

By: Bohac, Bailey, Edwards

H.B. No. 1859

Substitute the following for H.B. No. 1859:

By: Talton

C.S.H.B. No. 1859

A BILL TO BE ENTITLED

AN ACT

relating to the construction or operation of chemical dependency treatment facilities near certain residential and community properties.

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

SECTION 1. Chapter 244, Local Government Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. CHEMICAL DEPENDENCY TREATMENT FACILITIES

Sec. 244.051. DEFINITIONS. In this subchapter:

(1) "Treatment facility" has the meaning assigned by Section 464.001, Health and Safety Code.

(2) "Affected property" means property that is located in a municipality and that is:

(A) residential property;

(B) a primary or secondary school;

(C) a public park or public recreation area of the state or a political subdivision of the state; or

(D) a church, synagogue, or other place of worship.

Sec. 244.052. APPLICABILITY. This subchapter does not apply to:

(1) 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;

1 or

2 (2) an entity described by Section 464.003 or 464.052,  
3 Health and Safety Code.

4 Sec. 244.053. NOTICE OF PROPOSED LOCATION. (a) A person  
5 who intends to construct or operate a treatment facility within  
6 1,000 feet of an affected property shall:

7 (1) notify the governing body of the municipality in  
8 which the affected property is located; and

9 (2) post the notice required by Subsection (b).

10 (b) A person described by Subsection (a) shall prominently  
11 post an outdoor sign at the proposed location of the treatment  
12 facility stating that the person is intending to construct or  
13 operate a chemical dependency treatment facility at the location  
14 and providing the person's name and business address. The sign must  
15 be at least four by six feet in size and must be written in lettering  
16 at least four inches in height. The municipality in which the  
17 affected property is located may require the sign to be both in  
18 English and in a language other than English if it is likely that a  
19 substantial number of the residents in the area speak as their  
20 primary language a language other than English.

21 (c) A person must give the notice required by this section  
22 not later than the 90th day before the date the person begins  
23 construction or operation of the treatment facility.

24 (d) If the affected property is located in more than one  
25 municipality, the notice required by this section must be given to  
26 each municipality, and the procedures prescribed by this subchapter  
27 must be followed in relation to each municipality.

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

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

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

22       Sec. 244.056. DISTANCE MEASUREMENT. For purposes of this  
23 subchapter, distance is measured along the shortest straight line  
24 between the nearest property line of the proposed location for a  
25 treatment facility and the nearest property line of an affected  
26 property.

27       SECTION 2. (a) This Act takes effect September 1, 2003.

1           (b) The change in law made by this Act by the addition of  
2 Subchapter C, Chapter 244, Local Government Code, applies only to  
3 the construction or operation of a treatment facility that begins  
4 on or after December 1, 2003. Construction or operation of a  
5 treatment facility that begins before December 1, 2003, is governed  
6 by the law in effect immediately before September 1, 2003, and that  
7 law is continued in effect for that purpose.