

By: Gallegos

S.B. No. 177

A BILL TO BE ENTITLED

AN ACT

relating to the location of certain facilities and shelters within certain municipalities.

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

SECTION 1. Section 244.023, Local Government Code, is amended to read as follows:

Sec. 244.023. RESTRICTION. (a) Unless municipal consent is granted under Section 244.025, a person may not:

(1) construct or operate a shelter for homeless individuals within 1,000 feet of another shelter for homeless individuals or a primary or secondary school; or

(2) renovate, remodel, or expand, including the addition of property to, an existing shelter for homeless individuals.

(b) For purposes of Subsection (a)(2), any activity performed on an existing shelter that requires a building permit from the municipality is considered renovating, remodeling, or expanding the shelter.

SECTION 2. Section 244.024, Local Government Code, is amended to read as follows:

Sec. 244.024. NOTICE. (a) A person who intends to perform an activity relating to [~~construct or operate~~] a shelter for homeless individuals subject to Section 244.023 shall:

(1) for the construction or operation of a new

1 shelter:

2 (A) post notice of the proposed location of
3 the shelter at that location; and

4 (B) [~~(2)~~] provide notice of the proposed
5 location of the shelter to the governing body of the municipality
6 within the boundaries of which the shelter is proposed to be
7 located; or

8 (2) for the renovation, remodeling, or expansion of an
9 existing shelter:

10 (A) post notice at the shelter; and

11 (B) provide notice of the proposed renovation,
12 remodeling, or expansion to the governing body of the municipality
13 within the boundaries of which the shelter is located.

14 (b) The person shall post and provide the notice required by
15 Subsection (a)(1) [~~(a)~~] before the 61st day before the date the
16 person begins construction or operation of the shelter for homeless
17 individuals, whichever date is earlier. The person shall post and
18 provide the notice required by Subsection (a)(2) before the 61st
19 day before the date the person begins the renovation, remodeling,
20 or expansion of the shelter.

21 SECTION 3. Section 244.025(a), Local Government Code, is
22 amended to read as follows:

23 (a) Municipal consent to an activity relating to [~~the~~
24 ~~construction or operation of~~] a shelter for homeless individuals
25 subject to Section 244.023 is considered granted unless, before the
26 61st day after the date notice is received by the governing body of
27 the municipality under Sections 244.024(a)(1)(B) and (a)(2)(B)

1 ~~[Section 244.024(a)(2)]~~, the governing body determines by
2 resolution after a public hearing that the activity ~~[construction~~
3 ~~or operation of a shelter at the proposed location]~~ is not in the
4 best interest of the municipality.

5 SECTION 4. Chapter 244, Local Government Code, is amended
6 by adding Subchapter C to read as follows:

7 SUBCHAPTER C. CHEMICAL DEPENDENCY TREATMENT FACILITIES

8 Sec. 244.051. DEFINITIONS. In this subchapter:

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

11 (A) residential property;

12 (B) a primary or secondary school;

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

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

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

19 Sec. 244.052. APPLICABILITY. (a) This subchapter applies
20 only to a municipality with a population of more than 1.6 million.

21 (b) This subchapter does not apply to:

22 (1) a disciplinary alternative education program
23 under Section 37.008, Education Code, that is licensed under
24 Chapter 464, Health and Safety Code, to provide chemical dependency
25 treatment services; or

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

1 Sec. 244.053. NOTICE OF PROPOSED LOCATION. (a) A person
2 who intends to construct or operate a treatment facility within
3 1,000 feet of an affected property shall:

4 (1) notify in writing the governing body of the
5 municipality in which the affected property is located; and

6 (2) notify through the United States mail, return
7 receipt requested, each owner of residential property, as
8 determined by the most recent tax roll of the municipality, located
9 within 1,000 feet of the proposed facility.

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

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

23 Sec. 244.054. CONSTRUCTION OR OPERATION OF FACILITY. After
24 complying with the notice requirements of Section 244.053, a person
25 may construct or operate a treatment facility within 1,000 feet of
26 an affected property only if the governing body of the municipality
27 does not issue a resolution under Section 244.055 denying the

1 municipality's consent to the construction or operation.

2 Sec. 244.055. LOCAL CONSENT. (a) The municipality denies
3 consent to the construction or operation of a treatment facility
4 within 1,000 feet of an affected property if the governing body
5 determines by resolution after a public hearing that the treatment
6 facility would be located within 1,000 feet of an affected property
7 and that the construction or operation of the facility is not in the
8 best interest of the municipality. The governing body must hold the
9 public hearing under this subsection not later than the 90th day
10 after the date it receives the notice required by Section
11 244.053(a)(1).

12 (b) If the governing body of the municipality does not issue
13 the resolution described by Subsection (a) before the 91st day
14 after the date it receives the notice required by Section
15 244.053(a)(1), the municipality is considered to consent to the
16 construction or operation of a treatment facility within 1,000 feet
17 of an affected property.

18 Sec. 244.056. DISTANCE MEASUREMENT. For purposes of this
19 subchapter, distance is measured along the shortest straight line
20 between the nearest property line of the proposed location for a
21 treatment facility and the nearest property line of an affected
22 property.

23 SECTION 5. (a) The change in law made by this Act to
24 Sections 244.023, 244.024, and 244.025(a), Local Government Code,
25 applies only to the renovation, remodeling, or expansion of a
26 homeless shelter that begins on or after December 1, 2009.

27 (b) The change in law made by this Act by the addition of

1 Subchapter C, Chapter 244, Local Government Code, applies only to
2 the construction or operation of a treatment facility that begins
3 on or after December 1, 2009.

4 SECTION 6. This Act takes effect September 1, 2009.