

## **BILL ANALYSIS**

C.S.H.B. 433  
By: Lucio III  
Environmental Regulation  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Currently, Sections 361.0666 and 361.0791, Health and Safety Code, provide that the Texas Commission on Environmental Quality (commission) may hold a public meeting as part of the permit approval process for new municipal solid waste hazardous management facilities. Public meetings are currently mandatory only when requested by a legislator from the area or when the executive director determines there is substantial public interest in the proposed development.

C.S.H.B 433 requires the commission to hold one public meeting on a permit for any new hazardous waste management facility or, upon the request of an affected resident or as otherwise required by commission rule, for any Class 3 modification or major amendment to an existing facility's hazardous waste permit.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 2, Section 361.0791 (a) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 361.0666(a), Health and Safety Code to require an applicant for a permit for a new facility that accepts municipal solid waste to participate in one public meeting in the county in which the proposed facility is to be located. Requires the meeting to be held during the designated public comment period and after the executive director of the commission has completed the technical review of the application.

Amends Section 361.0666(c) to require the applicant to present to the commission an affidavit certifying that the notice was provided as required by this Section 361.066.

Creates Section 361.0666(d-1) to require the applicant, at least 14 days before the date of the public meeting required by Subsection (a), to mail notice of the meeting to each owner of real property located within one-quarter mile of the proposed facility as reflected in the real property appraisal records. For a new facility not located within the boundaries of a previously permitted site, requires the applicant to also post notice of the meeting on a sign to be located at the entrance to the property or at each major thoroughfare adjoining the property, which shall be for informational purposes only.

SECTION 2. Amends Section 361.0791(a), Health and Safety Code to provide that, notwithstanding other law, the commission shall hold one public meeting on an application for a new hazardous waste management facility in the county in which the proposed facility is to be located. Also requires the commission, on request of a person affected or as otherwise required by commission rule, to hold a public meeting on an application for a Class 3 modification or a major amendment to an existing facility's hazardous waste permit, rather than permitting the commission to hold such a meeting.

Amends Section 361.0791(b) by striking "Notwithstanding other law" and providing that, in accordance with Section 361.0666, the commission shall hold one public meeting on an

application for a new municipal solid waste management facility in the county where the proposed facility is to be located.

Creates Section 361.0791(f-1) to require the applicant, at least 14 days before the date of the public meeting required by subsection (a), to mail notice of the meeting to each owner of real property located within one-quarter mile of the proposed facility as reflected in the real property appraisal records. For a new facility not located within the boundaries of a previously permitted site, requires the applicant to also post notice of the meeting on a sign to be located at the entrance to the property or at each major thoroughfare adjoining the property, which shall be for informational purposes only.

SECTION 3. Amends Section 361.082(d), Health and Safety Code, to provide that in addition to the hearing held under Section 361.082, the commission shall hold one public meeting and the applicant shall give notice as provided by Section 361.0791.

SECTION 4. Amends Section 361.534(a), Health and Safety Code, to require the commission to schedule a public meeting to be held not later than the 60th day after the date the commission receives an application under this subchapter.

Amends Section 361.534(b) by striking the subsection in its entirety and renaming the remaining subsections accordingly. Requires the commission to notify the applicant of the date, time and place of the public meeting at least 45 days before the date of the meeting.

Amends Section 361.534(c) to require the applicant, at least 14 days before the date of the public meeting required by Subsection (a), to mail notice of the meeting to each owner of real property located within one-quarter mile of the proposed facility as reflected in the real property appraisal records. Requires the applicant to also post notice of the meeting on a sign to be located at the entrance to the property or at each major thoroughfare adjoining the property, which shall be for informational purposes only.

SECTION 5. Prospective clause.

SECTION 6. Effective date.

### **EFFECTIVE DATE**

September 1, 2009

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

SECTION 1. C.S.H.B. 433 differs from the original in Section 361.0666(a) by requiring an applicant for a new facility that accepts municipal solid waste to participate in, rather than hold, one public meeting. The substitute also differs from the original by requiring the meeting to be held during the designated public comment period and after the executive director has completed the technical review of the application. The original bill required meeting prior to the 45th day after the application is filed and changes the meeting references from "one" meeting in the original bill to "a" meeting in the substitute.

The substitute differs from the original by amending Section 361.0666(c) to require the applicant to present to the commission an affidavit certifying that the notice was provided, rather than published, as required by Section 361.0666, rather than Subsection (b).

The substitute differs from the original in Section 361.0666(d-1) by requiring the applicant, at least 14 days before the date of the public meeting required by Subsection (a), to mail notice of the meeting to each owner of real property located within one-quarter mile of the proposed facility as reflected in the real property appraisal records, rather than to each owner of real property located within one mile of the proposed facility. The substitute also differs from the original by requiring the applicant, for a new facility not located within the boundaries of a previously permitted site, to also post notice of the meeting on a sign to be located at the entrance to the property or at each major thoroughfare adjoining the property, which shall be for

informational purposes only. In the original bill, a sign was to be placed on the property of the proposed facility.

SECTION 2. C.S.H.B. 433 differs from the original in Section 361.0791(a), Health and Safety Code, by providing that, notwithstanding other law, the commission shall hold one, rather than a, public meeting on an application for a new hazardous waste management facility in the county in which the proposed facility is to be located.

Section 361.0791(b) differs from the original by striking "Notwithstanding other law" and providing that in accordance with Section 361.0666, the commission shall hold one, rather than a, public meeting on an application for a new solid waste management facility in the county in which the proposed facility is to be located.

The substitute differs from the original in Section 361.0791(f-1) by requiring the applicant to mail the required notice to each owner of real property within one-quarter mile of the proposed facility as reflected in the real property appraisal records, rather than to each owner or occupant of real property located within one mile of the proposed facility. The substitute also differs from the original by requiring the applicant, for a new facility not located within the boundaries of a previously permitted site, to also post notice of the meeting on a sign to be located at the entrance to the property or at each major thoroughfare adjoining the property, which shall be for informational purposes only. In the original bill there was a requirement for a sign to be placed on the property of the proposed facility.

SECTION 3. C.S.H.B. 433 differs from the original by striking Section 3 of the original in its entirety and renumbering the remaining sections of the bill accordingly. Section 4 of the original now becomes Section 3 of the substitute and contains no other changes from the original.

SECTION 4. C.S.H.B. 433 differs from the original in Section 361.534(a) by requiring the commission to schedule the public meeting not later than the 60th day, rather than the 30th day, after the commission receives an application under this subchapter.

The substitute differs from the original in Section 361.534(b) by requiring the commission to notify the applicant of the date, time and place of the public meeting at least 45 days, rather than 15 days, before the date of the meeting and by restoring current language that the commission require the applicant to publish the required notice of the public meeting, rather than requiring the commission to publish the notice.

The substitute differs from the original in Section 361.534(c) by requiring the applicant to mail notice of the meeting to each owner of real property located within one-quarter mile of the proposed facility as reflected in the real property appraisal records, rather than to each owner or occupant of real property located within one mile of the property proposed for development. The substitute also differs from the original by requiring the applicant to also post notice of the meeting on a sign to be located at the entrance to the property or at each major thoroughfare adjoining the property, rather than placing a sign on the property giving notice of the public meeting. The substitute also differs from the original by specifying the sign shall be for informational purposes only.