

1-1 By: Jackson S.B. No. 1748
1-2 (In the Senate - Filed March 11, 2009; March 20, 2009, read
1-3 first time and referred to Committee on Natural Resources;
1-4 April 14, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 10, Nays 0; April 14, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1748 By: Jackson

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the issuance of a certificate for a municipal setting
1-11 designation.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-13 SECTION 1. Subsection (b), Section 361.804, Health and
1-14 Safety Code, is amended to read as follows:

1-15 (b) An application submitted under this section must:
1-16 (1) be on a form provided by the executive director;
1-17 (2) contain the following:

1-18 (A) the applicant's name and address;
1-19 (B) a legal description of the outer boundaries
1-20 of the proposed municipal setting designation and a specific
1-21 description of the designated groundwater that will be restricted
1-22 under the ordinance or restrictive covenant described by Section
1-23 361.8065(a)(2);

1-24 (C) a statement as to whether the municipalities
1-25 or the retail public utilities entitled to notice under Section
1-26 361.805 support the proposed designation;

1-27 (D) an affidavit that affirmatively states that:
1-28 (i) the municipal setting designation
1-29 eligibility criteria contained in Section 361.803 are satisfied;

1-30 (ii) true and accurate copies of all
1-31 documents demonstrating that the municipal setting designation
1-32 eligibility criteria provided by Section 361.803 have been
1-33 satisfied are included with the application;

1-34 (iii) a true and accurate copy of a legal
1-35 description of the property for which the municipal setting
1-36 designation is sought is included with the application; and

1-37 (iv) notice was provided in accordance with
1-38 Section 361.805;

1-39 (E) a statement regarding the type of known
1-40 contamination in the groundwater beneath the property proposed for
1-41 a municipal setting designation;

1-42 (F) proof of notice, as required by Section
1-43 361.805(c); and

1-44 (G) if available at the time of the application,
1-45 a copy of the ordinance or restrictive covenant and any required
1-46 resolutions or other documentation satisfying the requirements
1-47 described in Section 361.8065, or a statement that the applicant
1-48 will provide a copy of the ordinance or restrictive covenant and any
1-49 required resolutions or other documentation satisfying the
1-50 requirements described in Section 361.8065 before the executive
1-51 director certifies the municipal setting designation in accordance
1-52 with Section 361.807; and

1-53 (3) be accompanied by an application fee of \$1,000.

1-54 SECTION 2. Subsection (b), Section 361.805, Health and
1-55 Safety Code, is amended to read as follows:

1-56 (b) The notice must include, at a minimum:
1-57 (1) the purpose of the municipal setting designation;
1-58 (2) the eligibility criteria for a municipal setting
1-59 designation;

1-60 (3) the location and description of the property for
1-61 which the designation is sought;

1-62 (4) a statement that a municipality described by
1-63 Subsection (a)(1) or retail public utility described by Subsection

2-1 (a)(3) may provide written comments on any information relevant to
2-2 the executive director's consideration of the municipal setting
2-3 designation;

2-4 (5) a statement that the executive director will
2-5 certify or deny the application or request additional information
2-6 from the applicant not later than 90 days after receiving the
2-7 application;

2-8 (6) the type of contamination on the property for
2-9 which the designation is sought; ~~and~~

2-10 (7) identification of the party responsible for the
2-11 contamination of the property, if known; and

2-12 (8) a statement that a municipality described by
2-13 Subsection (a)(1)(B) or (C) or a public utility described by
2-14 Subsection (a)(3) has 120 days from the date of receipt of the
2-15 notice required by this section to pass a resolution opposing the
2-16 application for a municipal setting designation.

2-17 SECTION 3. Subsection (a), Section 361.8065, Health and
2-18 Safety Code, is amended to read as follows:

2-19 (a) Before the executive director may issue a municipal
2-20 setting designation certificate under Section 361.807, the
2-21 applicant must provide documentation, which may be in the form of an
2-22 affidavit of the applicant or the applicant's representative, of
2-23 the following:

2-24 (1) that no resolution opposing the application has
2-25 been ~~is supported by a resolution~~ adopted within 120 days of
2-26 receipt of the notice provided under Section 361.805 by:

2-27 (A) the city council of any ~~each~~ municipality
2-28 described by Section 361.805(a)(1)(B) or (C); ~~or and~~

2-29 (B) the governing body of any ~~each~~ retail
2-30 public utility described by Section 361.805(a)(3); and

2-31 (2) that the property for which designation is sought
2-32 is:

2-33 (A) subject to an ordinance that prohibits the
2-34 use of designated groundwater from beneath the property as potable
2-35 water and that appropriately restricts other uses of and contact
2-36 with that groundwater; or

2-37 (B) subject to a restrictive covenant
2-38 enforceable by the municipality in which the property for which the
2-39 designation is sought is located that prohibits the use of
2-40 designated groundwater from beneath the property as potable water
2-41 and appropriately restricts other uses of and contact with that
2-42 groundwater.

2-43 SECTION 4. Subsection (c), Section 361.807, Health and
2-44 Safety Code, is amended to read as follows:

2-45 (c) If the executive director determines that an applicant
2-46 has submitted a complete application except that an ordinance or
2-47 restrictive covenant and any required documentation ~~resolutions~~
2-48 satisfying the requirements described in Section 361.8065 have not
2-49 been submitted, the executive director shall issue a letter to the
2-50 applicant listed in Subsection (a) stating that a municipal setting
2-51 designation will be certified on submission of a copy of the
2-52 ordinance or restrictive covenant and any required documentation
2-53 ~~resolutions~~ satisfying the requirements described in Section
2-54 361.8065. On submission of the ordinance or restrictive covenant
2-55 and any required documentation ~~resolutions~~ satisfying the
2-56 requirements described in Section 361.8065, the executive director
2-57 shall issue a municipal setting designation certificate in
2-58 accordance with Subsections (a) and (b).

2-59 SECTION 5. This Act takes effect September 1, 2009.

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