

By: Lucio

S.B. No. 267

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

(B) the governing body of any municipality that includes within its boundaries all or part of the land within 1,000 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

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1 Code, are repealed.

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