

BILL ANALYSIS

Senate Research Center
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H.B. 1859
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Health & Human Services
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Engrossed

DIGEST AND PURPOSE

Chapter 244 of the Local Government Code is entitled *Location Of Certain Facilities and Shelters*. Subchapter A concerns correctional and rehabilitation facilities; Subchapter B addresses homeless shelters. The definition of "correctional or rehabilitation facilities" in the statute only applies to facilities that house persons convicted of misdemeanors or felonies. Current law requires public notification if these facilities are to be located within 1,000 feet of residences, schools, parks, and churches. Local consent to construct these facilities may also be required. (Provisions in Subchapter B concerning homeless shelters are limited to cities with a population of 1.6 million.) Current law does not extend these provisions to chemical dependency treatment facilities, recovery centers, or certain types of halfway houses. H.B. 1859 allows local municipalities to hold a public on the location of a treatment facility.

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 Chapter 244, Local Government Code, by adding Subchapter C , as follows:

SUBCHAPTER C. CHEMICAL DEPENDENCY TREATMENT FACILITIES

Sec. 244.051. DEFINITIONS. Defines "treatment facility" and "affected property."

Sec. 244.052. APPLICABILITY. Provides that this subchapter does not apply to an alternative education program under Section 37.008, Education Code, that is licensed under Chapter 464, Health and Safety Code, to provide chemical dependency treatment services or an entity described by Section 464.003 or 464.052, Health and Safety Code.

Sec. 244.053. NOTICE OF PROPOSED LOCATION. (a) Requires a person who intends to construct or operate a treatment facility within 1,000 feet of an affected property to notify the governing body of the municipality in which the affected property is located and post the notice required by Subsection (b).

(b) Requires a person described by Subsection (a) to prominently post an outdoor sign at the proposed location of the treatment facility stating that the person is intending to construct or operate a chemical dependency treatment facility at the location and providing the person's name and business address. Requires the sign to be at least four by six feet in size and to be written in lettering at least four inches in height. Authorizes the municipality in which the affected property is located to require the sign to be both in English and in a language other than English if it is likely that a substantial number of the residents in the area speak as their primary language a language other than English.

(c) Requires a person to give the notice required by this section not later than the 90th day before the date the person begins construction or operation of the treatment facility.

(d) Requires the notice required by this section, if the affected property is located in more than one municipality, to be given to each municipality, and the procedures prescribed by this subchapter to be followed in relation to each municipality.

Sec. 244.054. CONSTRUCTION OR OPERATION OF FACILITY. Authorizes a person, after complying with the notice requirements of Section 244.053, to construct or operate a treatment facility within 1,000 feet of an affected property only if the governing body of the municipality does not issue a resolution under Section 244.055 denying the municipality's consent to the construction or operation.

Sec. 244.055. LOCAL CONSENT. (a) Provides that the municipality denies consent to the construction or operation of a treatment facility within 1,000 feet of an affected property if the governing body determines by resolution after a public hearing that the treatment facility would be located within 1,000 feet of an affected property and that the construction or operation of the facility is not in the best interest of the municipality. Requires the governing body to hold the public hearing under this subsection not later than the 90th day after the date it receives the notice required by Section 244.053.

(b) Provides that if the governing body of the municipality does not issue the resolution described by Subsection (a) before the 91st day after the date it receives the notice required by Section 244.053, the municipality is considered to consent to the construction or operation of a treatment facility within 1,000 feet of an affected property.

Sec. 244.056. DISTANCE MEASUREMENT. Provides that for purposes of this subchapter, distance is measured along the shortest straight line between the nearest property line of the proposed location for a treatment facility and the nearest property line of an affected property.

SECTION 2. (a) Effective date: September 1, 2003.

(b) Makes application of this Act prospective to December 1, 2003.