

BILL ANALYSIS

Senate Research Center

C.S.H.B. 2541
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Natural Resources
5/18/2007
Committee Report (Substituted)

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.

C.S.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 municipal solid waste recycling facility that does not hold a permit or registration issued by TNRCC that stores combustible materials to produce mulch or compost and is located in a certain county.

(b) Requires TNRCC by rule to prescribe time limits for processing and removing materials from a facility; limit the amount of combustible material that may be stored at a recycling facility; 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 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 or transition zone referenced in Subsection 361.1191(a)(2) imposing more stringent standards, and requiring groundwater protection features, such as liners and monitor wells.

(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.