

By: Solomons

H.B. No. 1331

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the continuation of notice and consent procedures  
3 regarding the location of certain correctional or rehabilitation  
4 facilities.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Sections 244.002(a) and (b), Local Government  
7 Code, are amended to read as follows:

8 (a) An agency of the state, a political subdivision of the  
9 state, or a private vendor operating under a contract with an agency  
10 or political subdivision of the state that proposes to construct or  
11 operate a correctional or rehabilitation facility within 1,000 feet  
12 of a residential area, a primary or secondary school, property  
13 designated as a public park or public recreation area by the state  
14 or a political subdivision of the state, or a church, synagogue, or  
15 other place of worship shall:

16 (1) provide written notice to [~~if a request is made~~  
17 ~~under Section 244.005, notify~~]:

18 (A) the commissioners court of any county with an  
19 unincorporated area that includes all or part of the land within  
20 1,000 feet of the proposed correctional or rehabilitation facility;  
21 and

22 (B) the governing body of any municipality that  
23 includes within its boundaries all or part of the land within 1,000  
24 feet of the proposed correctional or rehabilitation facility; and

1 (2) post the notice required by Subsection (d).

2 (b) An entity required to give notice under Subsection (a)  
3 shall give notice not later than the 60th day before the date the  
4 entity begins construction or operation of the correctional or  
5 rehabilitation facility, whichever date is earlier. The entity  
6 shall include in the notice:

7 (1) a statement of the entity's intent to construct or  
8 operate a correctional or rehabilitation facility in an area  
9 described by Subsection (a);

10 (2) a description of the proposed location of the  
11 facility; and

12 (3) a statement that this subchapter governs the  
13 procedure for notice of and consent to the facility.

14 SECTION 2. Section 244.004, Local Government Code, is  
15 amended to read as follows:

16 Sec. 244.004. LOCAL CONSENT. (a) Local consent to the  
17 operation of a correctional or rehabilitation facility at a  
18 location within 1,000 feet of a residential area, a primary or  
19 secondary school, property designated as a park or public  
20 recreation area by the state or a political subdivision of the  
21 state, or a church, synagogue, or other place of worship is granted  
22 unless, not later than the 60th day after the date on which notice  
23 is received by a commissioners court or governing body of a  
24 municipality under Section 244.002(a), the commissioners court or  
25 governing body, as appropriate, determines by resolution after a  
26 public hearing that the operation of a correctional or  
27 rehabilitation facility at the proposed location is not in the best

1 interest of the county or municipality, as appropriate.

2 (b) The public hearing requirement established under  
3 Subsection (a) may be met by a public meeting held under Section  
4 508.119 or 509.010, Government Code, if:

5 (1) the Texas Department of Criminal Justice receives  
6 written approval from the commissioners court of a county or  
7 governing body of a municipality allowing the public meeting to  
8 satisfy the public hearing requirement of this section; and

9 (2) during the public meeting, a determination is made  
10 as to whether operating the facility in the proposed location would  
11 be in the best interest of the county or municipality.

12 (c) If the public hearing requirement established under  
13 Subsection (a) is met in the manner described by Subsection (b), the  
14 commissioners court of a county or governing body of a municipality  
15 may adopt a resolution under Subsection (a) without holding a  
16 public hearing under that subsection. The commissioners court or  
17 governing body, as appropriate, retains the discretion to hold a  
18 separate public hearing under Subsection (a) as the commissioners  
19 court or governing body considers necessary or appropriate.

20 (d) [~~(b)~~] A commissioners court or governing body of a  
21 municipality may rescind a resolution adopted under Subsection (a).

22 SECTION 3. Section 244.007, Local Government Code, is  
23 amended to read as follows:

24 Sec. 244.007. CONFLICT WITH OTHER LAW. To the extent of any  
25 conflict between this subchapter and Sections 508.119 and [Section]  
26 509.010, Government Code, this subchapter prevails.

27 SECTION 4. Sections 244.005 and 244.008, Local Government

1 Code, are repealed.

2 SECTION 5. This Act takes effect September 1, 2003.