

BILL ANALYSIS

Senate Research Center
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S.B. 1520
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Natural Resources
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, the Texas Commission on Environmental Quality review of an application for a municipal or commercial nonhazardous liquid processing facility is limited to whether the provisions of the application meet the technical requirements established in agency rules and policy regarding location, geology, hydrology, construction, processing methodology, and similar requirements.

As proposed, S.B. 1520 amends current law relating to the consideration of applications for permits for certain commercial solid waste processing or treatment facilities.

[Note: While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Natural Resource Conservation Commission in SECTION 1 (Section 361.0865, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 361, Health and Safety Code, by adding Section 361.0865, as follows:

Sec. 361.0865. CONSIDERATION OF PROCESSING OR TREATMENT FACILITY PERMIT APPLICATIONS. (a) Provides that this section applies only to an application for the issuance, amendment, extension, or renewal of a permit for a commercial facility that accepts nonhazardous liquid waste from municipal or industrial sources for processing or treatment. Provides that this section does not apply to a facility owned or operated by or affiliated with:

- (1) a local government; or
- (2) a person who holds a permit to dispose of hazardous, municipal, or industrial solid waste.

(b) Prohibits the Texas Natural Resource Conservation Commission (TNRCC) from issuing, amending, extending, or renewing a permit unless TNRCC determines that the applicant possesses adequate technical, managerial, and financial ability to operate the facility safely and in compliance with all applicable legal requirements. Requires TNRCC to consider, at a minimum:

- (1) financial assurance information described by Section 361.085(a) (relating to required information to be included in application for permit);
- (2) evidence of the professional qualifications of the management or principals of the applicant;

(3) evidence of training, licensure, certification, or relevant experience of individuals employed by the applicant who are or will be involved in the operation of the facility;

(4) whether the applicant has a compliance history classification as a poor or average performer, as determined by rules adopted under Section 5.754 (Classification and Use of Compliance History), Water Code, or does not have a compliance history;

(5) information related to past compliance, in addition to the information provided under Section 361.084 (Compliance Summaries), as required by TNRCC, including information indicating:

(A) for the preceding five years, whether, in connection with an unauthorized acceptance or discharge of waste the applicant has been assessed a civil or criminal penalty, two or more administrative orders that assess penalties against the applicant or order the applicant to take corrective measures have been issued by TNRCC, or four or more notices of violation have been issued by TNRCC to the applicant; and

(B) for the preceding 10 years, whether the facility, the applicant, the principal shareholders of the owner of the facility, or the individuals employed by the facility who are or will be responsible for the operation of the facility have been convicted of a violation of any environmental law; and

(6) any other evidence required by TNRCC relating to the applicant's intent to comply with all applicable legal requirements.

(c) Requires TNRCC by rule to adopt standards for making a determination under Subsection (b).

(d) Authorizes TNRCC to impose conditions on the issuance, amendment, extension, or renewal of a permit designed to increase the likelihood of the applicant's operation of the facility safely and in compliance with all applicable legal requirements.

SECTION 2. Makes application of Section 361.0865, Health and Safety Code, prospective.

SECTION 3. Effective date: September 1, 2011.