By: Creighton H.B. No. 178

A BILL TO BE ENTITLED

1	AN ACT
2	relating to limitations on the location of injection wells.
3	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
4	SECTION 1. Section 361.1011, Health and Safety Code, is
5	amended to read as follows:
6	Sec. 361.1011. PROHIBITION ON PERMIT FOR FACILITY AFFECTED
7	BY FAULT. If [a fault exists within two and one-half miles from the
8	proposed or existing wellbore of a Class I injection well or the
9	area within the cone of influence, whichever is greater, or if] a
10	fault exists within 3,000 feet of a proposed hazardous waste
11	management facility [other than a Class I injection well] or of a
12	capacity expansion of an existing hazardous waste management
13	facility, the burden is on the applicant, unless previously
14	demonstrated to the commission or to the United States
15	Environmental Protection Agency, to show that:
16	(1) [in the case of Class I injection wells, that the
17	fault is not sufficiently transmissive or vertically extensive to
18	allow migration of hazardous constituents out of the injection
19	zone; or
20	[(2) in the case of a proposed hazardous waste
21	management facility other than a Class I injection well or for a
22	capacity expansion of an existing hazardous waste management
23	<pre>facility, that:</pre>
24	$[rac{(A)}{A}]$ the fault has not had displacement within

- 1 Holocene time, or if faults have had displacement within Holocene
- 2 time, that no such faults pass within 200 feet of the portion of the
- 3 surface facility where treatment, storage, or disposal of hazardous
- 4 wastes will be conducted; and
- 5 (2) $\left[\frac{B}{B}\right]$ the fault will not result in structural
- 6 instability of the surface facility or provide for groundwater
- 7 movement to the extent that there is endangerment to human health or
- 8 the environment.
- 9 SECTION 2. Subchapter D, Chapter 27, Water Code, is amended
- 10 by adding Sections 27.057, 27.058, 27.059, 27.060, 27.061, and
- 11 27.062 to read as follows:
- 12 Sec. 27.057. PROHIBITION ON PERMIT FOR INJECTION WELL IN
- 13 CERTAIN AREAS. The commission may not issue a permit for an
- 14 injection well if the well is to be located:
- 15 (1) on the recharge zone of an aquifer designated as a
- sole source aquifer under Section 1424(e), Safe Drinking Water Act
- of 1974 (42 U.S.C. Section 300h-3(e)); or
- 18 <u>(2) in an oil field from which commercial production</u>
- 19 of oil began before 1935.
- 20 Sec. 27.058. PROHIBITION ON PERMIT FOR INJECTION WELL
- 21 <u>WITHIN CERTAIN DISTANCE OF RESIDENCE, CHURCH, SCHOOL, DAY-CARE</u>
- 22 CENTER, PARK, OR PUBLIC DRINKING WATER SUPPLY. (a) The commission
- 23 by rule shall prohibit the issuance of a permit for an injection
- 24 well if the well is to be located within one-half mile (2,640 feet)
- of an established:
- 26 (1) residence;
- 27 <u>(2) church;</u>

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- 1 <u>(3) school;</u>
- 2 <u>(4) day-care center;</u>
- 3 (5) surface water body used for a public drinking
- 4 <u>water supply; or</u>

- 5 (6) dedicated public park.
 - (b) The commission by rule shall prohibit the issuance of a permit for an injection well that is proposed to be located at a distance greater than one-half mile (2,640 feet) from a location described by Subsection (a) unless the applicant demonstrates that the well will be operated so as to safeguard public health and welfare and protect physical property and the environment, at any distance beyond the well's property boundaries, consistent with the purposes of this chapter.
 - (c) The measurement of distance required by Subsections (a) and (b) shall be taken toward an established residence, church, school, day-care center, surface water body used for a public drinking water supply, or dedicated park that is in use when the notice of intent to file a permit application is filed with the commission or, if no notice of intent is filed, when the permit application is filed with the commission. The restriction imposed by Subsection (a) does not apply if the residence, church, school, day-care center, surface water body used for a public drinking water supply, or dedicated park is located on property that is owned by the permit applicant and that is adjacent to the well for which the application is filed.
- 26 <u>Sec. 27.059. PROHIBITION ON PERMIT FOR INJECTION WELL</u>
 27 AFFECTED BY FAULT. The commission may not issue a permit for an

- 1 injection well if a fault exists within two and one-half miles from
- 2 the proposed or existing wellbore of an injection well or the area
- 3 within the cone of influence, whichever is greater, unless the
- 4 applicant can demonstrate that the fault is not sufficiently
- 5 transmissive or vertically extensive to allow migration of
- 6 hazardous constituents out of the injection zone.
- 7 Sec. 27.060. OTHER AREAS UNSUITABLE FOR INJECTION WELLS.
- 8 The commission by rule shall define the characteristics that make
- 9 other areas unsuitable for an injection well, including
- 10 <u>consideration of characteristics related to:</u>
- 11 (1) flood hazards;
- 12 (2) discharge from or recharge to a groundwater
- 13 <u>aquifer;</u>
- 14 (3) soil conditions;
- 15 (4) areas of direct drainage within one mile of a lake
- 16 <u>used to supply public drinking water;</u>
- 17 (5) active geological processes;
- 18 <u>(6) coastal high hazard areas, such as areas subject</u>
- 19 to hurricane storm surge and shoreline erosion; or
- 20 (7) critical habitat of endangered species.
- 21 Sec. 27.061. PROHIBITION ON PERMIT FOR INJECTION WELL IN
- 22 UNSUITABLE AREA. The commission by rule shall prohibit the
- 23 <u>issuance of a permit for a new injection well if the well is to be</u>
- located in an area determined to be unsuitable under rules adopted
- 25 by the commission under Section 27.060 unless the design,
- 26 construction, and operational features of the well will prevent
- 27 adverse effects from unsuitable site characteristics.

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- Sec. 27.062. PETITION BY LOCAL GOVERNMENT FOR RULE ON

 INJECTION WELL IN UNSUITABLE AREA. (a) The commission by rule

 shall allow a local government to petition the commission for a rule

 that restricts or prohibits the siting of a new injection well in an

 area specified by the petition, including an area that has one or

 more of the characteristics described by Section 27.060.
- 7 (b) A rule adopted under this section may not affect the
 8 siting of a new injection well if an application or a notice of
 9 intent to file an application concerning the well is filed with the
 10 commission before the filing of a petition under this section.

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- SECTION 3. The changes in law made by this Act apply to permit applications pending before the Texas Commission on Environmental Quality on or after the effective date of this Act. A permit issued before the effective date of this Act is governed by the law in effect when the permit was issued, and the former law is continued in effect for that purpose.
- SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.