

BILL ANALYSIS

Senate Research Center
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S.B. 1100
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Natural Resources
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DIGEST AND PURPOSE

Currently, nuisance odors are evaluated and classified by the Texas Commission on Environmental Quality (TCEQ) according to an internal agency protocol. TCEQ's internal procedures involve a flow-chart for investigating nuisance odors and a five-category schedule classification scheme for odors encountered. As proposed, S.B. 1100 requires TCEQ to adopt administrative rules to regulate municipal solid waste landfills located within 3,000 feet of a residence in a residential area of at least 20 residences. This bill also specifies that an investigator is not required to determine that an odor is capable of causing nausea or headaches to be considered a nuisance odor and requires TCEQ to issue a notice of complaint under certain conditions.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 1 (Section 361.123, 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 361.123, as follows:

Sec. 361.123. NUISANCE ODORS EMANATING FROM LANDFILLS. (a) Provides that this section applies only to a municipal solid waste landfill facility that is located 3,000 feet or less from at least one residence in a residential area containing at least 20 residences.

(b) Requires the Texas Commission on Environmental Quality (TCEQ) to regulate as a nuisance an odor emanating from a municipal solid waste landfill facility that interferes with the reasonable use and enjoyment of the property of a person occupying a residence located in a residential area described by Subsection (a). Requires TCEQ to adopt rules to implement this section.

(c) Requires a TCEQ investigator to categorize an odor emanating from a municipal solid waste landfill facility as a nuisance odor if the investigator determines that the odor interferes with the reasonable use and enjoyment of the property of a person occupying a residence located in a residential area described by Subsection (a). Provides that the investigator is not required to determine that the odor is capable of causing nausea or headaches in order to categorize the odor as a nuisance odor.

(d) Requires TCEQ to issue a notice of violation to the owner or operator of a municipal solid waste landfill facility if certain conditions apply.

(e) Requires a notice of violation issued under Subsection (d) to require the owner or operator of the facility to abate the nuisance. Requires TCEQ, if the owner or operator of the facility fails to abate the nuisance, to initiate an action against the owner or operator to enforce the requirements of this section and rules adopted under this section.

SECTION 2. Effective date: upon passage or September 1, 2003.