

By: Christian

H.B. No. 4027

A BILL TO BE ENTITLED

AN ACT

relating to limitations on the location of Class II injection wells.

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

SECTION 1. Subchapter D, Chapter 27, Water Code, is amended by adding Sections 27.057, 27.058, 27.059, 27.060, and 27.061 to read as follows:

Sec. 27.057. PROHIBITION ON PERMIT FOR CLASS II INJECTION WELL WITHIN CERTAIN DISTANCE OF RESIDENCE, CHURCH, SCHOOL, DAY-CARE CENTER, PARK, OR PUBLIC DRINKING WATER SUPPLY. (a) The railroad commission by rule shall prohibit the issuance of a permit for a Class II injection well, as that term is defined by the railroad commission, if the well is to be located within one-half mile (2,640 feet) of an established:

(1) residence;

(2) church;

(3) school;

(4) day-care center;

(5) surface water body used for a public drinking water supply; or

(6) dedicated public park.

(b) The railroad commission by rule shall prohibit the issuance of a permit for a Class II injection well, as that term is defined by the railroad commission, that is proposed to be located

1 at a distance greater than one-half mile (2,640 feet) from a
2 location described by Subsection (a) unless the applicant
3 demonstrates that the well will be operated so as to safeguard
4 public health and welfare and protect physical property and the
5 environment, at any distance beyond the well's property boundaries,
6 consistent with the purposes of this chapter.

7 (c) The measurement of distance required by Subsections (a)
8 and (b) shall be taken toward an established residence, church,
9 school, day-care center, surface water body used for a public
10 drinking water supply, or dedicated park that is in use when the
11 notice of intent to file a permit application is filed with the
12 railroad commission or, if no notice of intent is filed, when the
13 permit application is filed with the railroad commission. The
14 restriction imposed by Subsection (a) does not apply if the
15 residence, church, school, day-care center, surface water body used
16 for a public drinking water supply, or dedicated park is located on
17 property that is owned by the permit applicant and that is adjacent
18 to the well for which the application is filed.

19 Sec. 27.058. PROHIBITION ON PERMIT FOR INJECTION WELL
20 AFFECTED BY FAULT. The railroad commission may not issue a permit
21 for a Class II injection well, as that term is defined by the
22 railroad commission, if a fault exists within two and one-half
23 miles from the proposed or existing wellbore of an injection well or
24 the area within the cone of influence, whichever is greater, unless
25 the applicant can demonstrate that the fault is not sufficiently
26 transmissive or vertically extensive to allow migration of
27 hazardous constituents out of the injection zone.

1 Sec. 27.059. OTHER AREAS UNSUITABLE FOR CLASS II INJECTION
2 WELLS. The railroad commission by rule shall define the
3 characteristics that make other areas unsuitable for a Class II
4 injection well, as that term is defined by the railroad commission,
5 including consideration of characteristics related to:

6 (1) flood hazards;

7 (2) discharge from or recharge to a groundwater
8 aquifer;

9 (3) soil conditions;

10 (4) areas of direct drainage within one mile of a lake
11 used to supply public drinking water;

12 (5) active geological processes;

13 (6) coastal high hazard areas, such as areas subject
14 to hurricane storm surge and shoreline erosion; or

15 (7) critical habitat of endangered species.

16 Sec. 27.060. PROHIBITION ON PERMIT FOR CLASS II INJECTION
17 WELL IN UNSUITABLE AREA. The railroad commission by rule shall
18 prohibit the issuance of a permit for a new Class II injection well,
19 as that term is defined by the railroad commission, if the well is
20 to be located in an area determined to be unsuitable under rules
21 adopted by the railroad commission under Section 27.059 unless the
22 design, construction, and operational features of the well will
23 prevent adverse effects from unsuitable site characteristics.

24 Sec. 27.061. PETITION BY LOCAL GOVERNMENT FOR RULE ON CLASS
25 II INJECTION WELL IN UNSUITABLE AREA. (a) The railroad commission
26 by rule shall allow a local government to petition the railroad
27 commission for a rule that restricts or prohibits the siting of a

1 new Class II injection well, as that term is defined by the railroad
2 commission, in an area specified by the petition, including an area
3 that has one or more of the characteristics described by Section
4 27.059.

5 (b) A rule adopted under this section may not affect the
6 siting of a new Class II injection well, as that term is defined by
7 the railroad commission, if an application or a notice of intent to
8 file an application concerning the well is filed with the railroad
9 commission before the filing of a petition under this section.

10 SECTION 2. The changes in law made by this Act apply to
11 permit applications pending before the Railroad Commission of Texas
12 on or after the effective date of this Act. A permit issued before
13 the effective date of this Act is governed by the law in effect when
14 the permit was issued, and the former law is continued in effect for
15 that purpose.

16 SECTION 3. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2009.