

1-1 By: Bohac, et al. (Senate Sponsor - Whitmire) H.B. No. 1859
1-2 (In the Senate - Received from the House May 12, 2003;
1-3 May 13, 2003, read first time and referred to Committee on Health
1-4 and Human Services; May 23, 2003, reported favorably by the
1-5 following vote: Yeas 7, Nays 0; May 23, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the construction or operation of chemical dependency
1-9 treatment facilities near certain residential and community
1-10 properties.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Chapter 244, Local Government Code, is amended
1-13 by adding Subchapter C to read as follows:

1-14 SUBCHAPTER C. CHEMICAL DEPENDENCY TREATMENT FACILITIES

1-15 Sec. 244.051. DEFINITIONS. In this subchapter:

1-16 (1) "Treatment facility" has the meaning assigned by
1-17 Section 464.001, Health and Safety Code.

1-18 (2) "Affected property" means property that is located
1-19 in a municipality and that is:

1-20 (A) residential property;

1-21 (B) a primary or secondary school;

1-22 (C) a public park or public recreation area of
1-23 the state or a political subdivision of the state; or

1-24 (D) a church, synagogue, or other place of
1-25 worship.

1-26 Sec. 244.052. APPLICABILITY. This subchapter does not
1-27 apply to:

1-28 (1) an alternative education program under Section
1-29 37.008, Education Code, that is licensed under Chapter 464, Health
1-30 and Safety Code, to provide chemical dependency treatment services;
1-31 or

1-32 (2) an entity described by Section 464.003 or 464.052,
1-33 Health and Safety Code.

1-34 Sec. 244.053. NOTICE OF PROPOSED LOCATION. (a) A person
1-35 who intends to construct or operate a treatment facility within
1-36 1,000 feet of an affected property shall:

1-37 (1) notify the governing body of the municipality in
1-38 which the affected property is located; and

1-39 (2) post the notice required by Subsection (b).

1-40 (b) A person described by Subsection (a) shall prominently
1-41 post an outdoor sign at the proposed location of the treatment
1-42 facility stating that the person is intending to construct or
1-43 operate a chemical dependency treatment facility at the location
1-44 and providing the person's name and business address. The sign must
1-45 be at least four by six feet in size and must be written in lettering
1-46 at least four inches in height. The municipality in which the
1-47 affected property is located may require the sign to be both in
1-48 English and in a language other than English if it is likely that a
1-49 substantial number of the residents in the area speak as their
1-50 primary language a language other than English.

1-51 (c) A person must give the notice required by this section
1-52 not later than the 90th day before the date the person begins
1-53 construction or operation of the treatment facility.

1-54 (d) If the affected property is located in more than one
1-55 municipality, the notice required by this section must be given to
1-56 each municipality, and the procedures prescribed by this subchapter
1-57 must be followed in relation to each municipality.

1-58 Sec. 244.054. CONSTRUCTION OR OPERATION OF FACILITY. After
1-59 complying with the notice requirements of Section 244.053, a person
1-60 may construct or operate a treatment facility within 1,000 feet of
1-61 an affected property only if the governing body of the municipality
1-62 does not issue a resolution under Section 244.055 denying the
1-63 municipality's consent to the construction or operation.

1-64 Sec. 244.055. LOCAL CONSENT. (a) The municipality denies

2-1 consent to the construction or operation of a treatment facility
2-2 within 1,000 feet of an affected property if the governing body
2-3 determines by resolution after a public hearing that the treatment
2-4 facility would be located within 1,000 feet of an affected property
2-5 and that the construction or operation of the facility is not in the
2-6 best interest of the municipality. The governing body must hold the
2-7 public hearing under this subsection not later than the 90th day
2-8 after the date it receives the notice required by Section 244.053.

2-9 (b) If the governing body of the municipality does not issue
2-10 the resolution described by Subsection (a) before the 91st day
2-11 after the date it receives the notice required by Section 244.053,
2-12 the municipality is considered to consent to the construction or
2-13 operation of a treatment facility within 1,000 feet of an affected
2-14 property.

2-15 Sec. 244.056. DISTANCE MEASUREMENT. For purposes of this
2-16 subchapter, distance is measured along the shortest straight line
2-17 between the nearest property line of the proposed location for a
2-18 treatment facility and the nearest property line of an affected
2-19 property.

2-20 SECTION 2. (a) This Act takes effect September 1, 2003.

2-21 (b) The change in law made by this Act by the addition of
2-22 Subchapter C, Chapter 244, Local Government Code, applies only to
2-23 the construction or operation of a treatment facility that begins
2-24 on or after December 1, 2003. Construction or operation of a
2-25 treatment facility that begins before December 1, 2003, is governed
2-26 by the law in effect immediately before September 1, 2003, and that
2-27 law is continued in effect for that purpose.

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