

By: Howard of Travis, Hernandez, Shelton

H.B. No. 1839

Substitute the following for H.B. No. 1839:

By: Shelton

C.S.H.B. No. 1839

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the selection by school districts of sites for new  
3 schools; providing a penalty.

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

5 SECTION 1. Chapter 11, Education Code, is amended by adding  
6 Subchapter J to read as follows:

7 SUBCHAPTER J. SITE SELECTION FOR NEW SCHOOLS

8 Sec. 11.451. DEFINITIONS. In this subchapter:

9 (1) "Commission" means the Texas Commission on  
10 Environmental Quality.

11 (2) "Construction" includes renovation of an existing  
12 facility.

13 (3) "Phase I environmental site assessment" means an  
14 assessment that complies with ASTM Standard E1527.

15 (4) "Phase II environmental site assessment" means an  
16 assessment that complies with ASTM Standard E1903.

17 Sec. 11.452. SITE SELECTION POLICY REQUIRED. (a) Before  
18 establishing a new school, a school district shall adopt a site  
19 selection policy in accordance with this subchapter that:

20 (1) accounts for the special vulnerability of  
21 children; and

22 (2) promotes the health and safety of children and  
23 employees to be assigned to the new school by protecting those  
24 individuals from exposure to environmental toxins, hazards, and

1 associated health risks.

2 (b) A school district is not required to adopt a site  
3 selection policy until the district receives voter approval for the  
4 issuance of bonds necessary to finance costs associated with  
5 establishment of a new school. After voter approval is received,  
6 the district may not enter into a contract for the purchase or lease  
7 of a site to be used for the new school or, if a new site will not be  
8 purchased or leased, for construction of the new school, until the  
9 district has adopted a policy and, if required under Section  
10 11.453(b), obtained commission approval of the site selection  
11 criteria included in the policy.

12 (c) After adopting a site selection policy and obtaining  
13 approval, if necessary, of included site selection criteria for the  
14 first time in compliance with this subchapter, a school district:

15 (1) may continue to act in accordance with the policy  
16 when subsequently selecting additional sites for new schools; and

17 (2) is not required to adopt a new policy before  
18 proceeding with selection of a site for each subsequent new school.

19 Sec. 11.453. CONTENTS OF DISTRICT SITE SELECTION POLICY.

20 (a) A school district's site selection policy must include the  
21 components described by this section.

22 (b) The policy must include site selection criteria. The  
23 district may develop the site selection criteria or may adopt  
24 voluntary school site selection criteria established by the United  
25 States Environmental Protection Agency. If the district develops  
26 the site selection criteria or adopts the voluntary criteria with  
27 modifications, the district must submit the district-developed

1 criteria or modifications, as applicable, to the commission for  
2 approval.

3 (c) The policy must provide that, before the district enters  
4 into a contract for purchase or lease of a proposed site or for  
5 construction at a proposed site already owned by the district:

6 (1) a Phase I environmental site assessment must be  
7 conducted at the proposed site; and

8 (2) the results of the Phase I environmental site  
9 assessment must be presented to the board of trustees.

10 (d) The policy must provide that:

11 (1) if the Phase I environmental site assessment does  
12 not indicate an area of concern, the district may take any action  
13 necessary to pursue establishment of a new school at the proposed  
14 site, including entering into any necessary contracts; and

15 (2) if the Phase I environmental site assessment  
16 indicates an area of concern, the following actions are required  
17 before the district may enter into a contract for purchase or lease  
18 of the proposed site or for construction at the proposed site:

19 (A) a Phase II environmental site assessment must  
20 be conducted at the proposed site; and

21 (B) the district must take at least the following  
22 steps to publicize the district's interest in the proposed site and  
23 provide opportunities for meaningful public input regarding the  
24 proposed site:

25 (i) publish notice in at least one  
26 newspaper of general circulation in the district;

27 (ii) post notice on the district's Internet

1 website; and

2 (iii) conduct at least one public meeting  
3 held specifically for the purpose of discussing the site selection.

4 Sec. 11.454. SITE REMEDIATION. If a school district  
5 proceeds to establish a new school at a site at which a Phase II  
6 environmental site assessment indicates a need for remediation, the  
7 district shall:

8 (1) develop a site remediation plan;

9 (2) submit the remediation plan to the commission for  
10 approval; and

11 (3) complete the remediation measures specified in the  
12 remediation plan to ensure that the site is protective of human  
13 health, as required by the commission.

14 Sec. 11.455. ADMINISTRATIVE PENALTY. The commission may  
15 impose an administrative penalty against a school district that  
16 enters into a contract in violation of Section 11.452(b). The  
17 penalty may not exceed the sum of:

18 (1) \$5,000; and

19 (2) \$100 for each day:

20 (A) beginning on the day after the date the  
21 district enters into the contract; and

22 (B) ending on the later of the day the district  
23 adopts a site selection policy in compliance with this subchapter  
24 or, if necessary under Section 11.453(b), the day the district  
25 obtains commission approval of site selection criteria included in  
26 the policy.

27 SECTION 2. Subchapter J, Chapter 11, Education Code, as

1 added by this Act, applies only to a school district in connection  
2 with a new school for which associated bonds are approved by the  
3 voters on or after the effective date of this Act.

4 SECTION 3. This Act takes effect September 1, 2010.