

BILL ANALYSIS

Senate Research Center
85R5043 JXC-D

S.B. 551
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Natural Resources & Economic Development
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Five years ago, Pintail Landfill, LLC (parent company Green Group Holdings, LLC) applied for a municipal solid waste (MSW) permit in Waller County. Over the course of that time, Pintail had two MSW landfill applications returned by the Texas Commission on Environmental Quality (TCEQ). The first application contained inaccurate misrepresentations about the groundwater depth. Four years into the permitting process, and in the middle of the contested case hearing proceedings at the State Office of Administrative Hearings (SOAH), groundwater was discovered spewing out of a measuring well at the proposed location. At that point, Pintail admitted that its information was inaccurate and that its application failed to meet the regulatory requirements. Pintail requested that SOAH remand the application to TCEQ. To preserve the integrity of the MSW permitting program, TCEQ returned the application. Knowing that its landfill location was prohibited by Waller County and City of Hempstead ordinances, Pintail filed a second application seeking an MSW landfill permit for the same location. TCEQ returned the second application because it is barred by ordinance. Pintail is now appealing that decision, refusing to give up its efforts to put a landfill at this poor location.

Pintail's story highlights the need for TCEQ to be able to return or deny poor quality solid waste applications whose problems were not addressed by applicants during the review process, and to prohibit the refile of certain applications. Review of a solid waste application can take years. At the end of the review process, TCEQ issues a draft permit and the matter is referred to SOAH for hearing if it is contested. At this point, it is unacceptable for an applicant to have failed to disclose important facts to TCEQ and to have to admit in writing that it fails to meet the rules. Such a scenario is offensive to the permitting program, and cannot be tolerated. This bill allows TCEQ to return or deny an application if it has already gone through the permit review process, but still has such inaccurate or incomplete information that the applicant admits it does not meet the requirements of the permitting rules.

Applicants cannot expect agency staff to do their work for them. In an era of belt-tightening by state government, industry must participate by providing thorough and compliant applications. The state does not have the resources to write a solid waste applicant's application for them. This bill discourages sloppy work by applicants that results in a waste of state resources. At this time, agencies are being asked to do more with less, and we should expect nothing less from industry.

As proposed, S.B. 551 amends current law relating to inaccurate or incomplete permit applications for solid waste facilities.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 361, Health and Safety Code, by adding Section 361.0681, as follows:

Sec. 361.0681. RETURN OR DENIAL OF INCOMPLETE OR INACCURATE APPLICATION. (a) Authorizes the Texas Commission on Environmental Quality

(TCEQ), before TCEQ determines that a permit application is administratively and technically complete, to return the application to an applicant if the application is incomplete or inaccurate.

(b) Requires TCEQ to deny a permit application TCEQ finds to be incomplete or inaccurate during technical review if TCEQ returned a previous version of the application to the applicant during technical review because the previous version was incomplete or inaccurate, and prohibits TCEQ from approving a subsequent application for a solid waste facility at the site that was the subject of the denied application.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2017.