

1-1 By: Solomons, et al. (Senate Sponsor - Lucio) H.B. No. 1331
1-2 (In the Senate - Received from the House April 14, 2003;
1-3 April 22, 2003, read first time and referred to Committee on
1-4 Government Organization; May 1, 2003, reported favorably by the
1-5 following vote: Yeas 4, Nays 0, 1 present not voting; May 1, 2003,
1-6 sent to printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the continuation of notice and consent procedures
1-10 regarding the location of certain correctional or rehabilitation
1-11 facilities.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Sections 244.002(a) and (b), Local Government
1-14 Code, are amended to read as follows:

1-15 (a) An agency of the state, a political subdivision of the
1-16 state, or a private vendor operating under a contract with an agency
1-17 or political subdivision of the state that proposes to construct or
1-18 operate a correctional or rehabilitation facility within 1,000 feet
1-19 of a residential area, a primary or secondary school, property
1-20 designated as a public park or public recreation area by the state
1-21 or a political subdivision of the state, or a church, synagogue, or
1-22 other place of worship shall:

1-23 (1) provide written notice to [if a request is made
1-24 under Section 244.005, notify]:

1-25 (A) the commissioners court of any county with an
1-26 unincorporated area that includes all or part of the land within
1-27 1,000 feet of the proposed correctional or rehabilitation facility;
1-28 and

1-29 (B) the governing body of any municipality that
1-30 includes within its boundaries all or part of the land within 1,000
1-31 feet of the proposed correctional or rehabilitation facility; and

1-32 (2) post the notice required by Subsection (d).

1-33 (b) An entity required to give notice under Subsection (a)
1-34 shall give notice not later than the 60th day before the date the
1-35 entity begins construction or operation of the correctional or
1-36 rehabilitation facility, whichever date is earlier. The entity
1-37 shall include in the notice:

1-38 (1) a statement of the entity's intent to construct or
1-39 operate a correctional or rehabilitation facility in an area
1-40 described by Subsection (a);

1-41 (2) a description of the proposed location of the
1-42 facility; and

1-43 (3) a statement that this subchapter governs the
1-44 procedure for notice of and consent to the facility.

1-45 SECTION 2. Section 244.004, Local Government Code, is
1-46 amended to read as follows:

1-47 Sec. 244.004. LOCAL CONSENT. (a) Local consent to the
1-48 operation of a correctional or rehabilitation facility at a
1-49 location within 1,000 feet of a residential area, a primary or
1-50 secondary school, property designated as a park or public
1-51 recreation area by the state or a political subdivision of the
1-52 state, or a church, synagogue, or other place of worship is granted
1-53 unless, not later than the 60th day after the date on which notice
1-54 is received by a commissioners court or governing body of a
1-55 municipality under Section 244.002(a), the commissioners court or
1-56 governing body, as appropriate, determines by resolution after a
1-57 public hearing that the operation of a correctional or
1-58 rehabilitation facility at the proposed location is not in the best
1-59 interest of the county or municipality, as appropriate.

1-60 (b) The public hearing requirement established under
1-61 Subsection (a) may be met by a public meeting held under Section
1-62 508.119 or 509.010, Government Code, if:

1-63 (1) the Texas Department of Criminal Justice receives
1-64 written approval from the commissioners court of a county or

2-1 governing body of a municipality allowing the public meeting to
2-2 satisfy the public hearing requirement of this section; and

2-3 (2) during the public meeting, a determination is made
2-4 as to whether operating the facility in the proposed location would
2-5 be in the best interest of the county or municipality.

2-6 (c) If the public hearing requirement established under
2-7 Subsection (a) is met in the manner described by Subsection (b), the
2-8 commissioners court of a county or governing body of a municipality
2-9 may adopt a resolution under Subsection (a) without holding a
2-10 public hearing under that subsection. The commissioners court or
2-11 governing body, as appropriate, retains the discretion to hold a
2-12 separate public hearing under Subsection (a) as the commissioners
2-13 court or governing body considers necessary or appropriate.

2-14 (d) [~~(b)~~] A commissioners court or governing body of a
2-15 municipality may rescind a resolution adopted under Subsection (a).

2-16 SECTION 3. Section 244.007, Local Government Code, is
2-17 amended to read as follows:

2-18 Sec. 244.007. CONFLICT WITH OTHER LAW. To the extent of any
2-19 conflict between this subchapter and Sections 508.119 and [~~Section~~]
2-20 509.010, Government Code, this subchapter prevails.

2-21 SECTION 4. Sections 244.005 and 244.008, Local Government
2-22 Code, are repealed.

2-23 SECTION 5. This Act takes effect September 1, 2003.

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