deletes existing text regarding the issuance of a permit for a new commercial hazardous waste facility or areal expansion of such a facility. Requires distances for a subsequent areal expansion of a new solid waste facility that was required to comply with Subsection (a) to be measured from one of certain areas only if, at the time the distance was certified under that subsection the property was being used for that purpose or in the case of a residence, the property was zoned residential.

(c) Requires TNRCC, by rule, to prohibit the issuance of a permit for a new solid waste facility or the areal expansion of such a facility, the siting or areal expansion of a solid waste facility that is exempt from the requirement of a permit, or the disposal of solid waste if the facility or disposal site is to be located at a distance greater than one-half mile from certain areas, unless the applicant or the owner or operator of the facility or disposal site demonstrates that the facility or disposal site will be operated so as to safeguard public health and welfare and protect physical property and the environment, at any distance beyond the facility's or disposal site's property boundaries, consistent with the purposes of this chapter. Redesignated from existing Subsection (d).

(d) Requires the measurement of distances required by certain subsection to be take toward the property line of certain properties that are in use when construction of the facility or disposal site begins, if a permit is not required. Redesignated from existing Subsection (e). Makes conforming and nonsubstantive changes.

(e) Provides that the restrictions imposed by Subsection (a)-(c), rather than (a)-(d), do not apply to certain areas within the boundaries of a solid waste facility or disposal site or property owned by the owner or operator of the facility or disposal site.

(f) Makes conforming changes.

SECTION 7. Amends Chapter 5D, Water Code, by adding Section 5.123, as follows:

Sec. 5.123. CONSIDERATION OF CUMULATIVE RISKS. Authorizes an affected party, in an administrative proceeding involving the siting, expansion, or operation of a facility in an area in which other permitted facilities are located, to offer, and TNRCC shall consider, evidence relating to cumulative risks, including certain information. Requires TNRCC to take certain actions.

SECTION 8. Effective date: September 1, 1997.

SECTION 9. Emergency clause.