

BILL ANALYSIS

C.S.H.B. 1859
By: Bohac
Urban Affairs
Committee Report (Substituted)

BACKGROUND 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 halfwayhouses. Committee Substitute House Bill 1859 would do so. The bill does not require a mandatory public hearing to grant consent for these facilities to locate within the 1,000 ft. zone, however it does give local municipalities the option to hold a public hearing if they desire in response to community protest of the treatment facility

RULEMAKING AUTHORITY

It is the committee’s opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

SECTION BY SECTION ANALYSIS

SECTION 1. This section adds Subchapter C to Chapter 244, Local Government Code, to address the location of certain chemical dependency treatment facilities. Section 244.051 establishes the definitions used in Subchapter C. “Treatment facility” maintains the meaning assigned by Section 464.001, Health and Safety Code. “Affected property” by the location of a treatment facility means any residential property, primary or secondary school, public park or public recreation area of the state or a political subdivision of the state, church, synagogue, or other place of worship that is within a municipality.

Section 244.052 excludes alternative education programs under Section 37.008, Education Code, licensed under Chapter 464, Health and Safety Code, that provide chemical dependency treatment services. This section also excludes entities described by Section 464.003 or 464.052, Health and Safety Code.

Section 244.053 requires a person intending 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. In addition, a notice must be posted at the proposed location of a treatment facility consisting of an outdoor sign which states the person intends to construct or operate a treatment facility. This notice must be given 90 days before the date of construction or operation begins.

Section 244.054 grants permission to persons complying with the notice requirements of this bill to construct or operate a treatment facility within 1,000 feet of an affected property provided the governing body of the municipality does not issue a resolution denying consent.

Section 244.055 allows a municipality to deny consent to the construction or operation of a treatment facility within 1,000 feet of an affected property by resolution after a public hearing that the treatment facility is not in the best interest of the municipality.

Section 244.056 sets forth the method by which distance is measured in the added subchapter.

SECTION 2. Effective date; Act applies to the construction or operation of treatment facilities that begin on or after November 1, 2003.

EFFECTIVE DATE

September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 1859 modifies the original in the following respects: it changes the size of the outdoor sign from 24" by 36" to four by six feet; increases the size of the lettering from two inches in height to four inches; changes the posting period from 60 days to 90 days; and requires that the local municipality hold the public hearing and issue the resolution within that 90 day period if it chooses to do so.