

By: Howard of Travis

H.B. No. 1839

A BILL TO BE ENTITLED

AN ACT

relating to a requirement that a school district develop and adopt a site selection policy before selecting a site for construction of a new school; providing a penalty.

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

SECTION 1. Subchapter D, Chapter 11, Education Code, is amended by adding Section 11.173 to read as follows:

Sec. 11.173. SITE SELECTION POLICY FOR CONSTRUCTION OF NEW SCHOOLS. (a) Except as provided by Subsection (b), a school district shall:

(1) develop, adopt, and periodically revise as necessary a policy that specifies the procedures required to be followed by the district in selecting a site on which to construct a new school; and

(2) file the current policy described by Subdivision (1) with the Texas Commission on Environmental Quality not later than the 30th day before the date the district begins the site selection process for a new school.

(b) A school district is not required to develop, adopt, and file a policy under this section if the district does not anticipate constructing a new school on a site selected for that purpose.

(c) A policy required under this section must include:

(1) procedures for obtaining general public input regarding proposed sites;

1 (2) a list of criteria for determining suitable sites,
2 including criteria relating to safety, accessibility, soil
3 condition, air quality, and cost;

4 (3) a list of factors that immediately disqualify a
5 proposed site from further consideration;

6 (4) procedures for conducting a Phase I environmental
7 site assessment of a proposed site in accordance with Subsection
8 (d) before the site may be given further consideration;

9 (5) procedures for determining, based on the results
10 of the Phase I environmental site assessment, whether a Phase II
11 environmental site assessment of a proposed site must be conducted
12 before the site may be selected;

13 (6) procedures for informing the public of the results
14 of any Phase II environmental site assessment of a proposed site and
15 obtaining public input before final selection of that site; and

16 (7) if the board of trustees of the district makes a
17 final selection of a site with one or more known environmental
18 hazards, as indicated by the Phase II environmental site assessment
19 of the site, procedures for developing and submitting a site
20 remediation plan to the Texas Commission on Environmental Quality
21 for approval.

22 (d) For purposes of Subsection (c)(4), a Phase I
23 environmental site assessment of a proposed site must include:

24 (1) a review of the history of the site, including
25 previous ownership and uses of the site;

26 (2) identification of potential liabilities and risks
27 associated with environmental and public health considerations

1 arising from previous ownership and uses of the site;

2 (3) a visual inspection of the site and surrounding
3 properties for potential sources of environmental contamination;
4 and

5 (4) a review of federal, state, and local government
6 records regarding releases of hazardous substances that may affect
7 the site.

8 (e) For purposes of Subsection (c)(5), a Phase II
9 environmental site assessment of a proposed site must include
10 thorough assessment of any environmental concern identified in the
11 Phase I environmental site assessment of the site.

12 (f) The Texas Commission on Environmental Quality, on its
13 own motion or at the request of the agency, may impose an
14 administrative penalty against a school district that selects or
15 attempts to select a site on which to construct a new school without
16 having filed a policy in compliance with this section. The penalty
17 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 begins the site selection process; and

22 (B) ending on the day the district:

23 (i) files with the Texas Commission on
24 Environmental Quality a policy that complies with this section; or

25 (ii) certifies in writing to the Texas
26 Commission on Environmental Quality and the agency that the
27 district is no longer attempting to select a site for a new school.

1 SECTION 2. Section 11.173, Education Code, as added by this
2 Act, applies only to a school district in connection with a school
3 site selection process that begins on or after the effective date of
4 this Act.

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