

By: Bohac

H.B. No. 538

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) "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.

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

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

(1) a disciplinary alternative education program under Section 37.008, Education Code, that is licensed under Chapter 464, Health and Safety Code, to provide chemical dependency

1 treatment services; 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. The change in law made by this Act by the

1 addition of Subchapter C, Chapter 244, Local Government Code,
2 applies only to the construction or operation of a treatment
3 facility that begins on or after December 1, 2005. Construction or
4 operation of a treatment facility that begins before December 1,
5 2005, is governed by the law in effect immediately before September
6 1, 2005, and that law is continued in effect for that purpose.

7 SECTION 3. This Act takes effect September 1, 2005.