

BILL ANALYSIS

Senate Research Center

H.B. 2541
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Natural Resources
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

On December 26, 2006, a fire broke out at a mulch recycling facility in Helotes, Texas. The fire not only caused severe air pollution, it endangered the Edwards Aquifer. The pile of mulch at Helotes was over 80 feet tall and covered an area approximately the size of a football field. Although the Texas Commission on Environmental Quality (TCEQ) visited the site in the past, it did not have the authority to regulate the facility's operations.

H.B. 2541 requires TCEQ to adopt rules regarding the size, content, and fire safety of recycling facilities. This bill provides stricter requirements for facilities located over sole source aquifers and authorizes the solid waste fee revenue to be used to combat fires or emergencies at recycling or solid waste facilities.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Natural Resource Conservation Commission [Texas Commission on Environmental Quality] in SECTION 2 (Section 361.1191, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

[While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

SECTION 1. Amends Subchapter B, Chapter 361, Health and Safety Code, by adding Section 361.0145, as follows:

Sec. 361.0145. RESPONSE TO OR REMEDIATION OF FIRE OR EMERGENCY. (a) Authorizes the Texas Natural Resource Conservation Commission (TNRCC) to make an immediate response to or remediation of a fire or other emergency that involves solid waste, including processed or unprocessed material suitable for recycling or composting, as TNRCC determines necessary to protect the public health or safety.

(b) Authorizes revenue otherwise dedicated under Section 361.014 to be used for an action authorized by Subsection (a), notwithstanding Section 361.014(b).

(c) Authorizes TNRCC to recover from a person who is responsible for the solid waste as provided by Section 361.271 the reasonable expenses incurred by TNRCC during an immediate response and remediation action under Subsection (a). Authorizes the state to bring an action to recover those reasonable expenses.

(d) Requires money recovered under Subsection (c), if TNRCC used for an action under Subsection (a) money otherwise dedicated under Section 361.014(b), to be deposited in the state treasury to the credit of TNRCC until the amount deposited equals the amount of the dedicated money used. Authorizes money credited under this subsection to be used only as provided by Section 361.014(b).

SECTION 2. Amends Subchapter C, Chapter 361, Health and Safety Code, by adding Section 361.1191, as follows:

Sec. 361.1191. REGULATION OF CERTAIN RECYCLING FACILITIES IN CERTAIN COUNTIES. (a) Provides that this section applies only to a recycling facility that stores combustible materials and is located in a county that has a population of more than 1.3 million, and is subject to an early action compact, as defined by Section 382.301.

(b) Requires TNRCC by rule to require a recycling facility to grind, begin composting, recycle, or transfer to another facility for recycling or for another lawful purpose at least 50 percent, by weight or volume, of the combustible recyclable materials received by the facility within 12 months of receiving the materials and during each 12-month period, at least 50 percent, by weight or volume, of the processed or unprocessed combustible recycled or recyclable materials that have accumulated at the facility; limit the storage capacity of a recycling facility that is authorized to operate without obtaining a permit issued by TNRCC or registering with TNRCC; limit the size of a pile of combustible recyclable or recycled materials, including composting materials or mulch, at a recycling facility; impose different standards for the registration of a recycling facility appropriate to the size and number of piles of combustible materials to be stored or processed at the facility; require a recycling facility to establish fire lanes between piles of combustible materials; require buffer zones between a recycling facility and a residence, school, or church; and, for a recycling facility that is located in the recharge zone of an aquifer that is the sole or principal source of drinking water for an area designated under Section 1424(e), Safe Drinking Water Act of 1974 (42 U.S.C. Section 300h-3(e)), impose heightened standards for the issuance of a permit, and require the installation of groundwater protection features, such as liners and monitoring wells, as TNRCC determines necessary.

(c) Provides that a rule adopted by TNRCC under this section does not become effective until the first anniversary of the date on which the rule was adopted.

SECTION 3. Effective date: September 1, 2007.