

By: Bohac

H.B. No. 1428

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the construction or operation of chemical dependency  
3 treatment facilities near certain residential and community  
4 properties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Chapter 244, Local Government Code, is amended  
7 by adding Subchapter C to read as follows:

8 SUBCHAPTER C. CHEMICAL DEPENDENCY TREATMENT FACILITIES

9 Sec. 244.051. DEFINITIONS. In this subchapter:

10 (1) "Affected property" means property that is located  
11 in a municipality and that is:

12 (A) residential property;

13 (B) a primary or secondary school;

14 (C) a public park or public recreation area of  
15 the state or a political subdivision of the state; or

16 (D) a church, synagogue, or other place of  
17 worship.

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

20 Sec. 244.052. APPLICABILITY. (a) This subchapter applies  
21 only to a municipality the majority of the population of which is  
22 located in a county with a population of more than three million.

23 (b) This subchapter does not apply to:

24 (1) a disciplinary alternative education program

1 under Section 37.008, Education Code, that is licensed under  
2 Chapter 464, Health and Safety Code, to provide chemical dependency  
3 treatment services; or

4 (2) an entity described by Section 464.003 or 464.052,  
5 Health and Safety Code.

6 Sec. 244.053. NOTICE OF PROPOSED LOCATION. (a) A person  
7 who intends to construct or operate a treatment facility within  
8 1,000 feet of an affected property shall:

9 (1) notify the governing body of the municipality in  
10 which the affected property is located; and

11 (2) notify through the United States mail each owner  
12 of residential property, as determined by the most recent tax roll  
13 of the municipality, located within 1,000 feet of the proposed  
14 facility.

15 (b) A person described by Subsection (a) may post an outdoor  
16 sign at the proposed location of the treatment facility stating  
17 that the person intends to construct or operate a chemical  
18 dependency treatment facility at the location and providing the  
19 person's name and business address. The municipality in which the  
20 affected property is located may require a sign posted under this  
21 subsection to be both in English and in a language other than  
22 English if it is likely that a substantial number of the residents  
23 in the area speak as their primary language a language other than  
24 English.

25 (c) A person must give the notice required by Subsection (a)  
26 not later than the 90th day before the date the person begins  
27 construction or operation of the treatment facility.

1       (d) If the affected property is located in more than one  
2 municipality, the notice required by Subsection (a) must be given  
3 to each municipality, and the procedures prescribed by this  
4 subchapter must be followed in relation to each municipality.

5       Sec. 244.054. CONSTRUCTION OR OPERATION OF FACILITY. After  
6 complying with the notice requirements of Section 244.053, a person  
7 may construct or operate a treatment facility within 1,000 feet of  
8 an affected property only if the governing body of the municipality  
9 does not issue a resolution under Section 244.055 denying the  
10 municipality's consent to the construction or operation.

11       Sec. 244.055. LOCAL CONSENT. (a) The municipality denies  
12 consent to the construction or operation of a treatment facility  
13 within 1,000 feet of an affected property if the governing body  
14 determines by resolution after a public hearing that the treatment  
15 facility would be located within 1,000 feet of an affected property  
16 and that the construction or operation of the facility is not in the  
17 best interest of the municipality. The governing body must hold the  
18 public hearing under this subsection not later than the 90th day  
19 after the date it receives the notice required by Section  
20 244.053(a).

21       (b) If the governing body of the municipality does not issue  
22 the resolution described by Subsection (a) before the 91st day  
23 after the date it receives the notice required by Section  
24 244.053(a), the municipality is considered to consent to the  
25 construction or operation of a treatment facility within 1,000 feet  
26 of an affected property.

27       Sec. 244.056. DISTANCE MEASUREMENT. For purposes of this

1 subchapter, distance is measured along the shortest straight line  
2 between the nearest property line of the proposed location for a  
3 treatment facility and the nearest property line of an affected  
4 property.

5 SECTION 2. The change in law made by this Act by the  
6 addition of Subchapter C, Chapter 244, Local Government Code,  
7 applies only to the construction or operation of a treatment  
8 facility that begins on or after December 1, 2009. Construction or  
9 operation of a treatment facility that begins before December 1,  
10 2009, is governed by the law in effect immediately before September  
11 1, 2009, and that law is continued in effect for that purpose.

12 SECTION 3. This Act takes effect September 1, 2009.